

LEGISLATIVE COUNCIL

Thursday 5 December 2002

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

The President offered the Prayers.

BUSINESS OF THE HOUSE

Precedence of Business

Motion by the Hon. John Della Bosca, on behalf of the Hon. Michael Egan, agreed to:

That on Thursday 5 December 2002 Government Business take precedence of General Business.

TREASURY ESTIMATES OF ELECTION COMMITMENTS

Motion by the Hon. Duncan Gay agreed to:

1. That, under Standing Order 18, there be laid on the table of the House by 5.00 p.m. on Tuesday 10 December 2002 and made public without restricted access all documents not previously released in the possession, custody and power of the Treasurer, the Office of Financial Management and the New South Wales Treasury relating to Treasury estimates of election commitments, including:
 - (a) Treasury's costing of the Coalition's Water Tanks policy,
 - (b) Treasury's costing of the Coalition's Grafton bridge promise,
 - (c) Treasury's costing of the Coalition's Seaforth Roundabout promise,
 - (d) Treasury's costing of the Coalition's country public libraries promise,
 - (e) Treasury's costing of Government election promises,
 - (f) Treasury's forward estimates for the Department of Health,
 - (g) Treasury's forward estimates for the Department of Education,
 - (h) Treasury's forward estimates for the Department of Community Services,
 - (i) Treasury's forward estimates for the Police Department,
 - (j) Treasury's forward estimates for the Department of Housing,
 - (k) Treasury's forward estimates for the Department of Transport,
 - (l) Treasury's forward estimates for the Roads and Traffic Authority,
 - (m) Treasury's forward estimates for the Department of Public Works,
 - (n) Treasury's costing of the Governments' water tank rebate commitment.
2. That an indexed list of all documents tabled under this resolution be prepared showing the date of creation of the document, a description of the document and the author of the document.
3. That anything required to be laid before the House by this resolution may be lodged with the Clerk of the House if the House is not sitting, and unless privilege is claimed, is deemed for all purposes to have been presented to or laid before the House and published by authority of the House.
4. Where a document required to be tabled under this order is considered to be privileged and should not be made public or tabled:
 - (a) a return is to be prepared and tabled showing the date of creation of the document, a description of the document, the author of the document and reasons for the claim of privilege,
 - (b) the documents are to be delivered to the Clerk of the House by the date and time required in paragraph 1 and:
 - (i) made available only to members of the Legislative Council,
 - (ii) not published or copied without an order of the House.
5.
 - (a) Where any member of the House, by communication in writing to the Clerk, disputes the validity of a claim of privilege in relation to a particular document, the Clerk is authorised to release the disputed document to an independent legal arbiter, for evaluation and report within five days as to the validity of the claim.
 - (b) The independent legal arbiter is to be appointed by the President and must be a Queen's Counsel, a Senior Counsel or a retired Supreme Court Judge.
 - (c) A report from the independent legal arbiter is to be lodged with the Clerk of the House, and:
 - (i) made available only to members of the Legislative Council,
 - (ii) not published or copied without an order of the House.

HEALTH CLAIMS AND CONSUMER PROTECTION ADVISORY COMMITTEE

Motion by the Hon. Richard Jones agreed to:

1. That, under Standing Order 18, there be laid on the table of the House by 5.00 p.m. on Tuesday 10 December 2002 and made public without restricted access:
 - (a) all documents in the possession, custody and power of the Minister for Health for the years 2000, 2001 and 2002 in relation to the development and establishment of the Committee now known as the Health Claims and Consumer Protection Advisory Committee, announced by the Minister for Health on 31 October 2002,
 - (b) all documents in the possession, custody and power of the Minister for Health in relation to the development of the Draft Terms of Reference for the Health Claims and Consumer Protection Advisory Committee,
 - (c) all correspondence between NSW Health and Committee members, advisors and the Committee Secretariat including:
 - (i) Professor John Dwyer
 - (ii) Dr Greg Stewart,
 - (iii) Karen Crawshaw,
 - (iv) John Lumby,
 - (v) Maureen Robinson,
 - (vi) Dr Ian O'Rourke,
 - (vii) Professor Felix Wong,
 - (viii) Sarah Crawford,
 - (ix) Dr John Eden,
 - (x) Si Banks,
 - (xi) Brian Given,
 - (xii) Rose Webb,
 - (xiii) Rusty Priest,
 - (ixx) Norah McGuire,
 - (xx) Dr Sharon Miskell,
 - (xxi) Simon Loveday,
 - (xxii) Val Johanson,
 - (xxiii) Karen Bridgman,
 - (xxiv) AACMA,
 - (xxv) Mary Crum,
 - (xxvi) Cheryl Freeman, and
 - (xxvii) Peter Bowditch.
2. That an indexed list of all documents tabled under this resolution be prepared showing the date of creation of the document, a description of the document and the author of the document.
3. That anything required to be laid before the House by this resolution may be lodged with the Clerk of the House if the House is not sitting, and unless privilege is claimed, is deemed for all purposes to have been presented to or laid before the House and published by authority of the House.
4. Where a document required to be tabled under this order is considered to be privileged and should not be made public or tabled:
 - (a) a return is to be prepared and tabled showing the date of creation of the document, a description of the document, the author of the document and reasons for the claim of privilege,
 - (b) the documents are to be delivered to the Clerk of the House by the date and time required in paragraph 1 and:
 - (i) made available only to members of the Legislative Council,
 - (ii) not published or copied without an order of the House.
5.
 - (a) Where any member of the House, by communication in writing to the Clerk, disputes the validity of a claim of privilege in relation to a particular document, the Clerk is authorised to release the disputed document to an independent legal arbiter, for evaluation and report within 5 days as to the validity of the claim.
 - (b) The independent legal arbiter is to be appointed by the President and must be a Queen's Counsel, a Senior Counsel or a retired Supreme Court Judge.
 - (c) A report from the independent legal arbiter is to be lodged with the Clerk of the House, and:
 - (i) made available only to members of the Legislative Council,
 - (ii) not published or copied without an order of the House.

PARLIAMENTARY ETHICS ADVISER**Motion by the Hon. John Della Bosca, on behalf of the Hon. Michael Egan, agreed to:**

That:

- (1) this House directs the President to join with the Speaker 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 13 December 2002,
- (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,
- (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.

Message forwarded to the Legislative Assembly requesting it to pass a similar resolution.**TABLING OF PAPERS**

The Hon. Michael Costa tabled the following paper:

Annual Reports (Statutory Bodies) Act 1984—Report of Motor Vehicle Repair Industry Council for year ended 30 June 2002.

Ordered to be printed.

STANDING COMMITTEE ON LAW AND JUSTICE**Report**

The Hon. Ron Dyer, as Chairman, tabled report No. 23 entitled, "Report on the Proposed State Arms Bill", dated December 2002, together with transcripts of evidence, submissions, tabled documents and correspondence.

Report ordered to be printed.

STANDING COMMITTEE ON PARLIAMENTARY PRIVILEGE AND ETHICS**Report: Review of the Members' Code of Conduct**

The Hon. Helen Sham-Ho, as Chairman, tabled report No. 22, entitled "Report on Review of the Members' Code of Conduct", dated December 2002, together with transcripts of evidence, submissions, tabled documents and correspondence.

Report ordered to be printed.

The Hon. HELEN SHAM-HO [11.07 a.m.], by leave: The community places a high trust in members of Parliament and expects of them high standards of ethical behaviour. The adoption of a code of conduct by the Legislative Council and the Legislative Assembly in 1988 was an important milestone. This report outlines the background to the code of conduct, including the relationship between the code and the Independent Commission Against Corruption [ICAC] Act 1988. The report also discusses developments since the adoption of the code, including observations about the code made by the Independent Commission Against Corruption, determinations made by the Parliamentary Remuneration Tribunal [PRT], the appointment of a Parliamentary Ethics Adviser, and developments in other parliaments. Reference is also made to the review of the code by the Legislative Assembly's Standing Ethics Committee and to a recent request from the Legislative Assembly for the ICAC to review the adequacy of the code in relation to paid consultancies and advocacy.

The Standing Committee on Parliamentary Privilege and Ethics notes the strict legal context in which the code operates and the consequent need for it to be clear and precise. The committee recommends that, as the code appears to be satisfactory for its intended purpose, no change to the code is required at this time. The committee highlights a number of important issues that have been raised by the ICAC and others in recent years in relation to members' ethics. The committee suggests a number of mechanisms by which these issues can be addressed, including education seminars for new members and other forms of ethics education, clarification of PRT determinations and the issuing of guidelines by the Presiding Officers as to the use of members' entitlements. The committee pointed out the desirability of holding education seminars, drawing attention to the fact that it is unacceptable for a member to use his or her position as a member of Parliament, or the influence deriving from that position, for personal financial gain. I commend the committee secretariat for their work on this report. Finally, I thank my fellow committee members for their constructive approach to this report and for their work on the Standing Committee on Parliamentary Privilege and Ethics.

GENERAL PURPOSE STANDING COMMITTEE No. 5

Report: Inquiry into the M5 East Tunnel

The Hon. Richard Jones, as Chairman, tabled report No. 18, entitled "Inquiry into the M5 East Tunnel", dated December 2002, together with transcripts of evidence, submissions, tabled documents and correspondence.

Report ordered to be printed.

The Hon. RICHARD JONES [11.10 a.m.], by leave: General Purpose Standing Committee No. 5 should not have had to conduct this inquiry. There is no doubt that there are serious health impacts both inside the tunnel, which is self-evident, and outside the tunnel. It is quite clear that the Roads and Traffic Authority [RTA] must take action to clear up the mess within that tunnel. It is unsafe for employees of both the RTA and Baulderstone Hornibrook Pty Ltd and it is certainly unsafe for people going through the tunnel several times a day. The particulate level to which people travelling through the tunnel are exposed is high indeed—it goes up to 2,000 parts per cubic metre. I am referring to PM1 and PM2.5—the smallest material that goes deep down into the lungs and is extremely dangerous to people's health. It is far more dangerous than PM10, which gets caught in the upper respiratory tract.

Each year between 1,000 and 2,000 people die from particulate matter inhalation in the city of Sydney. The Department of Health, the Environment Protection Authority, the Roads and Traffic Authority and the Department of Planning, with the Minister's co-operation, should urgently do something about this problem. The committee received evidence from a number of distinguished people in the general community and in the scientific community about the impact of PM10, PM2.5 and PM1 in the tunnel. We need to take action to develop a new standard for PM1, the most dangerous of all particulate matter. I hope that the Government accepts that recommendation at the very least.

We require mandatory testing of all diesel vehicles that are three or more years old because, as the report indicates, they cause about 80 per cent of particulate matter pollution, apart from bushfires. If the RTA were to ensure compulsory testing of smoky vehicles every year at the time of registration that would have a tremendous impact not only in the tunnel but throughout the city of Sydney and it would also save a considerable number of lives. I ask the Government to act on important air quality issues in the city of Sydney, in particular, in this tunnel and, more generally, in relation to diesel vehicle testing. Diesel vehicles should not be registered unless they do not emit more than a given amount of particulate matter.

I thank the hardworking committee members on this inquiry and on the other 18 inquiries that have been conducted by this committee. In particular, I thank the Hon. Jan Burnswoods, the Hon. Amanda Fazio, the Hon. John Jobling, the Hon. Malcolm Jones, the Hon. Peter Primrose and the Hon. John Ryan. The Hon. John Ryan, an extremely hardworking member of this committee, has been acknowledged by others for responding to people's inquiries. I hope that one day, when there is a change of government—as there inevitably will be—Opposition members realise his talents and make him a Minister.

I also thank the Director, Steven Reynolds; the Senior Project Officer, John Young; the Committee Officer, Ashley Nguyen; and the committee secretariat. They worked extremely hard given the short time frame within which the committee had to produce its final report. I hope that the Government acts on this urgent and important issue—the health of residents living in the vicinity of the M5 East stack, which, unfortunately and incredibly, was built in a residential area. That political decision, which was made under pressure, is causing severe health problems not only for those residents but also for employees of the RTA and Baulderstone Hornibrook and other people travelling through the tunnel. These problems must be fixed. Tunnel filtration must be provided as soon as possible for the benefit of all those who use the tunnel and for residents in the vicinity of the stack.

The Hon. John Ryan: And all future tunnels.

The Hon. RICHARD JONES: Tunnel filtration must be provided for all future tunnels in Sydney, including the cross-city tunnel, the Lane Cove tunnel and for existing tunnels. We must grasp the nettle. Yesterday the RTA sent the committee evidence that indicates it is not aware of how many tunnels are filtered in Japan. The RTA examined only one of the 42 tunnels that are filtered in Japan. It is appalling that the RTA, which is totally oblivious to that fact, does not know what is going on overseas. The RTA claims to have employed world's best practice, but this unfiltered tunnel clearly demonstrates that it is world's worst practice. The RTA needs a big shake-up. I hope that that happens after the next election. I ask the Minister to act on behalf of the people of Sydney. If he does not act, I am sure there will be repercussions at the next election.

PETITIONS

Alcohol Sale Control

Petition praying that alcoholic beverage sales be restricted to existing outlets, that opening hours be reduced, and that warning labels be placed on all alcoholic beverage containers, received from **Reverend the Hon. Fred Nile**.

Genetic Engineering Freeze

Petition calling for protection of the rights of farmers who wish to remain free from genetic engineering contamination, establishment of genetic-engineering-free zones, declaration of a freeze on the intentional release of new genetically engineered crops, and consultation with all farming groups, received from **the Hon. Duncan Gay**.

IRREGULAR PETITION

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [11.17 a.m.]: I seek leave to move a motion to suspend standing orders to allow the presentation of an irregular petition from 943 citizens of New South Wales concerning crime in the Moorebank area and praying that the House ensure the Moorebank police station be upgraded to a fully functioning 24-hour police station.

Leave not granted.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by the Hon. Michael Gallacher agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Member's Business item No. 108 outside the Order of Precedence, relating to a document entitled "WorkCover Fraud Investigation Manual", be called on forthwith.

Order of Business

Motion by the Hon. Michael Gallacher agreed to:

That Private Member's Business item No. 108 outside the Order of Precedence be called on forthwith.

WORKCOVER FRAUD INVESTIGATION MANUAL

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [11.20 a.m.]: I move:

That this House:

- (a) notes that the document entitled "WorkCover Fraud Investigation Manual" was provided to the General Purpose Standing Committee No. 1 as Attachment A to the questions taken on notice by the Hon. John Della Bosca, Special Minister of State and Minister for Industrial Relations, at the budget estimates hearing of the Minister's portfolios on 24 June 2002, and
 - (i) requested by the Minister to remain confidential,
 - (ii) not made public by the Committee under Standing Order 252,
 - (iii) tabled with the Committee's report to the House on 5 September 2002;
- (b) orders the publication without restricted access of the following sections of the above document:
 - (i) "The role of the fraud investigator" on pages 3 to 5,
 - (ii) "Recent initiatives" on pages 6 and 7,
 - (iii) "WorkCover or a Police prosecution?" on pages 53 and 54,
 - (iv) "Main offences: legislation and penalties at a glance" on page 55, and
 - (v) "The Legal Role" on pages 63 to 76.

As this motion relates to our ongoing review of WorkCover and workers compensation in this State, it is necessary for me to raise these matters in the Legislative Council at this time. Hopefully, with the support of members on the crossbenches, the Opposition will be able to lift yet another layer of the veil of secrecy that seems to permeate the WorkCover Authority and, indeed, the Government's handling of every level of workers compensation in New South Wales. I am fully aware of the Government's position in relation to this debate. The Government is painting a very dark picture of the Opposition's desire to reveal key parts of the WorkCover Fraud Investigation Manual which would be of assistance to members of the public who are thinking about committing a fraud offence against or an exaggerated claim on the WorkCover scheme.

I state at the outset that that is completely and totally false. By requesting small sections of the manual the Opposition is seeking to give the Parliament, and therefore everyone involved in the workers compensation system, a greater understanding of the WorkCover Authority's attitude to fraud investigations. Government members believe that I am somehow interested in talking about matters that relate to ongoing police investigations and that the sections of the manual that I am seeking to have made unrestricted will be of benefit to people in the community who are doing the wrong thing not only by the scheme but, indeed, by the people of New South Wales. The allegation by Government members is completely false. They know that the allegation is false because I have in front of me the document that they have been pushing around the Legislative Council.

Government members do not want small sections of the WorkCover manual being made available because they will be incredibly embarrassing to the Government. They know that the attitude to WorkCover investigations in this State is not consistent with the expectations of employers or, indeed, the hardworking employees of this State. I recognise that certain sections of the manual that I have requested are covered by an in camera provision. In fact, the manual was provided to members of General Purpose Standing Committee No. 1 [GPSC1], which is chaired by Reverend the Hon. Fred Nile, as part of the investigation of WorkCover that Parliament entrusted to GPSC1.

With all due respect to members of GPSC1, I suspect that few members in the Chamber would have had the time to go through the manual, or the vast array of other material that was provided to us during the inquiry, in any great detail. However, I took the time to go through the manual, because I had requested it. I requested the manual because, as a former police officer, I was keen to see how WorkCover conducted its fraud investigations. Also, I wanted to ensure that the way WorkCover conducted its investigations was consistent with how I felt a criminal investigation should be conducted.

As honourable members would be aware, it has been my view—and it will always be my view—that there is no difference between a person who commits a fraud on the workers compensation scheme and a person who rips \$100 out of an employer's till. It is a criminal offence the moment the person sets about the chain of events to put that fraudulent claim in place. The intent at the time is fraudulent and, therefore, in my view the claim should be investigated in a way that reflects that. I think, from recollection, members of the committee even thought that way, and the committee recommended that future reforms of the WorkCover scheme should consider the whole question of whether matters are proceeded with under the Crimes Act.

Be that as it may, there is a degree of sensitivity about what I can refer to in my speech without breaching the in camera provisions that are placed on the document. However, I can allude to the small number of pages in the manual that I have requested. If honourable members are so inclined and want to find out more, I am sure the Minister would be more than happy to provide them with copies of the pages that I have requested. If honourable members have doubts about what I have specifically requested, and if they are concerned that what I am seeking will somehow give people who are thinking about committing fraud the information they require to fulfil their intent to commit fraud, I suggest that they ask the Minister to provide a copy of the pages.

We will sit down in this Chamber, perhaps with ministerial staff, and look at the pages; we will not take them away and photocopy them. That would assure honourable members that what the Minister is saying is right or that what I am saying is right. Of course, if honourable members get an opportunity to examine the document they will see that what I am saying is true. What I have requested will not in any way undermine any ongoing, future or, indeed, past investigations into WorkCover matters. The first section of the manual I have requested relates to the role of the fraud investigator. That small section predominantly sets out in a form what newly enrolled WorkCover fraud investigators—the three or four that WorkCover employs in this State—must do when they turn up for work and how they are to conduct fraud investigations.

Fraud investigators would think it was fairly basic stuff. However, the section the Government does not want honourable members to see contains some fairly embarrassing admissions about the resources available to WorkCover investigators to fulfil their role. For the first time we have in written form an admission that WorkCover investigators are not as fully resourced as the Government would like us to believe. I am sure that employers, who are more than concerned about their ongoing increase in premiums and who are more than happy to talk to any one of the 301 inspectors who can turn up at their door on any given day wanting to talk about workplace safety and to ensure that the employer is doing the right thing by premiums would be interested to know the Government's attitude to fully resourcing WorkCover investigators to investigate fraud. One line in a very small paragraph is incredibly embarrassing to the WorkCover Authority and would be embarrassing to the Government and, for that reason, the Government does not want it made public.

After I brought the sentence to the Minister's attention the other day—he indicated to me that he had not read the document either—I am sure there would have been a look of absolute horror on his face when he and his staff went through the document to see exactly what I was looking at, because it well and truly stood out. Honourable members should not feel that there is any information in this very small paragraph about the role of the fraud investigator to suggest anyone thinking of doing the wrong thing could avoid a fraud investigation. If there is any confusion, honourable members should ask the Minister to give them a copy of the document.

The recent initiatives paragraph talks about certain initiatives that the WorkCover authority has put in place and that were available to the committee, but they were not given in camera. It also makes reference to claimant fraud steadily increasing. Again, the Government does not want this information out because it would be embarrassing, but the document is a departmental one that fully sets out the problems in the way WorkCover is investigating fraud. The other sections I ask honourable members to look at relate to main offences penalties and WorkCover or police prosecution. Again, these sections—and I am sure the Minister will be more than happy to provide honourable members with a copy of the document so they can have access to the information—spell out that the responsibility rests with the investigator to proceed under either the WorkCover legislation or the Crimes Act. The Government has put a little chart in this documentation to inform WorkCover inspectors what legislation is available to investigate fraud. What I am telling honourable members is not a State secret; the information is available to any lawyer or anyone who operates in the WorkCover scheme. The State Government is embarrassed that the document has been put together in this form. It shows the distinction between civil legislation and criminal legislation, and it is a very stark difference.

The Hon. John Della Bosca: What is wrong with that?

The Hon. MICHAEL GALLACHER: The Minister is suggesting there is nothing wrong with that. If there is nothing wrong with it, he should put it on the record and let people look at it. He is now starting to

believe what I am saying is true. I have been trying to get through to him for a couple of days. He now recognises that there is nothing wrong with what I am asking. The final thing I am asking for is information on the legal role. Again, this is information to assist WorkCover inspectors to decide whether to proceed under the Crimes Act or under the Workers Compensation Act. The document spells out the differences between section 178BA of the Crimes Act, which refers to obtaining benefits by deception, and section 235 of the Workers Compensation Act. Again, I am not giving away state secrets. Any lawyer or anyone who goes to the Law Book Company can buy a book known as the *Proofs of Crime*, which will show the ingredients one has to satisfy—

The Hon. Peter Primrose: Point of order: It concerns me that the honourable member may be seeking to read into the record the very matters that he is asking to be made public. In doing so, the honourable member is achieving his goal without the House having made a decision. I seek your guidance on that.

The Hon. MICHAEL GALLACHER: To the point of order: The Hon. Peter Primrose has just suggested that I am about to state what is commonly accepted as criminal law versus civil law in New South Wales. I was talking about the elements of proof of the crime of fraud in New South Wales. As a qualified lawyer you know they are readily available to anyone, as they are to anyone who is interested in looking at what constitutes a fraud under the Workers Compensation Act. I am not revealing state secrets. I am merely drawing a distinction between the elements of proof under the Crimes Act and the elements of proof under the Workers Compensation Act. I am not revealing anything from the document. I am quite happy to continue the debate with the document closed.

The PRESIDENT: Order! The documents under discussion were tabled in this Parliament for members of this Chamber only to peruse. The member must not quote from any of those documents or reveal any of their contents until and unless the House has resolved to make the documents public. I uphold the point of order.

The Hon. MICHAEL GALLACHER: In a hypothetical sense, to prove the crime of fraud under the Crimes Act one would have to prove five ingredients. Under the Workers Compensation Act seven ingredients constitute the proof required. It is the view of the committee that the Government should ensure that the primary offence addressed by WorkCover is under the Crimes Act rather than under the Workers Compensation Act. The Government does not want made publicly available the revelation that WorkCover has a completely different focus, that its focus is not consistent with what I suggest is the expectation of the wider community, including both employees and employers, of New South Wales.

I am endeavouring to have this document tabled in a way that enables each and every one of us to speak publicly and say confidently that that is where the Government and WorkCover are going but this is where we should be going. The Government does not want us to have that information because it is incredibly embarrassing to the Government that it has sat so long on an approach by WorkCover that is in no way consistent with the expectations of the employers and employees of this State. I am not asking for the information suggested in the Government's crossbench briefing note, which states:

Publication of the provisions of the manual would help people undertaking fraudulent activity to get information on how WorkCover and the police service decide if and how a prosecution should proceed.

I have not suggested that, nor do the sections of the document I have requested spell that out. If crossbenchers were shown the document by the Minister they would know that what I am saying is true. They would realise that in no way do those sections of the document reveal to anyone how WorkCover goes about its investigations. The document does reveal, as we have all been aware for some time, that fraud investigation in New South Wales, of employee or employer fraud, is not fully resourced and does not have the backing of the WorkCover Authority to proceed under the strongest legislation available to investigators, the Crimes Act. The focus of the Government and the WorkCover Authority is to proceed under civil legislation. Until the Government's hand is forced on this issue, we will be unable to prove conclusively that which we have known for some time: that the approach of the WorkCover Authority and the Government to fraud is out of kilter with that of the rest of the community.

I note with some interest that the briefing note states that "investigations by WorkCover and the police could be potentially undermined by the publication of the manual". I have not sought publication of the manual. There are parts of the manual that I would not want made available to the community of New South Wales. The parts that I have sought publication of are embarrassing for the Government but are of absolutely no use to anyone who would think of committing a fraud on the WorkCover Authority or New South Wales employers. The briefing notes refer to the types of frauds as "including a physiotherapist charging for work that was not performed", "overservicing by a GP", and "an employer taking out multiple insurance policies". Each of those has been selectively chosen in an attempt to hit the raw nerve of crossbench members.

The reference to the "employer taking out multiple insurance policies" is designed to antagonise the Greens, who have been strong in pursuing the issue of employer fraud. The Government hopes that those references will set the Greens against my motion. My request will in no way give people information other than that which the Opposition has requested. All we have asked for is introductory material in the document that tells a WorkCover investigator how to operate while working for that organisation—not the decisions that the investigator must make on the fine detail of any case. This is basically a one-paragraph motherhood statement. If crossbenchers were given the opportunity by the Government to look at the document I am sure that they would know what I am saying is true. The other points restate the differences between civil law and criminal law in this State.

The Hon. John Della Bosca: You don't think you should do that?

The Hon. MICHAEL GALLACHER: The Special Minister interjected and said, "You don't think you should do that?" He is now arguing my case that this documentary material on the difference between the civil law and criminal law should be available. The Special Minister does not know which side of this debate he is on. He probably has to keep looking back to staffers to be told: "No, you're on the other side, remember. You're voting against this proposal." Be that as it may, publication of the sections of the document I have sought will not reveal any information helpful to any person seeking to commit fraud. This is merely documentary material setting out the approach that the WorkCover Authority takes, in conjunction with NSW Police, to investigation of these matters.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [11.43 a.m.]: The manual, as I think has been made clear from the context of the debate, and as all honourable members of the Chamber are now aware, was made available to General Purpose Standing Committee No. 1 following a request by the chair and I think some Opposition and crossbench members of the committee that the entire manual be made available to the committee.

The manual details the way in which WorkCover conducts fraud investigations. Clearly, that manual was made available to parliamentary members on a confidential basis. I advised the estimates committee at the time that, in the interests of the committee being able to develop a full understanding of how that work is conducted, I would be happy to make all details available to the committee members. In other words, the entire context of the manual was made available to members of this Chamber as members of General Purpose Standing Committee No. 1. I said also at the time that there would be serious problems with disseminating that information—that is, part or the whole of the manual—more broadly.

If the Leader of the Opposition is serious about ensuring WorkCover's capacity to detect fraud in the system, why would he want to aid fraudulent employers and claimants by giving them all the information they need to get around the detection methodologies that WorkCover has put in place, and thereby avoid prosecution? It is all very well for the honourable member to say he wants only one paragraph here and another paragraph there. He knows this is a matter of context. He knows that this is a training manual.

Reverend the Hon. Fred Nile: Pages, not paragraphs.

The Hon. JOHN DELLA BOSCA: The Leader of the Opposition said he wants disclosure of a particular paragraph so that he can embarrass the Government, and disclosure of another paragraph so that he can embarrass WorkCover. As he said himself in his contribution, he is a former serving policeman, and therefore knows about investigation methods and training manuals. He knows that I, as Minister, do not look over the shoulder of every WorkCover officer composing every internal training manual. Training manuals are not composed for the purposes of observing political correctness. They are not composed to appeal to Government, Opposition and crossbench members. They are composed to allow officers of an organisation such as WorkCover, and where relevant police or other professionals and semiprofessionals, to gain as quickly as possible the basic information and resources they need to go about their work as efficiently as practicable.

One does not compose training manuals for officers, whether for prosecution of WorkCover matters and compliance requirements or for review of occupational health and safety, from the perspective that some day an Opposition or crossbench member of Parliament might be upset about the manual or will focus on it to embarrass the organisation that one works for. A manual is composed in language that is as plain and clear as possible in order to train certain people to develop their skills and refine their capacities. Making public the sections identified by the Leader of the Opposition has the potential not only to prejudice particular fraud investigation by WorkCover or fraud investigations in general but to prejudice entirely the composition of manuals on investigation as laid out by WorkCover.

WorkCover has given me advice that even current investigations that are under way could be undermined by the publication of the manual or significant parts thereof. The Leader of the Opposition said the briefing note provided to members of this Chamber made reference to a number of particular pending prosecutions that could be undermined, including overservicing by a medical practitioner, some of the more obvious instances of employers taking out multiple insurance policies and making fraudulent claims against those policies, and physiotherapists charging for work that has not been performed. The Leader of the Opposition has a fair idea about the consequences of those sorts of fraud, but there are many others. We have not sought to set out a sort of popery of cases that might appeal to individual crossbench members, but we could easily have done so. There are many prosecutions under way.

The Hon. John Jobling: That is why the Leader of the Opposition sought the general and not the specific, and the Special Minister knows that.

The Hon. JOHN DELLA BOSCA: The Hon. John Jobling interjects that the Leader of the Opposition did not want the particular; he just wants the general. He knows full well that when dealing with a manual that is being used as a tool or resource to brief officers about methodology of investigation revealing the part is the first step in revealing the whole. It is like playing the child's game of Battleship. The Leader of the Opposition, as a former serving policeman, knows full well that that would assist offenders to put together any defences they may have against prosecution. Publication of extracts from a manual is not in the public interest or in the interests of the WorkCover organisation, because that would help people undertaking fraudulent activities to manipulate the system and undermine the integrity of fraud investigation by WorkCover and police services. I have outlined in brief a case against the motion of the Leader of the Opposition and his call for the information. I understand that the Chamber's attitude is generally in favour of transparency.

The Hon. John Jobling: So it should be. Are you saying that we should not have an attitude generally in favour of transparency?

The Hon. JOHN DELLA BOSCA: I do not cavil with that. I accept that as a basic assumption and I accept that the Government bears the onus to explain to this Chamber why the material should not be made available. First, I submit that even the component parts of the manual will allow those who commit fraud to gain some advantage, and that that is not a cause that this Chamber would want to advance in any way. Second, a resolution in the terms of the motion will undermine the training of officers in a critical area of reform of a matter upon which this Chamber, the community at large and the Government have said that WorkCover is failing—in its fraud investigations—and those groups have pointed out the need to beef up those investigations. The Government has been doing just that, and that has been done very effectively. But as soon as we start to deal with the program of operational training and begin publishing the manuals, resources and toolkits used by investigators that will be a backward step.

Third, the Leader of the Opposition accused me in his speech of playing to the sympathies and prejudices of the crossbench. The entire pitch of his remarks was not about why acceding to the motion will advance fraud prosecutions or how it will somehow advance WorkCover reforms of internal methodologies, et cetera; his entire speech was all about how to have a bit of fun and embarrass the Government before the next election. If that is not a crude pitch to the lowest common political denominator, I do not know what is.

The Hon. Rick Colless: You would not do that!

The Hon. JOHN DELLA BOSCA: I am saying to the Opposition that the motion, if passed by this Chamber, will undermine WorkCover fraud prosecutions and will undermine the reform program, which seeks to obtain a better and clearer set of objectives for WorkCover, and it will undermine the morale of the WorkCover organisation. I point out that the entire manual was given to some honourable members of this Chamber who are also members of a committee for any purpose they determined, including the preparation of reports. The entire manual was given to crossbench, Opposition and Government members of a committee and that allowed them to form judgments that comprised part of their report to this Chamber. The motion represents a little bit of churlishness on the part of the Leader of the Opposition, who has sought to use the committee's examination of the manual to pick out a couple of paragraphs to propagate an argument, and use that opportunity as a wedge. The Opposition's intention is clearly to embarrass people, without concern for the consequences. The Opposition is confident that the crossbenchers and others will support that strategy because the motion will embarrass the Government.

However, a deeper obligation is involved. I would like to think that I have established a case for an exception to apply to the general sentiment of this Chamber in seeking transparency. This is one case in which

no Government secrets are involved. There is nothing that causes me general concern about the entire manual being released, but what I am concerned about is the consequence of the release of the manual for WorkCover fraud investigations, the consequences for WorkCover's morale, and the responsibility of the Government and this Chamber to protect both. I urge all honourable members to vote against the motion.

The Hon. MALCOLM JONES [11.52 a.m.]: Throughout the term of this Parliament there has been a raft of workers compensation reforms, and I have been in favour of the vast majority of them, with the exception of the Workers Compensation Legislation Amendment Bill that was passed last night, which I thought was dreadful. Although I am a supporter of workers compensation reforms, one of the matters that I have not been happy about is the weight of responsibility resting on the shoulders of employers, whereas to a certain extent the obligation of employees to do the right thing has been glossed over, based on the assumption that employees not doing the right thing does not happen. It has been suggested that the benefits of worthy claimants of workers compensation may be infringed by attention being drawn to fraudulent claims for workers compensation. However, it is possible that the time has come for a higher standard of accountability to be set.

I appreciate that the Minister has made the papers available to General Purpose Standing Committee No. 1. However, I have been swayed by the argument advanced by the Leader of the Opposition that the manual's contents should be generally aired. An accusation has been made about politicking—everybody knows that an election is imminent—but that is just too bad. In my opinion, the Government has had a good run with its workers compensation reforms. Perhaps the time is ripe for examination of the possibility of raising the standards of accountability and strengthening the effectiveness of attempts to crack down on fraud. Generally I am in favour of orders for papers to be produced being made by this Parliament and if, because of the timing, a call for papers opens a Pandora's box and causes embarrassment for the Government, that is just hard luck.

The Leader of the Opposition has just handed me a note stating a proposition that I think is quite reasonable: Will the Minister consider supplying members with the documents in question over the luncheon recess to enable honourable members to make up their minds? I ask the Minister that question, and perhaps he will take advice. If all that is put at stake by passing this motion is embarrassment for the Government, in light of the fact that this Chamber has been grinding away at workers compensation for four years, the timing of the motion is just too bad for the Government. I support the motion moved by the Leader of the Opposition.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.57 a.m.]: I am very keen on transparency and have advocated the strengthening of the provisions to promote transparency in this Parliament. Honourable members will be aware that the Government (Open Market Competition) Bill was passed by this Chamber and was sent to the lower House where the Carr Government effectively strangled it by not allowing it to be brought on for debate. Generally I believe there is a need for a culture of openness in the public service. If the manual is written in a manner which will make it embarrassing for the Government, in a sense that is a reflection of the assumption that anything that is done in the public service will not be public. That is part of the problem that needs to be addressed in the context of a lack of openness in government in New South Wales.

I have been very concerned about the lack of prosecution by WorkCover and that its accident rate still is not as good as it ought to be. When I sought the Government's approval for my Crimes Amendment (Corporate Manslaughter) Bill, the response was negative and the Government's opinion was that it was not necessary because WorkCover's very strong prosecution laws apply in New South Wales. Be that as it may, not many prosecutions have been undertaken against people who are on the higher rungs of the corporate ladder. Although WorkCover legislation might be strong, it has not been effective in addressing corporate manslaughter and putting some stick into workers protection laws, quite apart from the fact that corporate manslaughter of a worker not in a workplace is not covered. There have been few prosecutions and relatively little publicity given to workplace accidents relative to the incidence of the problem. More attention should be given to this issue and delivery of the manual may engender public recognition of its importance.

I note that in this Chamber over a very long period the Leader of the Opposition has adopted a very pro-police attitude and he would know the effect that releasing the manual would have on prosecutions. Based on his track record in this Chamber, he should be credited with personal integrity and with the presumption that he is unlikely to do anything that would hinder police in prosecuting people who have done the wrong thing. In the interests of reaching a balance, honourable members should be able to see the manual and draw attention to the corporate manslaughter problem.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

PACIFIC POWER INTERNATIONAL PRIVATISATION

The Hon. DUNCAN GAY: I direct my question to the Treasurer or, in his absence, the Assistant Treasurer. How does the Premier's description of the work force of Pacific Power International [PPI] as "engineers sitting at desks with no function" compare with the company's results for the last financial year showing a dramatic turnaround from a loss of \$2.71 million to a profit of just over \$650,000? How does that statement compare with the numerous highlights in Pacific Power's annual report detailing the work of PPI, including a statement from company chairman Ross Dunning which reads, "Throughout the region, the PPI brand is highly regarded as a result of our standards and performance"? Is the company continuing to complete extensive and essential engineering works across New South Wales, Australia and South-East Asia, and therefore negating the very reason that the Government is using to privatise this State-owned company that it said it would not privatise?

The Hon. JOHN DELLA BOSCA: The Leader of the Government probably missed the first part of the question, which compared the issues raised in Pacific Power's annual report with comments made earlier in the year by the Premier. Since I cannot answer, and would not be called upon reasonably to answer for the Premier's comments, I will ask the Premier to provide an answer to the question.

WORKCOVER ROLL-OVER PROTECTIVE STRUCTURES SCHEME

The Hon. TONY KELLY: Will the Special Minister of State inform the House about changes to the WorkCover scheme which assist farmers to fit roll bars to tractors?

The Hon. JOHN DELLA BOSCA: WorkCover's Roll-Over Protective Structures Scheme [ROPS] commenced in May 2000. The scheme has been an outstanding success. Since its introduction the scheme has paid out more than \$1.2 million. This money has helped to fit life-saving roll bars to more than 6,000 tractors across the State. The scheme has been a valuable tool in reducing fatalities and injuries on farms. The ROPS scheme provides farmers with a \$200 rebate to install rollover protection bars on their tractors, combating a major hazard for rural workers. The Government has agreed to extend the ROPS scheme until June 2003. The extension forms part of the Government's response to the New South Wales Workplace Safety Summit held in Bathurst in July this year. The extension to the ROPS scheme will make a significant contribution towards meeting the target set by the safety summit's rural industry working group, which set a target of reducing workplace deaths on farms by at least 30 per cent over the next five years.

Tractor rollovers are the leading single cause of farm deaths. In the past 10 years 17 people have lost their lives in tractor rollovers in New South Wales. For those who survive a tractor rollover the average time off work is nine weeks. That is a long time to be unable to work on a property. The financial cost of each accident is approximately \$15,000. So the ROPS rebate has been \$1.2 million well spent. The ROPS rebate forms one part of the three-year program of safety initiatives announced by the Government following the Workplace Safety Summit. That package focuses on developing practical solutions for the prevention of injury in high-risk areas. The New South Wales Government's efforts on injury prevention have had a real effect in workplaces around this State. The incidence of workplace injury has fallen for six consecutive years. By assisting to fit more than 6,000 roll bars to tractors around New South Wales the WorkCover ROPS scheme is playing its part in making rural workplaces as safe as they possibly can be.

POLICE INVESTIGATION INTO Mr SCOTT WYATT ASSAULT

The Hon. MICHAEL GALLACHER: The Minister for Police has now had two days to be briefed on the slow progress of investigations into serious fraud and assault allegations involving the New South Wales State Secretary of the Australian Workers Union. Will he now advise the House why certain basic procedures have not been carried out? I refer, first, to the DNA testing of a balaclava used in the vicious assault of Scott Wyatt and, second, to not informing the complainant of the final outcome of the fraud investigation even though she supplied a 13-page statement to investigators?

The Hon. MICHAEL COSTA: This is the third question on this matter that the Opposition has raised. I do not intend to delve into operational matters—I have already made that clear. But I am sure that the Leader

of the Opposition, when he is unemployed after the next State election, could go back to operational policing if he wants to direct our police in how to investigate. I have full confidence in our police to engage in proper investigatory procedures. If he has any evidence that they have not done that he ought to raise the matters with the Police Integrity Commission [PIC]. If he does not have any evidence he should just be quiet about the matter and let the police get on with the job of investigating the matters in the manner in which they have been trained to. As I said, after the next State election I am sure there will be a vacancy for a Coalition Opposition leader in this Chamber. The Leader of the Opposition can always go back to the police.

NATIONAL ACTION PLAN ON WATER QUALITY AND SALINITY

The Hon. IAN COHEN: My question is addressed to the Treasurer. Several months ago the Premier announced that State Forests of New South Wales was to receive \$100 million of the national action plan on water quality and salinity money for plantation establishment. Has the Commonwealth agreed to this project and has New South Wales Treasury received the money?

The Hon. MICHAEL EGAN: I must concede that I do not know the answer to either of those questions. I will obtain advice and provide it to the House as soon as I can.

The Hon. IAN COHEN: I ask a supplementary question. If the money has not been received, could this be because the Commonwealth has been advised that the State Forests proposal could actually worsen rather than mitigate salinity?

The Hon. MICHAEL EGAN: The honourable member's question is hypothetical, and in view of my earlier answer I thought it was a strange supplementary indeed.

BUSHFIRE EFFECTS ON ELECTRICITY SUPPLY

The Hon. PETER PRIMROSE: Will the Treasurer, Minister for State Development, and Vice-President of the Executive Council provide the House with information about yesterday's fires and their effect on the electricity network?

The Hon. MICHAEL EGAN: I know that I speak on behalf of all members of the House in expressing our sympathy to those people who have lost homes and possessions in the last 24 hours. Thankfully, there has been no loss of life, and we ought to pay tribute to the tremendous efforts of our emergency services for that fact. Sydney's electricity network coped extremely well under very difficult conditions created by the fires. Major bushfires were burning around high-voltage transmission lines operated by TransGrid and EnergyAustralia, causing dips in the power supply system in Sydney, the Central Coast and the Hunter. These momentary dips in power supply caused lights to flicker and computer systems to restart as the fires burned close to or under major transmission lines at Kemps Creek, Ingleburn, Picnic Point, Mason Park and Vineyard. It is testament to the robustness of the electricity network that it withstood these extreme environmental conditions.

The Hon. Duncan Gay: It is testament to poor planning that you had these problems. We have had bushfires before.

The Hon. MICHAEL EGAN: I would urge and advise the Deputy Leader of the Opposition not to say silly things. Fire also threatened EnergyAustralia's zone substation at Mason Park. Thankfully, the planned clearing of vegetation around the substation kept the bushfire away and allowed the substation to escape major damage. Bushfires were also burning under TransGrid's high-voltage network in Sydney's south-west. Its major substation at Picnic Point, which is part of the electricity network supplying power to the southern suburbs and the central business district, was also affected. The momentary blackouts that we experienced yesterday were as a result of the electricity network's protection systems operating as they should. The dips in the supply system occurred because the protection systems on these major transmission facilities worked exactly as they were designed to work.

The fire, or smoke from the fires, burning close to and directly under the transmission lines caused arcs similar to lightning strikes. These arcs are detected by the automatic protection systems, which then trip the power to prevent permanent damage. After a short time the lines automatically reclose and stay in service. I am told that between 3.00 p.m. and midnight last night this happened more than 70 times on TransGrid's high voltage network. This is what would normally be expected in a week or so during severe bushfires.

The power interruptions experienced by a number of major venues, commercial buildings, railway stations and traffic light installations around the city were caused by the internal protection systems of these installations tripping out. There were no EnergyAustralia or TransGrid network interruptions to these customers. With hot, dry and windy conditions again today we may see more temporary interruptions to power supply as the network protection mechanisms go to work.

NATIONAL PARKS AND WILDLIFE SERVICE OOLAMBEGAN NATIONAL PARK CONSERVATION MANAGEMENT

The Hon. MALCOLM JONES: My question is addressed to the Hon. Carmel Tebbutt, the Minister representing the Minister for the Environment. I draw the Minister's attention to an invitation to tender by the National Parks and Wildlife Service that appeared in the classifieds section of the *Land* on Thursday 28 November at page 14:

Tenders are invited for the utilisation of sheep as a conservation management tool on Oolambegan National Park.

Does the National Parks and Wildlife Service have further plans to expand this most valuable conservation tool in these extreme drought conditions?

The Hon. CARMEL TEBBUTT: I am unable to advise the Hon. Malcolm Jones whether the National Parks and Wildlife Service has further goals to utilise sheep as a conservation management tool. I will refer the question to the Minister for the Environment and I undertake to obtain a response for the honourable member as soon as possible.

AUSTRALIAN WORKERS UNION FRAUD INVESTIGATION

The Hon. CHARLIE LYNN: My question is addressed to the Minister for Police. When he was appointed the Minister for Police, did he notify the Premier that he had an interest in an ongoing police investigation? I refer to the occasion when, as Labor Council Secretary, he had set up an inquiry by John Whelan into fraud in the Australian Workers Union, and that matter had become part of a police fraud investigation.

The Hon. MICHAEL COSTA: This is the fourth time I will answer this question in the same manner. This is a matter for operational police. I am not delving into operational police matters. If Opposition members have any evidence of any impropriety, they can go to the Police Integrity Commission and I will support them and even provide them with an addressed envelope.

The Hon. CHARLIE LYNN: I ask a supplementary question. In the event that the Minister did advise the Premier, would he table that letter?

The Hon. Michael Egan: Point of order: The supplementary question is clearly out of order because it is clearly a hypothetical question. I would draw the attention of the Hon. Charlie Lynn, who has been here long enough to know better, that hypothetical questions are entirely out of order.

The Hon. Dr Brian Pezzutti: To the point of order: The Hon. Charlie Lynn first asked if the Minister had advised the Premier. In the supplementary question, he asked that if the Minister had advised the Premier would he please provide the letter. That is entirely in order. I believe the Leader of the Government is simply raising a red herring.

The Hon. Michael Egan: To the point of order: If the Hon. Charlie Lynn and the Hon. Dr Brian Pezzutti had read the standing and sessional orders, they would know that the question is out of order.

The PRESIDENT: Order! The sessional orders relating to rules for questions clearly provide that questions must not contain hypothetical matter. The same rule applies to supplementary questions. The question does not comply sufficiently with the guidelines relating to supplementary questions in that it seeks information of a hypothetical nature rather than elucidation of the Minister's answer. I rule the question out of order.

COALITION FUNDING COMMITMENTS

The Hon. RON DYER: My question without notice is to the Treasurer. Will the Treasurer inform the House of the latest developments in the costing of election commitments?

The Hon. MICHAEL EGAN: I most certainly shall. Today the Leader of the Opposition has shot to pieces his own arguments against Treasury costings of election promises. His hypocrisy, duplicity, rashness and inexperience have been exposed for all to see. Last Friday Mr Brogden was interviewed on ABC's *Stateline* by Quentin Dempster. The Leader of the Opposition was asked:

Why won't you sign up to an election costing agreement on clear and transparent terms with the government?

In other words, why would he not sign up to the independent costings of policies by Treasury?

The Hon. Duncan Gay: They don't trust Treasury.

The Hon. MICHAEL EGAN: That is right. The Hon. Duncan Gay says it is because "they don't trust Treasury". That was exactly John Brogden's reply. He said, "We do not trust Treasury". It has taken just six days for the Leader of the Opposition to come up with a different story. Today, just six days after that interview, it appears Mr Brogden has decided that he does trust Treasury after all. In the *Manly Daily* today Mr Brogden is quoted as saying that in a Coalition government his budget and economic and financial forecasts would be "personally signed off by the secretary of the Treasury".

The Leader of the Opposition might be running scared from his wild, rash and reckless tally of over \$5 billion in promises, but he cannot have it both ways. He cannot say he does not trust Treasury one day, then declare he does trust Treasury less than a week later! But the Leader of the Opposition is at least playing true to form. Let us look at his weakness, panic and flip-flopping on this issue because on 6 June in Parliament it was the Leader of the Opposition who called for "independent costings of policies by Treasury". They are his words, his own request, and we have acceded to that. We have introduced a protocol for that.

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

The Hon. MICHAEL EGAN: But on 6 November, with regard to the plan to have Treasury cost election promises, Mr Brogden declared "It's not going to happen". Last Friday he held the line that he does not trust Treasury; but today Treasury is back in his good books and he will trust Treasury to sign off on Coalition finances. The Leader of the Opposition cannot be trusted and he cannot be relied upon. How can anyone know what he stands for on any given day? On 6 June the Leader of the Opposition wants Treasury to cost the policies of the Government and Opposition. On 6 November he says it is not going to happen. On 29 November he says he does not trust Treasury. On 5 December he does trust Treasury! Last weekend I referred to the Leader of the Opposition as "Two-job Johnny". I apologise to the House; I was wrong. I should have referred to him as "Two-faced Johnny".

The Hon. John Ryan: Point of order: The standing orders are clear that reflections on members of another place are inappropriate. There is little doubt that the expression just used by the Treasurer is clearly a reflection on the honourable member for Pittwater in another place. It is entirely inappropriate. Most of the Treasurer's speech could have been given yesterday in response to his bill. Clearly, he did not have the courage to give it then.

The Hon. Amanda Fazio: The same thing could have been said about you.

The PRESIDENT: Order! I remind the Treasurer that he must not make implications against members of this Chamber or the other Chamber.

The Hon. Greg Pearce: Point of order: During the previous point of order the Hon. Amanda Fazio interjected on the Hon. John Ryan in the same terms as the matter complained of by the Hon. John Ryan. I therefore ask you to suggest to the Hon. Amanda Fazio that she not cast aspersions on members of the upper House, which is in breach of the standing orders.

The PRESIDENT: Order! Interjections are disorderly at all times.

The Hon. RON DYER: I ask a supplementary question. Is the Treasurer able to elucidate his answer?

The Hon. MICHAEL EGAN: Yes, I am. This New South Wales Treasury—the organisation that one day the Leader of the Opposition in the other place does not trust, then the next day he does trust—is the same New South Wales Treasury that served the Government of John Fahey and the Government of Nick Greiner. Only two senior officials now in Treasury were not there under Mr Fahey's Government. The two officers who

did not serve under former Premiers Mr Fahey and Mr Greiner are both senior officers, one from the Commonwealth Treasury and one from the New Zealand Treasury. They are experts and they have, fairly and impartially, served governments on both sides of the political fence.

The Hon. Dr Brian Pezzutti: Point of order: Clearly, the Treasurer is misleading the House—

The PRESIDENT: Order! That is not a point of order.

The Hon. MICHAEL EGAN: It is quite clear that whenever I refer to this very sensitive subject of Opposition promises, their unaffordability and their costing, members of the Opposition try to eat up as much time as they can by taking senseless points of order. The Auditor-General has agreed to scrutinise Treasury's compliance with the costing protocol. The legislation that passed through this House yesterday will make it illegal for any Treasury officer to reveal any confidential information about Opposition or Government policies that are being costed. [*Time expired.*]

VILLAWOOD DETENTION CENTRE DETAINEES RELEASE

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question without notice is directed to the Minister for Community Services. Is the Minister aware of a consulting psychiatrist report on the children of the Al' Abaddi family currently detained in the Villawood Detention Centre, which recommended the immediate release of Nashwa and Humam, the two eldest children? Will she act on these recommendations? What steps will she take to achieve the release of these young people? Will the Minister agree to an inquiry into children in detention in New South Wales?

The Hon. CARMEL TEBBUTT: The Hon. Dr Arthur Chesterfield-Evans has raised an important issue of concern within the community. However, I make it clear to the House, as I have done on previous occasions to the honourable member, that the Department of Community Services [DOCS] has no jurisdiction over the Villawood Detention Centre, which is operated by the Commonwealth Department of Immigration and Multicultural and Indigenous Affairs [DIMIA]. The Children and Young Persons (Care and Protection) Act 1998 does not apply to children and young people in the Villawood Detention Centre. People might like that to be different, but that is the fact of the matter.

The Department of Community Services can only investigate reports received about individual children confined in Villawood if DIMIA invites DOCS in. When this occurs DOCS can only undertake assessments and make recommendations to DIMIA about required action. Previously, the department has investigated reports about children at Villawood. However, I cannot say whether the report referred to by the honourable member involves one of the children we have investigated previously, which was prior to my time as Minister. I am happy to follow that up. The New South Wales child protection legislation does not apply to children and young people in the Villawood Detention Centre.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I ask a supplementary question. Does the Minister have an opinion from the Solicitor General? It does not seem possible for a memorandum of understanding about the detention centre to override State laws at a constitutional level.

The Hon. CARMEL TEBBUTT: The answer I have given is based on advice from the Department of Community Services. It is accurate and correct advice.

GRAWIN OPAL MINING INDUSTRY

The Hon. RICK COLLESS: My question is directed to the Minister for Mineral Resources. Is the Minister aware of concerns from opal miners in the Grawin region, near Walgett, about the future of their operations? Why has the Department of Mineral Resources so far failed to adequately respond to a number of concerns raised by the opal miners association in that area? Is he aware that in three years of correspondence from the local mining association, the department has provided just one response? Is this situation acceptable? What action will he take to deal with the concerns of the association?

The Hon. EDDIE OBEID: As I am aware of the issues raised by the Glengarry Grawin Sheeppark Miners Association, I am advised that all correspondence to the Department of Mineral Resources has been acknowledged and addressed at regular meetings of the Lightning Ridge Mining Board. The board has representatives of opal miners associations, State government agencies, local government, landowners, farmers

and graziers. The department has actively explored with all stakeholders options for the operation of mullock dumps as part of an effort to improve safety and environmental outcomes. The Government values the contribution of opal mining to local communities, and will continue to consult with all stakeholders on all issues that impact on the opal mining industry and protection of the local environment.

SUSTAINABLE RECREATIONAL FISHING

The Hon. AMANDA FAZIO: My question is addressed to the Minister for Fisheries. What has been done to help educate our children about the importance of sustainable recreational fishing?

The Hon. EDDIE OBEID: I commend the honourable member for her continuing interest in protecting our fish stocks for future generations. Recently the New South Wales Government released a new education kit, "Get hooked ... It's Fun to Fish", that teaches primary school students about responsible fishing. The kit will be trialed in 25 public and private primary schools in New South Wales. Two environmental education centres and three sport and recreation centres are also helping NSW Fisheries to trial this new kit, which is a first for the New South Wales Government. It contains topics to help school students from year 3 to year 6 learn more about fishing and the aquatic environment. It is helping children learn about aquatic life, fishing safety, habitation protection, catch limits and responsible fishing. Recreational fishing is one of the top 10 sports in New South Wales, and it is one of the most popular activities enjoyed by families when they are on holidays.

It is a great opportunity for kids to have fun and get involved in a healthy outdoor sport. NSW Fisheries is assisting teachers and schools participating in this trial by organising school visits, fishing clinics, field trips and hatchery visits. It is important that young people understand the importance of responsible fishing practices so that they can help to protect our fish stocks in the years to come. NSW Fisheries worked closely with the Department of Education and Training and the New South Wales Board of Studies to ensure that the kit met New South Wales syllabus requirements. The Commonwealth Government, other States—Victoria, Queensland, Tasmania and the Australian Capital Territory—and RecFish Australia, a national recreational fishing organisation, were also involved. Subsequently, the education kit will be released statewide in 2003. This is a fantastic learning opportunity for children, who are the key to future sustainable fisheries management. It is great way to teach children about our State's great recreational fishing.

WILDLIFE PROTECTION

The Hon. RICHARD JONES: I ask the Minister for Community Services, representing the Minister for the Environment, my very last question in this House. Given that we are experiencing what is arguably the worst drought in 100 years, with devastating consequences for not only householders around Sydney but also farming communities and our native wildlife, will the Minister call an immediate halt to the issuing of licences to kill any protected wildlife, whether they be flying foxes, kangaroos, wallabies, native ducks or swans, to give drought survivors a chance to recover their numbers? If not, what excuse can the Minister give?

The Hon. CARMEL TEBBUTT: I thank the Hon. Richard Jones for this question, which may well be one of the last questions he asks on this issue—he has certainly asked many. I will refer it to the Minister in the other place and undertake to get a response as soon as possible.

UPPER CLARENCE MOBILE TELEPHONE COVERAGE

The Hon. MELINDA PAVEY: I direct my question to the Minister for Community Services, representing the Minister for the Environment. When will the Minister make a decision to give Telstra access to construct a mobile phone tower on national park land at Yabbra Mountain at Old Bonalbo to give the people of the upper Clarence mobile phone coverage? Is the Minister aware that the local community has raised substantial funds to support mobile phone coverage for the region? Why is the Government stalling on a decision when amendments have been drafted to allow the construction of the tower in the national park?

The Hon. CARMEL TEBBUTT: I am aware that the issue of mobile phone towers in national parks is particularly difficult. I will refer the question to the Minister for the Environment and undertake to obtain a response.

TOWNLIFE DEVELOPMENT PROGRAM

The Hon. IAN MACDONALD: I direct my question to the Treasurer. Will the Treasurer inform the House about the latest New South Wales Government initiatives to help small communities in regional New South Wales?

The Hon. MICHAEL EGAN: I do not think there will be any more Australian Technology Showcase questions or answers in this Parliament.

The Hon. Michael Gallacher: That is a shame.

The Hon. MICHAEL EGAN: I agree. I will tell honourable members about each one in the next Parliament. The Townlife Development Program encourages small communities to work with the Government to promote economic development and jobs growth. A fantastic recent example is the Nymagee Outback Music Festival. It attracted more than 1,000 people to the tiny hamlet, which is about an hour's drive from Cobar. I have been to Cobar but not to Nymagee. Acts including the Bushwackers, the Remains, the Rovers and Drivers Outback Show and Campbell the Swaggie came to the Nymagee festival this year.

The Hon. Duncan Gay: Do you know Marsha?

The Hon. MICHAEL EGAN: No, I do not. Nymagee has a permanent population of 62, give or take one or two. It is now experiencing a population boom, due in part to the popularity of the festival.

The Hon. Melinda Pavey: Marsha is the most popular person in the area.

The Hon. MICHAEL EGAN: I do know the mayor of Cobar—everyone knows Lilliane.

The Hon. Duncan Gay: But you haven't met Marsha.

The Hon. MICHAEL EGAN: No, I have not.

The Hon. Melinda Pavey: Marsha is fantastic.

The Hon. MICHAEL EGAN: Is Marsha larger than life—larger than Lilliane?

The Hon. Duncan Gay: Yes.

The Hon. MICHAEL EGAN: I find that impossible to believe. Nymagee held its first Outback Music Festival when the hamlet had a population of only 35. It now has a population of 62 and no vacant houses, so new residents must have their houses built. The Nymagee school was on the verge of being closed a few years ago because it had only four students. It now has 10 students and will remain open.

[Interruption]

I know that Nymagee does not have an Opera House, but I can assure honourable members that that will not be in the Government's list of commitments for the next Parliament. This truly grassroots festival celebrates young, emerging artists and established Australian musicians. The positive effects of the festival are tangible. For example, travellers from Japan, Belgium, Switzerland, Sweden, Mexico and Korea are interested in outback New South Wales and the festival; they regularly visit the area. City people have bought historic buildings such as the post office, bank and general store, and plan to renovate. The general store, which had been closed for more than a year, was reopened for the festival. I am pleased that the New South Wales Government is helping communities with a maximum population of 2,500, or, in the case of Nymagee, 62 and rising. The town has one of the highest population growth rates in Australia. The population was 35 last year and it is now 62. There is not another town or city in Australia with a better population growth rate.

POKER MACHINE GAMBLING

Reverend the Hon. Dr GORDON MOYES: I thank the public relations officer for Nymagee! I direct my question to the Minister for Police, representing the Minister for Gaming and Racing. Is it true that gamblers spent \$35 billion on poker machines last year and that profits increased to \$4.3 billion? Is it true that the total

number of poker machines in New South Wales has now reached a record—the equivalent of one machine for every 66 people? Is it also true that families bear the brunt of the pain and misery that accompany problem and pathological gambling, which damages families resulting in divorce, child abuse, neglect and domestic violence? What action will the Government take to further address the growing problem of gambling addiction by returning more of these huge profits to the community to help problem gamblers and to fund counselling services?

The Hon. MICHAEL EGAN: It is true unfortunately that addiction to gambling can cause very serious personal and social problems. For that reason the Government is very active in formulating and implementing a comprehensive range of harm-minimisation measures. By and large, the hotel and club industry has been very supportive of those measures. In July last year the Government introduced the first cap on the number of poker machines in New South Wales at 104,000 machines. The total number of machines could not be predicted because applications had been made by clubs or hotels which were entitled to have machines but which had not installed them.

As at 30 June the number was a little more than 101,000. Despite a short-term increase, over time the number of machines will decrease. That is because the reforms introduced by the Government last year demand that for every two poker machines traded on the market—and we have recently established this market—a pub or a club must surrender a third machine. New South Wales gambling revenue, as a proportion of the total State revenue, is 9.1 per cent. That is a significant amount and helps fund schools, hospitals, roads, community services and all the other services that a government provides.

Although the New South Wales proportion is 9.1 per cent, which is quite high, it is just over half the proportion of total revenue that Victoria gets from gaming, which is 15 per cent. It is well below that of Queensland, which is 12.3 per cent, South Australia, which is 13.3 per cent, and Tasmania, which is 11 per cent. That is because, although New South Wales has more poker machines in total and per capita than other States, tax rates in other States are significantly higher than in New South Wales. When the Government introduced those reforms last year it undertook to the club industry that there would be a moratorium on those tax levels for a designated period.

The honourable member raised a serious and important question. There is no doubt that gambling can have very deleterious consequences for people who are addicted to it, as well as their families and the community. I assure the honourable member that the Government is mindful of the problem. I assure him also that, as I indicated earlier, by and large the club and hotel industry is being very co-operative in this area.

AUSTRALIAN WORKERS UNION FRAUD INVESTIGATION

The Hon. JAMES SAMIOS: My question without notice is addressed to the Minister for Police. Is the Minister's unwillingness to advise the House about the police investigation into the Australian Workers Union [AWU] associated with his close personal relationship with Russ Collison, the New South Wales branch State Secretary?

The Hon. MICHAEL COSTA: That is the most appalling attempt to smear that I have ever been privy to. It is just unbelievable. I have said, and will say again, that if the honourable member has any evidence of any impropriety he should make sure that he understands the process under which it operates. If he has a skerrick of evidence he should take it to the Police Integrity Commission [PIC]. Do I know Russ Collison? Yes, I do. I think most people on this side of the House would know him. If there is a police investigation, let it go forward. If the honourable member has any allegations of corruption, or anything to do with that investigation that needs investigating, he should take it to the PIC.

The Hon. JAMES SAMIOS: I ask a supplementary question. Is the Minister's refusal to advise this House about matters relating to his Police portfolio connected to the fact that as secretary of the New South Wales Labor Council he was dependent on the AWU's support? Is this a conflict of interest?

The Hon. MICHAEL COSTA: I will deal with the false premise in the question. I am proud that as secretary of the Labor Council of New South Wales I was elected unopposed on every occasion. Clearly, I was not dependent on the AWU for a vote; I had the overwhelming support of the trade union movement because I did such a good job, just as I am doing as Minister for Police.

UNFAIR DISMISSAL LAWS

The Hon. HENRY TSANG: My question without notice is to the Minister for Industrial Relations. Will the Minister inform the House why the Government believes that reinstatement should be the main remedy for unfair dismissal?

The Hon. JOHN DELLA BOSCA: When the five-year review of the Industrial Relations Act 1996 was conducted, the Government received submissions proposing changes to the way that the unfair dismissal jurisdiction operates. Concern was expressed from both industrial parties about the way the jurisdiction had changed from one that sought to redress potential injury suffered by a worker unfairly dismissed by restoring the employment relationship to one that focused on finding a money-based compensation solution. Such an approach is not good for employers or employees, or for the health of the unfair dismissal system.

The Government understands that on-the-job relationships can and do break down irretrievably. Forcing people back into jobs that they do not want, with employers who do not want them, is not the way to restore and maintain workplace harmony. It has never been, and is not, the Government's intention to put an end to monetary settlements or orders by the commission as a remedy for unfair dismissal. We want to make sure that reinstatement is properly considered by the commission before it is found to be impracticable. It is apparent from the public statements of the Leader of the Opposition that the Opposition does not support this view. Last night in the House the Leader of the Opposition said:

... to ensure that employees got their jobs back, to make that a primary focus—was inconsistent with the reality in the workplace.

The Leader of the Opposition is outflanking Tony Abbott, the Federal Minister, to the Right—a very ugly thought indeed—which will not do his preselection any good at all. He said:

... to make reinstatement the primary remedy is inconsistent with the reality in the workplace.

On 13 November, when the Federal Minister for Employment and Workplace Relations proposed a new law on unfair dismissals, he told Federal Parliament that the new law "emphasises that reinstatement is the primary remedy". While there are other aspects of the Federal bill that the New South Wales Government does not support, the sentiment expressed in those words is endorsed and is correct. I place on record that the Government will consider a similar option in the New South Wales unfair dismissal jurisdiction if there is community and small business support for similar State-based legislation.

It is little comfort for New South Wales workers to find that Tony Abbott is more supportive of their cause than is the Leader of the Opposition and the New South Wales Coalition; but that is true. Last night the Leader of the Opposition described Tony Abbott as "my learned colleague". There are some things he could learn from Tony Abbott, and praise for the New South Wales industrial relations system is one. On 26 November Tony Abbott singled out the construction of two almost identical Orica plants, one in Sydney and one in Melbourne. Mr Abbott said, "The Sydney plant was finished on time and on budget." Who constructed the plant? It was one of Australia's greatest unions, the New South Wales branch of the Australian Workers Union.

It covered the membership of the site under the New South Wales industrial jurisdiction. That organisation was subject to a series of vicious and pointless questions by the Leader of the Opposition. Mr Abbott said further that "Woolworths had much the same experience". Referring to that construction, he said that "The Sydney warehouse was on time." Site coverage was with the Construction, Forestry, Mining and Energy Union. Mr Abbott recognises that the New South Wales industrial relations system is delivering results for employers and employees. I remind all honourable members of the magnificent effort of the New South Wales trade union movement in the construction of the Olympic Games venues, on time and on budget. [*Time expired.*]

The Hon. HENRY TSANG: I ask a supplementary question. Will the Minister elucidate his answer?

The Hon. JOHN DELLA BOSCA: Yes. I wish to make one more point in keeping with the spirit of the supplementary question. As I have made clear in this House and in the public arena, the New South Wales system is based on co-operation and respect for an independent umpire, based on the principal of reasonable and fair treatment and achieving fair outcomes, and based on the assumption that fairness is efficient. A more efficient workplace can be achieved if there are fair workplace rules. The New South Wales system is delivering results for workers and employers and is helping to ensure that New South Wales is competitive and that workplaces remain harmonious and productive. It has become part of the competitive advantage of New South Wales against the other States.

SYDNEY 2002 GAY GAMES

Reverend the Hon. FRED NILE: My question is addressed to the Treasurer. Has the homosexual Gay Games 2002 unpaid bills of \$2.5 million and gone into voluntary administration? Did lacklustre ticket sales and

a general disinterest in the event cause the failure of the homosexual Gay Games? Today the media reported that the State's taxpayers could be forced to foot the bill for this failed event. Will the Treasurer ensure that no New South Wales taxpayers' dollars are used to bail out the failed Games, and that wealthy homosexual promoters should pay all outstanding bills to assist local Sydney businesses that are facing bankruptcy?

The Hon. MICHAEL EGAN: I am not aware of the matter to which Reverend the Hon. Fred Nile refers. However, I take it from his question that there may have been press reports on the matter which I have not seen. I am not aware whether the Gay Games finished with either a loss or profit. In any event, I do not know how that would impact upon the State. According to the newspaper article which the honourable member has now provided me, I understand that some money is still owed to the Australian Taxation Office and also some government entities. I will obtain further information on the matter and provide it to the House as soon as possible.

YAMBA SAND BAR DREDGING

The Hon. JENNIFER GARDINER: My question is to the Minister for Mineral Resources, representing the Minister for Transport, and Minister for Roads. Will the Minister inform the House what steps are being taken to dredge the Yamba bar? Is he aware that the Government's failure to address this situation threatens jobs and businesses in, for example, the local timber, shipping and fisheries industries? If dredging is to occur, what is the timetable for completion?

The Hon. EDDIE OBEID: It is an important issue, and I will endeavour to obtain a detailed answer as soon as possible. However, I wish to correct the Hon. Jennifer Gardiner. The appropriate approval process for dredging is handled by the Minister for Land and Water Conservation, not the Minister for Transport, and Minister for Roads.

DEPARTMENT OF COMMUNITY SERVICES BUSHFIRE VICTIMS ASSISTANCE

The Hon. JAN BURNSWOODS: My question without notice is to the Minister for Community Services. Will the Minister inform the House about the level of support being provided by the Department of Community Services to communities affected by the current bushfires?

The Hon. CARMEL TEBBUTT: Unfortunately, yesterday was one of the busiest days for the Department of Community Services [DOCS] and community agencies—not to mention our rural fire services and firefighters—since the chaos of the Christmas 2001 bushfires. Yesterday saw one of the largest number of evacuation centres set up by the department in a single day. The fires are having a devastating impact on local communities, with many families and individuals losing their homes and all their possessions, walking away with little more than the clothes on their backs. It is difficult to imagine what those people must be going through. The Treasurer has already extended the heartfelt sympathies of the House to all those who have suffered losses as a result of these bushfires.

Last night a total of seven evacuation centres were set up by the Department of Community Services: five in Sydney, one at Nowra and one at Mangrove Mountain near Gosford. More than 600 people attended the department's evacuation centres yesterday and overnight as fires threatened homes in Sydney, on the Central Coast and on the South Coast. Evacuation centres are the first phase of DOCS assistance for people affected by disasters. The next phase can include the establishment of disaster recovery centres, and help at local DOCS offices in meeting people's longer-term needs in recovering from the disaster.

The department established evacuation centres at five Sydney locations: New Brighton Golf Club at Moorebank, Moorebank Sports Club at Holsworthy, Menai Catholic Club at Menai, Revesby Workers Club at Revesby and Dural Country Club at Dural. Evacuation centres at Dural Country Club and Mangrove Mountain Golf Club, near Gosford, are still open. Two centres are also on stand-by at Thornleigh Baptist Centre and Berowra Community Centre, ready to roll if the situation worsens. Let us hope that is not the case. A centre also remains on stand-by at Pokolbin, in the Hunter Valley. Yesterday about 300 people registered at a DOCS evacuation centre at Nowra Showground. The centre remains open as fires continue to threaten homes in the Shoalhaven area.

The Department of Community Services has a fine record in responding quickly to the bushfire crisis in New South Wales, setting up evacuation centres where residents have been forced from their homes. However, yesterday high temperatures and strong winds forced DOCS to set up evacuation centres in just several hours.

DOCS and community agency staff at the evacuation centres will help to provide things like immediate cash assistance, temporary accommodation where necessary, and food and transport. It will also help people get in touch with other community services as appropriate.

As bushfires threaten Sydney and New South Wales, DOCS has now assisted more than 1,000 victims since September 2002. The department has also distributed a total of 36 Helping Hand grant payments worth \$340,000. I take this opportunity to acknowledge and thank all the staff of the Department of Community Services who have been involved in the bushfire efforts. Together with community agencies such as the St Vincent DePaul Society, the Red Cross, the Salvation Army and Adracare, they are working extremely hard to ensure that assistance is provided to evacuees and fire victims.

NAVIGATION CHANNELS DREDGING

The Hon. DAVID OLDFIELD: My question is to the Minister for Mineral Resources, representing the Minister for Transport, and Minister for Roads. Is the Minister aware that on 17 October the Boat Owners Association of New South Wales supplied a legal opinion to Parliamentary Secretary Kevin Moss regarding the Minister's responsibility for the dredging and maintenance of navigation channels? Does the Minister acknowledge that expert opinion makes it clear that the Minister has ultimate responsibility for maintaining the safety of navigation channels outside ports, and that the Minister may be liable for such matters as injuries and oil spills resulting from any mishaps occurring through the Minister's failure to ensure safe navigation in channels throughout New South Wales, such as the channel at Swansea? Given the expert advice of Mr Michael Cranitch, SC, who is a specialist in maritime law, is the Minister still relying only on likely flawed advice from the legal manager of the Waterways Authority? Is the Minister concerned that, despite the seriousness of this situation and this advice also being given to the member for Swansea, the Boat Owners Association has not yet received a response from either the Minister or his Parliamentary Secretary?

The Hon. EDDIE OBEID: I am sure that safe navigation falls within the portfolio area of the Minister for Transport, in his capacity as the Minister responsible for waterways. Dredging falls within the portfolio area of the Minister for Land and Water Conservation. It is an important and detailed question, and I will seek a detailed answer from the relevant Minister.

BURWOOD RAILWAY STATION UPGRADE

The Hon. JOHN JOBLING: My question without notice is to the Minister for Mineral Resources, representing the Minister for Transport.

The Hon. Michael Egan: I thought you were going to ask me.

The Hon. JOHN JOBLING: Let us see how he handles it. Will the Minister advise the House of the terms of the memorandum of understanding for the upgrade of Burwood railway station signed by Transport NSW, State Rail, PlanningNSW and Burwood Council in July 2002? Will the feasibility and planning studies not be available until late 2003? Will the Minister advise the House which year the construction for the upgrade will commence and where any funds have been allocated in the State budget for this project—or is this a political stunt aimed at improving the failing election chances of the local Labor candidate?

The Hon. MICHAEL EGAN: I will take the question.

[Interruption]

I am not in a position to answer the question because, clearly, it is a detailed question and it was asked of the Minister for Mineral Resources, and Minister for Fisheries in his capacity as representing the Minister for Transport. I will therefore refer the question to the Minister for Transport for a detailed response.

The Hon. Duncan Gay: Why didn't you let Eddie answer it?

The Hon. MICHAEL EGAN: I simply wanted to take the opportunity to answer the Hon. John Jobling's last question in this House.

The Hon. Dr Brian Pezzutti: Madam President—

The Hon. MICHAEL EGAN: If the Hon. Dr Brian Pezzutti wants to ask a question, he will get a go as well. I have enjoyed answering the Hon. John Jobling's questions over the last almost eight years. Indeed, I first met the Hon. John Jobling at a seminar in Muswellbrook in about 1979 when I was representing the then Minister for Mineral Resources and Development, Ron Mulock. The then Mayor of Muswellbrook, the Hon. John Jobling, invited me to dinner. I must say that he had embarked on a great project, which was the restoration of a stately old home that had fallen into disrepair. It was a Herculean task that he had undertaken, and he was doing it with enormous success. I had a very enjoyable evening with the Hon. John Jobling and his wife that evening. Subsequently, of course, he became a member of this House.

Like me, the Hon. John Jobling had made many attempts to be elected to Federal Parliament years earlier. But for 200 votes, he would probably now be the Federal member for Paterson—the seat for which he stood in 1969. If he had taken 100 votes from the National Party candidate and been elected on that occasion he would probably still be in Federal Parliament. The Hon. John Jobling has certainly been a valued member of this House and a credit not only to Muswellbrook but to his party and the Parliament, both of which he has served very well. I am sorry that I am not in a position to give him a more detailed answer.

TERRORISM POLICE POWERS LEGISLATION

Ms LEE RHIANNON: I direct my question to the Treasurer, representing the Premier. Is the Treasurer aware of the comments of the Federal Attorney-General, Daryl Williams, on ABC radio yesterday? He said:

... when you look at what we have in our bill and compare it to what the NSW government is proposing in its bill you'll see that there are an enormous range of safeguards in ours that are not present in the NSW bill.

The Federal Attorney-General was referring to the Terrorism (Police Powers) Bill. In light of this information, will the Premier hold back on promoting the New South Wales model of fighting terrorism until it has been subject to the same proper and open parliamentary inquiries that the ASIO bill has been through?

The Hon. MICHAEL EGAN: The Hon. Lee Rhiannon has been in this place long enough to realise that she should not reflect on a vote of the House or on legislation passed by the House. The legislation to which she refers has been subject to debate in this House and the other place in the past week or so. It passed through this House last night, and I think it is very balanced legislation. We live in quite difficult times and we are subject to threats that we once thought would never emerge. It is very important to have in place safeguards that balance our civil liberties with our right to be protected from harm. I think the legislation that Parliament passed yesterday achieves that aim.

OPERATION MALTA

The Hon. Dr BRIAN PEZZUTTI: My question is directed to the Treasurer, representing the Premier. As months have passed since the completion of the Police Integrity Commission's Operation Malta hearings during which the inquiry heard serious allegations that senior former and serving police officers were derailing the reform process, when will the report be finalised and made public? Will the Treasurer assure the House that the report will be written by Judge Urquhart, who heard all the evidence, and not by someone else who did not hear all the evidence? Will the report be made public prior to the March 2003 State election?

The Hon. MICHAEL EGAN: I thank the Hon. Dr Brian Pezzutti for his question. I am not in a position to answer it but I will refer it to the Premier and obtain a considered and detailed response. I am pleased to have this opportunity of answering the Hon. Dr Brian Pezzutti's final question but I am sorry that it is his last. Tutti-Frutti has become almost an institution in this place. I think he made a number of attempts to enter the lower House.

The Hon. Dr Brian Pezzutti: One: Federal Parliament.

The Hon. MICHAEL EGAN: And I am sure he would have made a very good Federal member. He has certainly been a very good member in this place.

The Hon. John Ryan: He was beaten by Charles Blunt.

The Hon. MICHAEL EGAN: I would have voted Labor No. 1 and Tutti-Frutti No. 2 if I had been a constituent in that electorate at that time. The people of the Tweed River region, who missed out on having the

Hon. Dr Brian Pezzutti as their Federal member, did the other citizens of New South Wales a favour in that he then became a Liberal candidate for the New South Wales upper House. Timing is everything in politics. We cannot do much about it: timing is a matter of luck. I think that if the Hon. Dr Brian Pezzutti had been in the other place at another time he would have been a very senior Minister. It was his misfortune that he has served in Parliament largely during a period of Labor ascendancy, and when there was a Coalition Government only a few ministerial spots were available in this House.

Like the Hon. John Jobling, the Hon. Dr Brian Pezzutti has had a distinguished parliamentary career. He has also had a distinguished career in other areas, such as the Army and medicine. We will all miss him. We will particularly miss his irascible temperament and his inane interjections. We look forward to seeing both him and the Hon. John Jobling playing a significant role in their new careers—whatever they may be—for the benefit of not only them and their families but the people of New South Wales.

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

CAULERPA TAXIFOLIA CONTROL

The Hon. EDDIE OBEID: On 14 November the Hon. Don Harwin asked me a question without notice concerning caulerpa taxifolia control. I provide the following answer:

The Government has allocated \$923,000 for better management of aquatic pests in NSW and some of this funding has been used to establish an aquatic pests taskforce that is working with local communities to bring the weed under control. Control of *Caulerpa taxifolia* is the taskforce's first and highest priority.

Since the discovery of *Caulerpa* in Burrill Lake, Lake Conjola and Narrawallee Inlet in 2001, NSW Fisheries has extensively mapped these areas using high tech underwater video technology to determine the extent of the outbreak.

Two information sessions on controlling *Caulerpa* were hosted by NSW Fisheries in October 2002 for community members on the NSW South Coast.

Salt treatments were applied in September to an area of high use adjacent to Lake Conjola Caravan Park, and on a patch on the western shoreline of Burrill Lake. In late November, a team of six divers, scientists and technicians began treating patches of *Caulerpa* in Narrawallee Inlet, using swimming pool salt.

Salt applications are planned in the near future in Lake Conjola and Burrill Lake. Monitoring is ongoing at all these sites.

NSW Fisheries has not separately calculated the costs of these specific measures, given that they form part of the overall initiative.

HAWKESBURY RIVER COMMERCIAL FISHING RESTRICTIONS

The Hon. EDDIE OBEID: On 3 December the Hon. Jennifer Gardiner asked me a question without notice regarding Hawkesbury River commercial fishing restrictions. I provide the following answer:

I am assuming the Honourable Jennifer Gardiner is referring to the new fishing rules that commence on January 17, 2003, as part of the estuary prawn trawl fishery management strategy.

I refer the Honourable Member to the Estuary Prawn Trawl Fishery Environmental Impact Statement. The document includes a socio-economic assessment of the estuary prawn trawl fishery and an extensive reference section.

LAVINGTON POLICING

The Hon. MICHAEL COSTA: On 31 October the Hon. Charlie Lynn asked me a question without notice regarding Lavington policing. I provide the following answer:

NSW Police advise:

The Lavington CBD is situated approximately five kilometres from the Albury Police Station, being the head station in the Albury Local Area Command. As at October 2002, the Command had an actual strength of 147.

I am further advised the Local Area Commander currently undertakes weekly tasking and deployment meetings to review crime, assign personnel to hotspots and target repeat offenders.

Police Accountability Community Teams (PACT) enable local communities to raise issues directly with their Local Area Commanders, including issues related to station operating hours and deployment of police resources.

Questions without notice concluded.

[The President left the chair at 1.07 p.m. The House resumed at 2.10 p.m.]

TERRORISM POLICE POWERS LEGISLATION

Personal Explanation

Reverend the Hon. FRED NILE, by leave: I wish to make a personal explanation. Yesterday according to *Hansard* the Hon. Peter Breen, whose acknowledged patron is my long-term opponent John Marsden, made a savage and unprovoked personal attack on my Christian faith and Christian values. He falsely accused me of making many comments and failed to acknowledge that I simply asked a question in the House about terrorism precautions. In his irrational attack on me and my constituents' newsletter, *Family World News*, the Hon. Peter Breen failed to acknowledge an important fact: that it was a special annual issue that is published each November that included reports of the persecution of Christians around the world as well as a recognition of the annual International Day of Prayer for Persecuted Christians on 10 November. I do not apologise for urging prayers for persecuted Christians or for reporting that the majority of cruel persecutions and brutal murders of both Asian and African Christians in the world are currently occurring at the hands of Islamic fanatics and Islamic terrorists in Indonesia, Pakistan, the Sudan, Nigeria and other nations. I thank honourable members for this opportunity to set the record straight.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by the Hon. Michael Gallacher agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 108 outside the Order of Precedence, relating to the document entitled "WorkCover Fraud Investigation Manual", be called on forthwith.

Order of Business

Motion by the Hon. Michael Gallacher agreed to:

That Private Members' Business item No. 8 outside the Order of Precedence be called on forthwith.

WORKCOVER FRAUD INVESTIGATION MANUAL

Debate resumed from an earlier hour.

Reverend the Hon. FRED NILE [2.13 p.m.]: This motion calls for the following pages from the WorkCover Fraud Investigation Manual to be made available to the public:

- (i) "The role of the fraud investigator" on pages 3 to 5,
- (ii) "Recent initiatives" on pages 6 and 7,
- (iii) "WorkCover or a Police prosecution?" on pages 53 and 54,
- (iv) "Main offences: legislation and penalties at a glance" on page 55, and
- (v) "The Legal Role" on pages 63 to 76.

This motion arises from an inquiry held by General Purpose Standing Committee No. 1, of which I am the Chair, into WorkCover, related matters and legislation. During that inquiry the Minister agreed to make available to the committee the WorkCover Fraud Investigation Manual. It was then tabled with the report on 5 September and made available for all honourable members to read at their leisure, so it is not a secret document. The Minister requested that the manual remain confidential and that the committee not make it available to the general public. Members of the crossbench are faced with the dilemma of whom to believe. The Leader of the Opposition said that the subject pages, if made public, would not have a detrimental effect on the work of the compliance division of WorkCover. On the other hand, the Government has made out a strong case to the contrary.

The WorkCover manual is not an Australian Labor Party document or a Coalition document. Many manuals are used in many ways by various departments—Health, Education, et cetera. The Government in principle approves the operations of WorkCover but has not checked every word in the manual as to whether it is politically correct or whether it would convey the wrong impression if made public. If we make such internal departmental documents public, especially those that deal with fraud, units may be thwarted in their efforts to deal with investigations. Manuals are provided as a guide to investigators and can be used by new investigators as an orientation tool to help them carry out their duties. Indeed, many manuals are written with that purpose in mind.

The Government's argument is persuasive that the pages in the motion do not refer to individual cases but reveal the strategy or tactics followed by the compliance unit of WorkCover to tackle fraud and would give an advantage to the lawyers of people charged with fraud. It could also assist people who have not been charged with fraud to follow a procedure to avoid being charged with fraud. I understand that the Leader of the Opposition believes that making the pages public will reveal that the Government is not as tough on fraud as it should be, but that is a subjective judgment. I know that the Opposition has been critical of the Government in the way it deals with employer and employee fraud. On the other hand, making the pages public may inhibit investigators in their fraud inquiries.

In my simplistic view, if the pages are not made public there can be no adverse effect because the status quo remains. However, if they are made public they may jeopardise investigations—and the Leader of the Opposition agrees—but that is another subjective judgment. However, we may later find that making those pages public has made it more difficult for investigators to carry out their role or to secure successful prosecutions because that material was available to the legal representatives of the alleged offenders. I was influenced by the sentence in the Government's briefing paper that states:

Publication of the extracts of the manual is not in the public interest because it would help people undertaking fraudulent activity to manipulate and game the system and undermine the integrity of fraud investigation by WorkCover and the Police Service.

That is a very strong argument. Subject to any other evidence, we accept that proposition at this stage. Therefore, we cannot support the motion. Although we are getting to the end of the parliamentary session, I believe that the Leader of the Opposition has other ways and means of pursuing his concerns, which I believe are genuine, about achieving successful prosecutions.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [2.20 p.m.], in reply: I thank all honourable members who contributed to the debate. If I heard the Special Minister of State, and Minister for Industrial Relations correctly, he said he was quite relaxed—or not concerned—about sections of the document being released, or words to that effect. I look forward to reading *Hansard* tomorrow to get an exact interpretation of what he said. Be that as it may, I thank him for his contribution and his interjections, which seemed to be supportive. The Hon. Malcolm Jones and the Hon. Dr Arthur Chesterfield-Evans were prepared to consider what I put to the House in the debate. With all due respect to Reverend the Hon. Fred Nile, his contribution was disappointing, although he was in the fortunate position of having the chance to review the sections of the document I have requested—and I made reference to that.

The Hon. Malcolm Jones asked the Minister whether he would make sections of the document available, and I am told that they have been made available. As the Chair of General Purpose Standing Committee No. 1, Reverend the Hon. Fred Nile has a copy of the document in his office. I am disappointed that he made a contribution without reading the sections of the document that I have requested. It would have been appropriate for him at least to go and do the work before making a contribution. I note that reference was made to the general purpose standing committee. One point I made in my earlier contribution was that, in seeking the release of sections of the document, I was seeking clarification of the Government's position in terms of whether WorkCover should proceed under the Crimes Act or the Workers Compensation Act.

Unfortunately, Reverend the Hon. Fred Nile has forgotten one of the committee's recommendations. General Purpose Standing Committee No. 1 recommended that the Government should proceed under the Crimes Act with regard to workers compensation fraud. So the position I have adopted is at least consistent with the position adopted by General Purpose Standing Committee No. 1. I do not believe the Government has effectively or, indeed, successfully proved its case that release of these sections of the document will be detrimental to the scheme. The onus was on the Government to prove its case. With all due respect to the Minister, I do not believe that his contribution provided clarity or certainty with regard to how the information I have requested would be in any way detrimental to the workers compensation scheme.

The veil, in terms of the damage that releasing sections of the document will cause to the scheme, is very thin. The truth is that after I brought this matter to the Government's attention it recognised the likelihood of embarrassment to it and concern among the various sectors involved in the workers compensation scheme. For that reason, I believe that the Government's position on fraud investigations will continue completely unchecked. The Government has not been prepared to consider serious attempts at fraud investigation in New South Wales. Again, with only three fraud investigators in New South Wales, how can the Government be serious about fraud investigation? I commend the motion to the House.

Question—That the motion be agreed to—put.

The House divided.**Ayes, 15**

Dr Chesterfield-Evans	Mr M. I. Jones	Dr Wong
Mrs Forsythe	Mr Lynn	
Mr Gallacher	Mrs Pavey	
Miss Gardiner	Mr Pearce	<i>Tellers,</i>
Mr Gay	Mr Ryan	Mr Colless
Mr Harwin	Mr Samios	Mr Jobling

Noes, 21

Mr Breen	Mr R. S. L. Jones	Mrs Sham-Ho
Ms Burnswoods	Mr Kelly	Ms Tebbutt
Mr Cohen	Mr Macdonald	Mr Tsang
Mr Costa	Reverend Dr Moyes	
Mr Della Bosca	Reverend Nile	
Mr Dyer	Mr Obeid	<i>Tellers,</i>
Mr Egan	Ms Rhiannon	Ms Fazio
Mr Hatzistergos	Ms Saffin	Mr Primrose

Pair

Dr Pezzutti

Mr West

Question resolved in the negative.**Motion negatived.****BUSINESS OF THE HOUSE****Suspension of Standing and Sessional Orders****Motion by the Hon. Dr Arthur Chesterfield-Evans agreed to:**

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business Item No. 88 outside the Order of Precedence relating to the Quarantine Station Preservation Trust Bill, be called on forthwith.

Order of Business**Motion by the Hon. Dr Arthur Chesterfield-Evans agreed to:**

That Private Members' Business Item No. 88 outside the Order of Precedence be called on forthwith.

QUARANTINE STATION PRESERVATION TRUST BILL**Bill introduced and read a first time.****Motion by the Hon. Dr Arthur Chesterfield-Evans agreed to:**

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

Second Reading**The Hon. Dr ARTHUR CHESTERFIELD-EVANS [2.34 p.m.]: I move:**

That this bill be now read a second time.

As recently as yesterday the Premier was trumpeting the Government's green credentials. That will intensify and amplify as the election draws nearer. Rather than the Government having green credentials it is, unfortunately,

in the grip of a "Carrgo" cult. When a developer comes along with a plan to save the Government money it is as though gifts have fallen from the sky. That has been evident in the Government's reluctance to spend money on rail infrastructure for the growth of the north-west sector; it wants to put in a tollway. It has been in full swing at Cooks Cove in Sydney's south where a shiny new marina and shopping complex will replace a golf course, sports fields and environmentally sensitive wetlands.

The quarantine station is situated at Manly on the edge of North Head. It forms part of Sydney Harbour National Park and is the largest area of unalienated bushland on the Sydney Harbour foreshore. It is the site of historical, natural and Aboriginal significance to all Australians. It is of international significance in the same way Ellis Island is to Americans. The site plots the history of Australia from pre-European occupation, through colonial times, through two world wars, to the advent of aircraft, to the present day. The site contains 66 buildings dating back to the 1830s. There are more than 1,500 rock engravings of Aboriginal, European and Asian origin.

The Aboriginal occupation of the Sydney Basin is estimated to have commenced some 20,000 years ago. Evidence of Aboriginal occupation dates from the glacial flooding that formed Port Jackson 6,000 to 8,000 years ago. The area was occupied by the Kameragal clan, who spoke the Guringal language. The site on North Head suggests the area was used for occupation, food gathering, recreation and formal ceremonies. There are many examples of rock art in the caves around the area. The first meeting between Governor Phillip and Aborigines occurred in January 1788 in Spring Cove. It is yet another example of how important the site is.

I seek leave to incorporate the remainder of my speech in *Hansard*.

Leave granted.

The purpose of this bill is to retain the area known as the Quarantine Station as a public asset and to create a Trust to control its maintenance and use.

The object of the bill is to revoke the reservation of the Quarantine Station as part of the Sydney Harbour National Park and to vest the land in a new Trust to be constituted by this bill.

The new trust will be similar to the Royal Botanic Gardens and Domain Trust.

The objects of the Trust contained in clause 6 of the bill are:

- to maintain and improve the trust lands
- to encourage the use and enjoyment of the trust lands by the public by promoting the recreational, historical, scientific, educational and cultural heritage value of those lands
- to ensure the conservation of the natural and cultural heritage values of the trust lands and the protection of the environment within those lands.

The Quarantine Station area is presently in an area known as Sydney Harbour National Park. Ownership of the Quarantine Station site was transferred back to the State Government in 1984 from the Commonwealth. It is an area of historical and cultural significance encompassing some 66 buildings.

The bill seeks to preserve the historic, aboriginal and natural heritage of the site in conjunction with the surrounding area of the North Head section of the Sydney Harbour National Park. The current operations at the site provide conference and function facilities, tour activities and overnight accommodation for the public. There are also maintenance and administrative facilities for the local National Parks and Wildlife Service operations. Some NPWS staff also stay overnight on site in a caretaker role.

The bill will create a five member Trust to manage the site and membership of the Trust will include representatives of the National Parks and Wildlife Service, The Heritage Council, the local aboriginal community, and the general community.

It is important that adequate funding to be provided to properly maintain all the buildings on the site and the historical and natural heritage. The *Historic Houses Trust Act 1980* in Part 4 legislates for an endowment to be paid by the Treasurer to the Trust for specific expenditure. Similar secure funding should be provided for the Quarantine Station site for the proper maintenance of its historic, aboriginal and natural heritage.

Provisions for leasing any part of the site include retention of public control and accord with the significance of the site and not exceed 10 years. The proposed content of any lease must be publicly exhibited for thirty days and public comments on the lease proposal taken into account by the trustees. There is also a provision in clause 12 (2) of the bill that no one person or company can lease the whole of the site.

It is imperative that sites such as the Quarantine Station, which could become an international historical tourist attraction, be preserved by the NSW Government on behalf of the people of Australia.

A site with such significance to the history of Australia cannot be given over to private interests. The reason for the Governments reluctance to embrace the Quarantine Station site comes down to money. There are 66 buildings on the site of varying ages, some in need of urgent repair. National Parks seem to focus their priorities on the plants and animals on the site, rather than the historical aspects of its brief.

The solution proposed by Government, with the active support of the NPWS is to have a private developer, Mawland Hotel Management Pty Limited take the responsibility for the maintenance of many of the buildings on the site, and run a conference centre. There was a lease agreement prepared by Mallesons Stephen Jacques Solicitors dated 24 January 2000 between the Minister for the Environment as lessee and Mawland Hotel Management Pty Limited as tenant and Maxwell Player as Guarantor.

The lease outlines Mawlands obligations to refurbish and maintain many of the buildings on the site.

The cost in the lease of totally developing the buildings it proposed to lease was \$3,254,000. National Parks and Wildlife Service estimated in 1998 that a minimum of \$5,000,000 is required in the short to medium term to conserve the heritage values of the site and provide limited public access. This may seem to be a large amount of money, but in terms of preserving what is a unique chronicle of Australian history it is not.

The danger of having a private developer who is profit driven having charge of heritage buildings is that money will not be available for their proper preservation.

It would be very easy for the lessee to say they cannot afford to spend the money, as it would be uneconomic. Money would be spent on facilities that would produce an income stream, such as accommodation and conference facilities and preservation of buildings of purely historical value would pass by the way! History will not be saved or served by private developers. This is the business of the Government of the day representing the people of NSW and Australia.

Quarantine Station History

Aboriginal heritage

Aboriginal occupation of the Sydney basin is estimated at some 20,000 years ago. Evidence of aboriginal occupation dates from the glacial flooding, which formed Port Jackson 6-8000 years ago. The area was occupied by the Kameragal Clan, who spoke the Guringal language. The sites on North head suggest the area was used for occupation, food gathering, recreation and formal ceremonies. There are many examples of rock art in the caves around the area. The first meeting between Governor Phillip and aborigines occurred in January 1788 in Spring Cove. This is yet another indication of how important the site is.

Natural Heritage

The Site is home to a stunning array of animals birds reptiles and marine life. There are two endangered species, which inhabit the area, being the little penguin and the long nosed bandicoot. There are 5 species listed as vulnerable being the red crowned toadlet, the sooty and pied oystercatcher, the superb fruit dove and the swift parrot. The plant life includes remnant rainforest.

Early European phase 1828-1837

It was first used to quarantine people in 1828 when the "Busserah Merchant" was detained in Spring Cove because the passengers were found to have both smallpox and whooping cough. The more healthy passengers were housed in tents on shore and the sick were contained on board ship. In 1832 Spring Cove at North Head was declared a Quarantine Station by Governor Bourke. In 1837 the area was extended to include the whole of North Head. During the quarantining of the "Lady Noughton" in 1837 the first permanent weatherboard structures were erected.

Immigration Phase 1837-1872

Free immigration began to dominate the passenger lists from 1837 onwards. From 1853 there was a building program put in place with accommodation barrack, hospital ward and superintendents cottage being built.

Class defined accommodation 1873-1880

Building during this phase was dominated by segregation of buildings into the classes of passengers on ships. Therefore you had first, second and third class accommodation. These also reflected the health of passengers, first being the healthiest.

Board of Health Phase 1881-1909

There was a severe outbreak of smallpox in 1881, which heightened the awareness of the quarantine issue. The Site was administered by the board of health during this phase and considerable money was spent on buildings.

Commonwealth Phase 1909-1950

The Commonwealth enacted the Quarantine Act in 1908 and took possession and responsibility for the site in 1909. The major accommodation block was built in 1911-1912. The laboratory and mortuary were built in 1916. The present wharf area was laid out between 1913 and 1917. During the 1914-18 war it was used for military quarantine and in 1919-20 for a flu epidemic. During the Second World War it was used for soldiers returning from the war and British evacuee children.

The Aviation Phase 1950-1983

Many people coming from overseas and the site was heavily used again. In 1957 there was a major program of refurbishment with many buildings repaired, demolished and renovated.

By the 1970s there was not much use made for the station. 1974 saw the last ship to be quarantined, the "Niki Maru". 1975 saw the station used to house the housing refugees from Cyclone Tracy. The buildings gradually fell into disrepair. In 1983 there was a revival with the establishment of the Quarantine Station restoration Trust, funded through the Community Employment Program.

State Government Control Phase 1984-

In 1975 Sydney Harbour National Park was established to include lands at North Head, Dobroyd Head, Bradleys head, Shark Island and Clark Island. In 1979 more defence land was added to the park. The most recent additions were that of Fort Denison and Goat Island in 1995. In 1984 the ownership of the Quarantine Station site was transferred back to the State Government and added to the Sydney Harbour National Park. National Parks and Wildlife Service took control of the site at this time and in 1987 began operating a conference centre. Visits to the site at present stands at about 8,500 per year.

In August 1997 the Premier presented a Vision Statement for the future of Sydney Harbour Foreshore. The guiding principles were:

- Maximise public access to, and use of land on the foreshore.
- Land made available for public access and use should be retained or placed in public ownership.

Plans of Management and Leasing of the Site

The National Parks and Wildlife Act 1974 requires that a plan of management is prepared for each nature reserve.

A draft conservation plan, as it was known then, was produced in 1987. A conservation Plan was adopted in 1991 following submissions and review of the 1987 Draft Plan. After that time there was an Expression of Interest Assessment Committee formed and they took tenders for development of the site and commissioned reports on the condition of the buildings and infrastructure.

There was nothing decided about the future development of the site during this time. In 1996 there was produced a new draft plan of management of the entire Sydney Harbour National Park, of which the Quarantine Station is part. Tenders for the Quarantine Station were called for in 1996.

In April 1998 the Tender Board endorsed the tender of Mawland Hotel Management as the preferred tender. The Management plan was signed off on in 1998 and released for public comment in 1999.

In June 1998 the Minister for the Environment signed a negotiation agreement with Mawland. Manly Council formally objected to the proposed leasing arrangements for the first time and sought termination of the process.

In the final meeting of the tender board in January 1999 Mayor Sue Sackar and Deputy Mayor Dr Peter McDonald announced their resignations from the Board. In February 1999 the Minister gave approval for the grant of a conditional agreement to lease. That lease was signed on the 24 January 2000.

The Heritage Council endorsed the North Head Quarantine Station Conservation Management Plan in April 2000, after ruling in mid 1999 that the Plan was unsatisfactory.

Mawland produced a draft master plan and draft access strategy in 2001, which was endorsed by the NPWS. In 2001 an EIS was prepared and exhibited.

The EIS produced so many responses that Mawland and NPWS (in itself a questionable situation) decided to call a Commission of Inquiry (COI) to process all the responses. In July 2002 the COI produced its report. It found surprisingly, that there were no major environmental reasons why the proposal could not proceed. Mawland and NPWS, now firmly in partnership, put out a joint response to the COI called the "Preferred Activity Statement" (PAS)

The Present

The PAS has now been sent to the relevant determining authorities to decide whether they approve of the proposed activities in the PAS. The authorities are the NPWS, Heritage Council and Planning NSW. It is expected that this consent process will conclude in December 2002.

This is why this bill is important. This is the imminent sell off of our Nation's history. Our history must be saved.

I commend the bill to the House.

Debate adjourned on motion by the Hon. Peter Primrose.

DEFAMATION AMENDMENT BILL

Second Reading

The Hon. IAN MACDONALD (Parliamentary Secretary) [2.38 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

This bill amends the Defamation Act 1974 to give effect to the principal recommendations of the report of the Attorney General's Task Force on Defamation Law Reform, which was released in July of this year.

The main focus of the amendments is to strike a balance between the free flow of information of matters of public interest and importance, and the protection of reputation. The amendments are both procedural, and involve changes to the substantive law.

Broadly speaking, the aims of the amendments are:

- To provide effective and appropriate remedies for those whose reputations are harmed by the publication of defamatory material;
- To ensure the law does not place unreasonable limits on the publication and discussion of matters of public interest and importance;
- To promote speedy and non-litigious methods of resolving disputes; and
- To avoid protracted litigation wherever possible.

To emphasise the importance with which the Government regards these aims, they will form a statement of objects to clarify the purpose of the Act.

The inclusion of such a statement will send a clear message that the Defamation Act should not be interpreted in a way which unreasonably limits discussion on matters of public importance, and that litigation should be considered to be a dispute resolution method of last resort.

A clear priority of these proposed amendments is to divert those cases that can be dealt with by other means away from extended litigation. In order to achieve this aim, the bill inserts a new part into the act, entitled "Resolution of Disputes Without Litigation". As the title suggests, the object of this part is to encourage the early settlement of disputes involving the publication of defamatory matter. I am strongly of the view that the speedy and public vindication of a person's reputation, through a revised and strengthened offer of amends procedure, is the preferable way to resolve defamation cases. The Defamation Act currently provides for an offer of amends process, but it is not being used extensively. This appears to be because it is only available in respect of innocent publications and because it may be difficult to comply with some of the practical requirements of the process.

Proposed section 9D sets out how the new process for making offers of amends will work. A publisher will be able to make an offer of amends to a person aggrieved by a defamatory or purportedly defamatory statement. The offer must include a number of elements, including an offer to publish a reasonable correction and apology, and an offer to pay the expenses reasonably incurred by the aggrieved person. The publisher may also decide to include an offer to pay compensation in appropriate cases.

Any offer must be made within 14 days of the publisher being told by the aggrieved person that the matter in question is or may be defamatory or within 14 days of the publisher serving a defence to an action for defamation on the aggrieved person. I have no doubt that, in a fair proportion of cases, the initial offers of amends will be largely acceptable to aggrieved parties, but will require some negotiation and fine tuning before they can be reasonably accepted. For this reason, the bill provides scope for negotiations to continue beyond the 14 days, provided any renewed offer of amends represents a genuine attempt by the publisher to address matters of concern raised by the aggrieved person about an earlier offer.

The bill ensures that once a publisher performs its part of a settlement offer, including paying any agreed compensation, the aggrieved person cannot begin or continue a defamation action. Further the bill provides that it will be a defence to an action in defamation if the publisher made an offer of amends that was not accepted, that offer was reasonable in the circumstances, it was made as soon as practicable after the publisher became aware that the publication in question may have been defamatory, and the publisher was ready and willing to perform the offer before the trial.

As a further incentive to settle defamation proceedings before they reach the courts, the bill provides that costs penalties will apply to an unreasonable failure to resolve a matter.

The normal costs rule is that the successful party recovers costs on a party-party basis. Typically, this amounts to about 60 to 80% of their actual legal costs. Both the Supreme and District Courts have a general discretion as to the amount of costs to be paid by parties, including the award of indemnity costs. Indemnity costs are usually awarded where there has been a flagrant breach of procedural rules by the unsuccessful party and can amount to 80 to 90% of actual costs. In practice, indemnity costs are seldom awarded.

The bill adds section 48A to the Defamation Act which requires the court to consider an order for costs on an indemnity basis where it forms the view that there has been an unreasonable failure on the part of either the plaintiff or the defendant to resolve the matter. For example, a plaintiff would be at risk of an indemnity costs order if he or she were not to accept an offer of correction or apology where the offer was reasonable. A defendant would be at risk of an indemnity costs order were it not to make a settlement offer when it would have been appropriate to do so.

There is understandable concern about wealthy parties, whether plaintiffs or defendants, using their deep pockets to wear down opponents of modest means to discourage them from continuing, or indeed even commencing, defamation proceedings for fear of a ruinous costs order. It is not unheard of, for example, for property developers to commence proceedings known as SLAPP (Strategic Lawsuits Against Public Participation) suits against individuals or community groups to silence their opposition to a proposed development. There is also anecdotal evidence of some wealthy individuals pursuing every procedural avenue open to them despite the prospects of success being slim and despite their legal fees far outweighing any potential damages award. The object in such cases is to intimidate the defendant into settling the matter at the risk, however slight, of losing the case and being subject to a large costs order. Such tactics can have the serious consequence of either constraining free speech or allowing a reputation to be irreparably damaged.

While the addition of section 48A(2) into the Act will provide greater discretion to a judge in awarding costs in instances where parties have been recalcitrant than currently exists, section 48A(1) makes it abundantly clear that in awarding costs the court may

take account of the way the parties have conducted their case. The court will be able to take into account such matters as whether either party has used their significantly more powerful financial position in a way that hinders the effective discharge of justice.

In keeping with the Government's objective to ensure the Defamation Act promotes the right balance between the free flow of information of matters of public interest and importance, and the protection of reputation the bill inserts a new section 8A that provides a corporation does not have the right to sue for defamation.

The law of defamation rightly protects reputation and the interest which individuals have in their honour, dignity and standing in the community. A corporation's interest in reputation, on the other hand, is purely financial. When corporate bodies are defamed, there are other possible actions available to them such as the torts of injurious falsehood or passing off, as well as remedies under the Commonwealth Trade Practices Act for misleading and deceptive or unconscionable conduct.

While the remedies available to corporations under the Trade Practices Act would ordinarily be against their commercial rivals rather than against media organisations, there is sufficient protection available to corporations to safeguard their economic interests. Unlike most individuals, these organisations frequently have the ability to engage in counter advertising and to run effective publicity campaigns to protect their public profile.

Of course, small, family-run businesses will not have the same resources as large companies to pursue counter-advertising or publicity campaigns to protect their reputation. Small, family companies, however, are almost always inextricably linked to the individual directors running them, and the bill makes it clear that individual members of corporations will still be able to sue in their own right, rather than in the company name. This will apply in every case where an individual is personally defamed, regardless of whether the corporation is large or small.

I note that while the bill provides that corporations (including those constituted for a governmental or other public purpose) will no longer be able to sue for defamation, local councils and government departments have not been able to sue for defamation since 1994 when the Court of Appeal handed down its decision in *Ballina Shire Council v Ringland* which followed an earlier decision of the House of Lords in *Derbyshire County Council v Times Newspapers*.

The current section 22 of the Defamation Act provides a defendant with a defence of qualified privilege when certain conditions are met, including when the conduct of the publisher was reasonable in the circumstances. There are currently no criteria set out in the act to provide guidance on what is reasonable and I appreciate that publishers need a practical means of interpreting what is, and is not, reasonable. Accordingly, the bill adds section 22(2A) to the Act which sets out the factors that a court may take into account when determining whether a publisher has acted reasonably. These factors include: the extent to which the matter published is of public concern; the extent to which the matter published concerns the public functions or activities of the plaintiff; the seriousness of the imputations; the extent to which the matter distinguishes between facts, suspicions and allegations; whether it was necessary for the matter to be published expeditiously; the sources of the information and the integrity of those sources; and any attempts to verify the information or to get the plaintiff's side of the story.

The Defamation Act currently includes a defence relating to the publication of fair protected reports. Schedule 2 of the Act explains that protected reports relate to reports on the public proceedings of parliament, courts, and other public bodies. In the interests of greater clarity and certainty about the scope of protected reports, the bill inserts a new section 25A into the Act which extends protection to accurately reported third party statements. Specifically, this includes the publication of reports of media conferences given, or media releases issued, by or on behalf of public officials or public authorities in their official capacities. The new section also protects subsequent reports based on earlier reports of media conferences, if the person making the subsequent report is not aware that the earlier report is unfair.

To encourage plaintiffs to seek to vindicate their reputations at the earliest possible opportunity, the bill will insert a new section 14B into the Limitation Act 1969. The new section will shorten the limitation period for bringing a defamation action from six years to one year, with a discretion to extend the period in appropriate cases. To ensure that the one year limitation period is not extended by the courts to an unreasonable extent, the bill provides for a new section 56A of the Limitation Act which enables the court to extend the limitation period where the interests of justice require, to a maximum of three years from the date of publication.

Finally, a significant number of defamation actions are now heard in the District Court, as well as in the Supreme Court. Last year 48 claims for defamation were filed in the District Court, while 62 claims were filed in the Supreme Court. To ensure consistency between the availability of juries in the District and Supreme Courts, the bill will insert the equivalent of part 6 division 2 section 86 of the Supreme Court Act into the District Court Act. This will ensure that juries will continue to be involved in defamation actions in the District Court, unless the court orders that any prolonged examination of documents or scientific or local investigation is required and cannot conveniently be made with a jury, or unless all parties consent to the order.

I commend the bill to the House.

The Hon. GREG PEARCE [2.38 p.m.]: I lead for the Opposition on this bill, which the Opposition generally supports. The reform of defamation law in New South Wales is in the public interest. That is especially so in relation to encouraging the settlement of disputes in a timely and cost-effective manner and attempting to strike a better balance between the democratic imperative of freedom of speech and the free flow of information and the rightful maintenance of an individual's reputation. The bill generally implements the recommendations of the Attorney General's task force on defamation law reform. The Coalition supports the bill but intends to move amendments to it. The first of those amendments relates to the rights of small business. Although the bill takes away the right of corporations to sue for defamation, the Coalition believes that a small business, particularly a family-based business, could be adversely impacted by the taking away of that right. We will move an amendment in relation to that.

The Coalition supports also the change to the limitation period provided by the bill as well as other parts of it. A little while ago I was handed a copy of amendments that the Government proposes to move. It is regrettable that again the Government has failed, until the last minute, to consult on a bill of this importance. From a quick look at the Government amendments, it seems they will address a number of significant concerns that the Opposition had about the bill and in particular some defects in the way in which it will operate. I will not deal with those now, because they will be dealt with in Committee. The Coalition will support the bill with amendments.

Reverend the Hon. FRED NILE [2.40 p.m.]: The Christian Democratic Party supports the Defamation Amendment Bill. It has been a long time coming, and we are pleased it is now before Parliament. It will amend the Defamation Act 1974, the District Court Act 1973 and the Limitation Act 1969. The bill results from the report of the Attorney General's task force on defamation law reform, which was released in July this year. The bill is aimed at striking a balance between the free flow of information on matters of public importance and interest and the protection of reputation.

I have first-hand experience with this State's defamation laws. I have been involved in a number of cases over the years, thankfully not many in recent times. Prominent among those was a case in which I was sued by the Chief Censor of the Australian Film Censorship Board for criticising her actions in releasing the film *Hail Mary*. That long, drawn-out case cost me tens of thousands of dollars. With legal and other costs, the figure was nearly \$89,000. I had good lawyers, who indicated that it is very difficult to defend a defamation case and that, under the laws to be amended by the bill, a defendant is vulnerable because the person suing only has to sustain an argument that the statements complained of tainted the person's reputation with public contempt and odium. That is a subjective test.

In another case I was sued by George Petersen when he was the member for Illawarra. That case related to remarks I made on the ABC which made no reference to any individual. I am usually careful in what I say because I know how the defamation law works. In that case it was argued that, by implication, I was referring to Mr Petersen even though I did not mention his name. That case was settled out of court, as was the previously mentioned case, at the request of both Janet Strickland and George Petersen. But that is after a lot of money is spent on solicitors and other legal fees, with potential costs of up to \$250,000 when a case goes for a number of days in the Supreme Court. If the case is lost there, one has to pay a huge amount in legal expenses as well as any damages awarded to the plaintiff. So I am enthusiastic about any reform of the defamation laws of this State that makes them fairer and unable to be abused.

One aspect of the Janet Strickland case that disturbed me related to a letter that I sent out asking for prayer and support. Somehow she got a copy of that letter and used it to ground a claim for aggravated damages. So cases can become more and more serious at an accelerating rate. Apparently, you must suffer in silence; you should not even talk about something. One could say she had me by the throat on that occasion. So I am pleased to support the bill in the hope that it will bring much more fairness and justice to our system in the future, and provide for freedom of speech.

The Hon. RICHARD JONES [2.44 p.m.]: A bill that addresses the problems associated with defamation laws is long overdue. The figures confirm that Sydney is the defamation capital of the world, with one writ in New South Wales for each 79,000 of population. That is higher than England, with one per 121,000, and far higher than the United States of America, with one per 2.3 million. There were 87 defamation matters dealt with by the New South Wales courts in 1999, 107 in 2000 and 102 last year.

In New South Wales truth alone is an insufficient defence. A public interest test must also be satisfied. This is one of the easiest elements to satisfy, as even greyhound racing has been held by the courts to be in the public interest. Perhaps the high rate of defamation proceedings initiated in New South Wales has something to do with that. It should be noted that in South Australia truth by itself is a complete defence, regardless of how damaging a statement may be to a person's reputation. South Australia has dealt with only 26 defamation matters in the past 23 years, the Australian Capital Territory has dealt with 27, Victoria with 21, Queensland 19, Western Australia 14, Tasmania 8, and the Northern Territory 6. In comparison, New South Wales courts have dealt with 79 defamation cases.

New South Wales is the only State with million-dollar payouts. In the past 23 years the courts have awarded the following approximate figures in damages: in the Australian Capital Territory \$2.85 million, in Victoria \$2.15 million, in Queensland \$2 million, in South Australia \$1.5 million, in Western Australia \$580,000, in the Northern Territory \$160,000, and in Tasmania \$88,000. In New South Wales the figure is astronomical—\$16.4 million.

The Premier told a gathering at the Sydney Institute on 9 July that a general damages cap of \$350,000 for defamation cases would be provided for in the legislation. However, the bill that we are now debating does not provide that cap. I anticipate that the Government will argue that in effect section 46A of the Act already provides that compensation for non-economic loss for defamation cases will be kept in line with that given in personal injury cases. Section 46A provides that:

... in determining the amount of damages for non-economic loss to be awarded in any proceedings for defamation, the court is to take into consideration the general range of damages for non-economic loss in personal injury awards in the State.

While that offers some assistance, it does not explicitly provide what the Premier indicated on 9 July would be included in this bill. He stated then that there would be a cap on general damages. Section 46A does not cap damages; it merely offers guidance. The Premier said:

... too often damages awards for loss of reputation (non-economic loss) are excessive... We will provide that compensation for non-economic loss will not exceed payouts in personal injury cases—that is \$350,000.

I wonder what happened to that promise. The Premier's press release of the same day said:

The NSW Government will undertake a comprehensive reform of the State's defamation law, including limiting payouts for non-economic loss to \$350,000.

Those are the words of the Premier. The recent passing of the Civil Liability Amendment (Personal Responsibility) Bill shows that the Government clearly believes that it is all right to have statutory caps on general damages for personal injury but this is not the case for so-called loss of reputation. Apparently it is acceptable for people who have lost their arms or legs, or stumbled on an uneven footpath, or suffered mental debilitation in the course of their employment to have their damages capped. By not capping defamation payouts are we, by assumption, saying that someone's reputation is worth more than that?

For many years it has been acknowledged that reform of defamation laws is long overdue. Quite justifiably, concerns have been expressed at the size of awards made in defamation cases, the complexity of the law and the lack of uniformity between jurisdictions. The system is fragmented and open to abuse by plaintiffs who believe that they can save their reputations if they receive fat payouts. Defamation laws should not be used simply to achieve economic ends, which in many cases they are. Apparently, this is currently the norm.

The public liability insurance crisis has prompted a push for reforms such as caps on damages for physical injury caused by negligence. It is surely incongruent to have defamation laws where sky's-the-limit payouts are possible. In July the Premier acknowledged that this needed to be addressed. I am sorry that the Government does not have the courage to follow through now. In a 10 October 2001 submission to the Attorney General on reforms to the New South Wales defamation laws the Press Council noted:

In New South Wales, for some personal injury and compensation matters, there is legislative guidance on the sums that can be awarded. The Court of Appeal has also provided lower courts with guiding principles for sentencing and the award of damages in some cases. The principle of comparability should prevail. Similar amendments to legislation and guiding principles on the award of damages in defamation actions... [would] lead to more realistic trade-offs between the costs of going to trial and settlement of actions.

The details of damages in defamation trials in each State and Territory of Australia over the past 23 years listed by the *Gazette of Law and Journalism* make interesting reading. New South Wales is the only State with \$1 million or \$500,000 payouts. One example is the famous *Erskine v John Fairfax Group Pty Ltd*, in which \$2.5 million was awarded to Sydney entrepreneur James Erskine when the *Sydney Morning Herald* reported allegations made under oath in an affidavit.

The system in the United States provides that plaintiffs who are public figures must prove malice, that is, knowledge or recklessness as to falsity. The statistics relating to the number of writs issued per person clearly show the benefit of the American system. The Americans, despite their litigious reputation, create fewer than twice the writs issued in New South Wales, even with a population some 40 times greater. This is extraordinary. Compare the \$2.5 million that was awarded to James Erskine with the maximum compensation payable for any injury under the statutory scheme for victims of crime, which is \$50,000, and \$350,000, which is the maximum compensation for non-economic loss under the Civil Liability Act 2002.

Non-economic loss, or general damages, covers emotional hurt, damages to personal relationships and professional standing. If the plaintiff can prove economic loss demonstrably related to the defamation, that figure is recoverable in addition to the general damages. Currently, plaintiffs in New South Wales rarely bother

to prove economic loss, being content with the generosity of general damages. Capping damages has attracted a lot of attention. In 2000 the average defamation award was \$233,000. Figures provided by the Communications Law Centre show that in New South Wales 73 per cent of plaintiffs are men, 8 per cent are women, and 19 per cent are corporations. These figures are similar to the United States figures, which are 72 per cent for men, 14 per cent for women and 14 per cent for corporations.

In New South Wales media, arts and sports people are the plaintiffs in 14 per cent of cases, and politicians are plaintiffs in 15 per cent of cases. In the United States politicians are the plaintiffs in only 4 per cent of cases and media, arts and sports people in 6 per cent of cases. It is essential that we change the laws to provide that the law of defamation is not regarded purely as a means of recovering damages. Plaintiffs should seek published clarifications, corrections and apologies. Roy Baker from the Communications Law Centre notes that capping damages and costs is a measure that plays with the symptoms rather than the causes. He said:

High costs stem from the law's systemic failings, mired as defamation is in fruitless technicalities of pleading.

While that is certainly true, he and many others note that there is clearly no reason why defamation plaintiffs should be favoured over personal injury plaintiffs when it comes to damages. It does not make sense. Defamation law already favours plaintiffs hugely by beginning with the presumption that publications which damage reputation cannot be defended. Given that this presumption works in the plaintiff's favour, how can it be justifiable to also presume that the plaintiff has suffered harm and use that as the basis for compensation that is inappropriately disparate?

The amendments that I will move at the Committee stage will provide that damages in defamation cases shall not exceed damages that are payable in personal injury cases, that is, \$350,000. That is what the Premier promised last July. I thank particularly Roy Baker from the Communications Law Centre, Richard Ackland from the Law Press for their input, and Christine Black for her work on the legislation. I commend the bill, with the amendments I will move at the Committee stage, to the House.

The Hon. IAN COHEN [2.53 p.m.]: The Greens have serious concerns about this bill. By saying that we are probably flying in the face of the opinions of most members of this House who seem to welcome it. Having gone through a number of defamation cases and having won an out-of-court settlement from the *Daily Telegraph* over an article by Piers Akerman, I well know the fear of members of the general public when dealing with large corporations and the inherent unfairness in the capping of damages. An example is Mr John Marsden, who, although representing a different perspective to that of many members of this House, nonetheless was badly done by because of a long, drawn-out defamation case. He won the case, but it was an empty victory because of the massive costs. Reform of defamation law is almost always surrounded in controversy. There is a balancing act in managing the conflict between, on the one hand, the principle of freedom of speech and the free flow of information and, on the other hand, the right to protection from attacks on reputation. It is a conflict between competing public interests, as the High Court stated in 1997 in *Lange's* case:

The purpose of the law of defamation is to strike a balance between the right to reputation and freedom of speech. It is not to be supposed that the protection of reputation is a purpose that is incompatible with the requirement of freedom of communication imposed by the Constitution. The protection of the reputation of those who take part in the government and political life of this country from false and defamatory statements is conducive to the public good.

Since the Government was elected in 1995 there have been attempts to reform the Defamation Act. In September 1995 the New South Wales Law Reform Commission released its report on defamation. Its key recommendations were that falsity should be an ingredient of the cause of action in defamation, with the burden of proof resting on the plaintiff, and the declaration of falsity should be introduced as an alternative to damages. In September 1986 the Defamation Bill was introduced into the Legislative Council. The bill was largely based on the recommendations of the Law Reform Commission. However, the bill was strongly criticised by many in the community, including defamation lawyers, the Australian Press Council and the Free Speech Committee. The bill did not proceed past its second reading.

Earlier this year the Government set up the Attorney General's task force on defamation law reform. The task force reported in July this year. This bill implements the main recommendations of the task force. This bill amends the Defamation Act, and the Government has stated that the main thrust of the amendments is to strike a balance between the free flow of information in matters of public interest and importance and the protection of reputation. Those who are harmed by the publication of defamatory material should have access to redress. This right to pursue redress against defamation must be protected. However the Government has been keen to emphasise that it wishes to ensure that the law does not place unreasonable limits on the publication and discussion of matters of public interest and importance, promotes speedy and non-litigious methods of resolving disputes and avoids protracted litigation wherever possible.

As all honourable members know, John Marsden was seriously defamed by Channel 7 and is well qualified to speak on how persons seeking redress encounter defamation law after being defamed in the media. He has argued strongly against the amendments proposed by this bill. He is strongly opposed to the provisions of the bill which seek to try to force early settlements, early apologies and the bringing together of parties. Mr Marsden says his own experiences have made him dubious about such measures. He said:

Within six months of the defamation I tried to get the parties together. Within six months of the defamation I filed in the Court Offers of Compromise of \$250,000 which, of course, at the end, was the verdict we got. However, whilst we filed that, we ran into costs of in excess of \$7 million. The whole purpose of this legislation is a sham.

John Marsden suggests that the reason a defamation action gets out of control is the way it is run. He suggested that the process should be clarified in this way:

1. You are defamed.
2. You are the Plaintiff and you sue.
3. The defendant puts on the defence.
4. The matter goes to Court.
5. The Jury should be removed from the process—a jury is unnecessary.

Then a judge should decide on the following matters:

- a) Is the statement defamatory?
- b) If so, has it damaged you?
- c) What are the damages?

He went on to state:

In my case, there were 17 interlocutory appeals to the Court of Appeal during the trial. That added over \$1 million to the costs. There should be a clear provision preventing interlocutory appeals. There should not be appeals or an appeal process during the Court case.

In a letter he wrote to me on 4 December he stated:

The second issue is that in my case, after they defamed me on TV, somehow or other, people came out of the woodwork, people who made the allegations on TV knew people, supplied to them by the Police, who were then able to be called as witnesses - another ten (10) people. That shouldn't happen. The people who made the allegations are the people who should substantiate the allegations. We shouldn't say "John Marsden is a paedophile and these eight (8) people said so on TV. Now they say he is not a paedophile but we've found eight (8) new people who say he is a paedophile." That simply should not be able to happen.

The question of an apology, in my case and in serious defamation cases, would make no difference. Even though I won my Court case, I will be known as a paedophile for the rest of my life. I am tainted and damaged for the rest of my life. I don't have the influence I used to have. I thought of getting involved again with the Council for Civil Liberties but I never would because people will say "Oh, he is only a paedophile and what he says is only because he is a paedophile."

The question of tying the damages up with personal injury damages is ridiculous. In my case, if I'd had the money, I would have pursued an economic loss claim because of the damage it did to the office. Our office, for a period of six (6) years, had our income cut in half. However, it would have cost me over \$1 million to have an expert come in and examine our books, together with Mallesons coming in and examining our books, to produce that to the Court. It should be able to be proved in a much simpler way. Evidence should be simpler.

Then, of course, was the fact that:

- a) I had to prove the defamation, which I did before a jury and the jury said I was defamed.
- b) I then had to prove that I was damaged. We had to go through that process, which was a waste of time because if, at the end of the day, Channel Seven had been able to prove I was a paedophile and we'd wasted six (6) months in Court proving I was damaged and they later proved I was a paedophile.

The issue as to whether I was a paedophile should have been able to be proved first. Then the damages.

The other issue is, on the question of damages, one should be able to look at things speaking for themselves. I had to go to a number of psychiatrists. That's not an easy thing for anyone to do, particular someone with an ego as big as mine.

I am sure you saw that I was totally and absolutely emotionally damaged. I thought seriously of suicide. I have never, ever, ever denied that. However, because the psychiatrist got his evidence confused, the Judge refused to allow any damages for psychiatric damage.

The Judge had to be stark-raving crazy mad not to think that I was not psychologically damaged from what happened to me. I went through people spitting on me in the streets, throwing bricks at me, excreta on my doorstep etc. Not psychologically damaged?

The interesting part I see in the new legislation is Clause 48A which says "In awarding costs in respect of proceedings for defamation, the Court may have regard to the following matters:

(a) The way in which the parties to the proceedings conducted their case (including any misuse of a party's superior financial position to hinder the early resolution of the proceedings),"

That is, of course, what happened in my case. There was no effort to settle because they didn't want to settle. They had plenty of money. It has cost me over \$7 Million. What has it cost Channel Seven who had double the amount of representation? They had two QC's whilst I had one; they used their excess power.

That letter was sent to my office by John Marsden, senior partner in Marsdens law firm. This bill provides a bandaaid approach to serious problems within defamation law. Though the Greens are always supporters of progressive law reform that will improve the delivery of justice and clarify legal processes or make them more efficient, we are unconvinced that this bill will deliver on these fronts. We appreciate the measures that the Government has adopted in order to make clear how this legislation should be interpreted. We also appreciate that it is emphasising that litigation should be considered a dispute resolution of last resort. The kinds of pressures that litigants face largely through the misuse of litigation should not be underestimated. However, the Greens do not believe that the Government should throw its hands up at the current state of our judicial system and simply encourage or indeed legislate to encourage people to avoid it. This is avoiding the real issue. As I said earlier, it is a bandaaid solution. The pursuit of justice is a worthy aim and governments should legislate in the name of justice, not in the name of attempting to avoid confronting social and/or legal problems that appear impossible or not in the direct interest of the Government to resolve.

New part 2A is entitled "Resolutions of disputes without litigation". As the Government indicated, the object of this provision is to encourage the early settlement of disputes. Traditionally, those with lesser financial or other power within our community are those who are disadvantaged by the early and/or out-of-court resolutions of disputes. Justice should not be delivered—and indeed be encouraged to be delivered—only to those who can afford to pay. The bill provides that if an offer is made by the publisher to make amends for a defamatory statement it will be a defence to an action in defamation if the offer was reasonable in the circumstances. Whilst the Greens support attempts to prevent vexatious defamation actions clogging up the courts, we would not like to see people prevented from pursuing justice through the courts to properly clear their name because they are effectively forced to settle out of court. We are concerned that the bill may go to an extreme which may once again prevent the delivery of justice in a substantial number of cases. As has been noted by the Government:

There is understandable concern about wealthy parties, whether plaintiffs or defendants, using their deep pockets to wear down opponents of modest means to discourage them from continuing, or indeed even commencing, defamation proceedings for fear of a ruinous costs order. It is not unheard of, for example, for property developers to commence proceedings known as SLAPPs—strategic lawsuits against public participation—against individuals or community groups to silence their opposition to a proposed development.

Over the years I have been aware of many individuals and community groups that have been threatened by or issued with strategic lawsuits against public participation [SLAPPs]. They are lawsuits brought against individuals and community groups who do such things as circulate petitions, write to public officials, speak at or even attend public meetings, organise boycotts or engage in peaceful rallies and demonstrations. According to Sharon Beder in an article written in the *Current Affairs Bulletin* in 1995, SLAPPs are "a civil court action that alleges that injury has been caused by the efforts of individuals or non-government organisations to influence government action on an issue of public interest or concern". SLAPPs are big in the United States and have been known to occur here, particularly at the instigation of disgruntled developers. An example of a SLAPP in action can be seen in the Helensburgh SLAPP case. While this is an old case, it is a good demonstration of how a SLAPP works.

In this case the Helensburgh District Protection Society was formed after Wollongong City Council proposed that the town of Helensburgh be dramatically expanded. Members of the society were of the view that the development would have adverse impacts on the environment. The Donohoes and Tim Tapsell were active members of the society. Tim Tapsell acted as spokesperson on several occasions and Jenny Donohoe acted as the secretary. The society opposed a number of developments over a number of years, including a council plan in 1990 to rezone land in the green belt between Sydney and Wollongong. There were over 5,000 submissions in response to the rezoning proposal, the vast majority opposing the urban expansion. As a result, in 1991, the council dropped the plan. The following year the council put a new plan on public display that included the rezoning of much of the land as "environmental protection".

Public submissions were invited on the plan. The society was careful in all its activities not to name individuals or companies so that it would avoid defamation suits. According to the writ against the society, it

had printed and arranged for more than 1,000 letters promoting the rezoning to be signed and forwarded to council. It had also written articles in favour of the rezoning as environmental protection that were published. The developers argued that the effect of the rezoning to environmental protection would be to prevent them from developing the land. They claimed that the defendants were aware of the effect and sought to achieve this effect. They sought to claim damages for the losses. The developers also alleged that the articles were inaccurate and misleading because they claimed that environmental damage would result from the residential development. The defendants, on the other hand, claimed that, far from conspiring to deprive the developers of profits, they were responding to a request from the council for the public to make submissions to the draft local environmental plan.

Aided by the efforts of the society, the council received more than 7,000 submissions with more than 5,000 supporting the rezoning. The council decided to go ahead with the rezoning but the Minister ordered a commission of inquiry into the rezoning. Shortly before the inquiry the Donohoes were threatened with further legal action for lobbying to have the inquiry cancelled. Many others who had intended to make submissions to the inquiry removed their submissions because they were also concerned about legal action. The developers kept the writ running for many years without bringing the case on for hearing. The Greens are pleased to see that the bill reforms the limitation period from six years to one year, which should stop this kind of litigation threat hanging around for many years on an old case. The limitation period can only be extended for a maximum of three years from the date of publication when the interests of justice require it.

By way of example I also wish to bring to the attention of the House the case of Mr Bill Ringland, a member of an organisation known as the Clean Seas Coalition. Bill Ringland is a good friend of mine and I also was a member of the Clean Seas Coalition. In early 1993 the coalition became involved in a dispute with the Council of the Shire of Ballina about sewage disposal. On 1 April 1993 Bill Ringland issued a press release, which unfortunately I wrote together with Bill, that suggested that the council was increasing its use of an outfall at Lennox Head and that sewage was being pumped out surreptitiously at night and during storms. The council called a meeting for the purpose of considering what to do about the press release. The council then sued Bill Ringland for defamation, alleging that the press release imputed that the council was conducting its activities of sewage disposal secretly and unlawfully, that it was setting out to deceive residents, that it was falsifying published environmental material, and that it had misled environmental authorities. The council also claimed special damages of \$800 for injurious falsehood, being the cost of arranging the council meeting. Bill Ringland cross-claimed, alleging that the proceedings were an abuse of process. Of course, there are numerous examples of how defamation law has been abused, this being just one of them.

The abuse of defamation law can destroy lives. The reform of defamation law needs to be carried out very carefully. Mr Ringland's case started in 1978, when he was about 79 years of age, and it continued over several years. He was very well represented by Clive Evatt through many stages of the case. Bill Ringland was a good friend of mine. He was acting in the public interest and, fortunately, the court decided his way. However, he and his wife, Jean, endured a huge amount of stress and worried that they may lose their only possession—their house—as a result of the vindictive case brought by council. As was noted by Justice Kirby in regard to the case:

Can it be seriously suggested that ratepayers or others would refrain from using the council's sewerage facilities—or even other "commercial services" by the shock they received upon Mr Ringland's press release and reports of it?

Of course, thousands of cases demonstrate the problems that exist within defamation law. However, the changes proposed by the Government will not remedy those problems. The Greens are concerned about the potential impact of the bill in this regard. The Greens are also concerned that corporations, particularly small corporations or small businesses, will not be able to sue. We are opposed to this measure. We believe that, at the very least, the bill should be amended to ensure that smaller businesses and companies are not adversely affected by the sweeping restrictions on pursuing action that this bill will put in place. The State Chamber of Commerce has commented that it is concerned that the Government has proposed these changes without consulting business. Furthermore, despite undertakings made by Premier Carr at the Sydney Institute on 9 July, there has been no evident consideration given to exempting small businesses from the bill. The State Chamber of Commerce said:

The removal of small business owners' right to defend their trading name through the law of defamation is particularly unjust. Small businesses have neither the resources or the time to defend their name in the public arena through public relations or counter advertising as the Attorney General has suggested.

I had a defamation issue with *News Ltd*—it ran a major story that defamed me. Several years later, after going through an extremely excruciating court process, I received an apology, which was printed in the *Daily Telegraph*. It was small compensation for the suffering that I had received as a public figure who had been

defamed. It is ridiculous that this sort of situation occurs. The result is that support for the plaintiff in these circumstances is often too little too late. On top of this, the Government has claimed that corporations will be able to seek redress under the Trade Practices Act for misleading and deceptive or unconscionable conduct. This Government has misled the House on this point. In fact, under section 65A of the Trade Practices Act publishers and other information providers are exempted from sections 52, 53 and 55 relating to deceptive and misleading information. Therefore, a publisher of a newspaper or the owner of a radio or television station will not be liable for misleading or deceptive conduct or misleading representations in the course of news reporting or otherwise providing information.

It is also an interesting possibility that under this legislation the Internet and similar services can be immune from prosecution as primary publishers, unless the publication concerns their goods and services. However, this will require a proclamation that the Internet and similar services are prescribed publications. That has not yet occurred. What is the situation with respect to Internet media commentary by the likes of *crikey.com*? Is there an opportunity for recourse? Are people going to be defamed and not be able to defend themselves? I ask the Government to clarify this point. The media should not have free rein to publish what they please about corporations of any size without a proper range of potential legal redress. The Greens consider this to be a serious problem. As has been noted by Chief Justice Gleeson in the New South Wales Court of Appeal:

Media power is, in the relevant sense, arbitrary: it is not subject to publicly-enforceable rules which control what may be published, nor are those who publish accountable for what is published other than through the law of defamation. The media exercises power, because and to the extent that, by what it publishes, it can cause or influence public power to be exercised in a particular way. And it is, in the relevant sense, subject to no laws and accountable to no one: it needs no authority to say what it wishes to say, or to influence the exercise of public power by those who exercise it.

The media may, by the exercise of this power, influence what is done by others for a purpose which is good or bad. It may do so to achieve a public good or its private interest. It is, in this sense, the last significant area of arbitrary public power. The law of defamation is the only or the only substantial legal control over what the media may say in order to influence public authorities to do what they would have them do.

I am involved with other ongoing defamation issues, as are some of my friends. It is a harrowing situation. People in my community and many other areas have made utterances in the public interest and have been dragged through a court case, often on the most spurious of charges. That is an absolute disaster for those people. Today I have received from Mr Clive Evatt—a barrister who has represented me a number of times on these defamation issues—notification of his major concerns with this bill. He makes the following comments:

- (1) The proposed abolition of the right of a corporation to bring a claim for defamation is unjust and makes no sense.

It has been said that corporations are protected by the Trade Practices Act. However, section 65A of that Act exempt the media and other prescribed information providers from claims.

A small company could be put out of business by false, defamatory imputations published by a newspaper with no redress. The right of the directors to bring a claim would not entitle them to recover losses suffered solely by the company.

I suggest that the proposed section 8A not apply to smaller companies with 30 or less employees.

- (2) The proposed offers to make amends under section 9D seems to assume that all defamation actions are brought against the media. Reference as to publishing a reasonable correction or publishing a reasonable apology are mainly applicable to the media who are in a position to do this.

Many defamation actions do not involve the media. The parties are often private citizens and the defamation concerned may relate to a letter or limited circulation of defamatory words. To publish a correction or apology in a newspaper would aggravate the situation because the defamation, even though there is an apology or correction, would be brought to the attention of all the readers of the newspaper.

The offer of amends is of assistance to the media who having published the defamatory matter is in a position to publish a correction or apology. As all the readers were aware of the defamatory matter they would know what was meant by the apology. This is not the case for individuals where the offer of amends would be useless.

Mr Evatt's next point is interesting. He candidly says:

- (3) Lawyers will welcome the new bill because it makes our complicated defamation laws even more complicated. Lawyers can look forward to a substantial increase in income particularly in view of the generous cost orders set out in the new section 48A.

Generally the aim of the new legislation is to further remove brakes on the media so that they can ruin with impunity a person's reputation by false or irresponsible journalism.

The Greens are uneasy about the impact the bill could have on people. We do not support it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.20 p.m.]: I speak in favour of the Defamation Amendment Bill on behalf of the Australian Democrats. In June 1990 the Attorneys General of New South Wales, Queensland, the Australian Capital Territory and Victoria initiated a project to discuss the implementation of uniform defamation laws. Unfortunately, the process fell apart as successive States left the project. The regimes in all States are quite different, as are the outcomes for litigants. No State was prepared to adopt the regime of the other. Ultimately, the project was left to meetings between New South Wales and the Australian Capital Territory, which proved fruitful. In 1994 the Australian Capital Territory produced a report, which was tabled in the ACT Legislative Assembly, outlining reforms. Recently, the Australian Capital Territory reformed its Act and incorporated some of the recommendations. I am pleased to say that the report from the Australian Capital Territory was largely written by my current staffer, Guy Ellicott. The report, together with the 1995 New South Wales Law Reform Commission report, made a raft of recommendations along similar lines to reform the law of defamation.

The report covered all the main areas of the law of defamation, including absolute and qualified privilege, the public figure test, the role of a judge and jury, defences, damages and alternative dispute resolutions. The bill addresses some of these areas and is moving in the right direction. It does not go as far as it should, but it is significant progress. The problem with wholesale changes is that since much of the print and electronic media, and the Internet, is generally Australiawide the dissemination of defamatory material crosses State borders and litigants can go shopping: they can initiate action in the jurisdiction that offers the best return. The Press Council submission to the Attorney General's Department review of the Defamation Act emphasises that we need uniform defamation laws across Australia. This positive bill partly returns the law of defamation to restoring a person's reputation. Defamation has become a cash cow for public figures who have the financial muscle to take on the media. It has been said that Joh Bjelke-Petersen ran his "Kingaroy" property on the proceeds of his defamation actions.

I have received letters of demand since I have been in this House. During the 14 years I ran my radio program *Puff Off*—which was Australia's leading radio program on smoking broadcast through the enthusiastically run university radio station 2SERFM—I also received a number of letters. I gave the tobacco industry a hard time. The radio station was very careful to caution me that it had received other complaints and that it could not afford insurance at the quoted price. Had the radio station been sued, it would have gone bankrupt and disappeared. Speaking the truth about the tobacco industry was extremely hazardous for many years. Near the end I regularly called them murderers each week to see whether I would be sued. It is interesting to note that the tobacco industry did not have the guts to sue me. Had I been sued I probably would have won; if not, they would have been laughed out of court. I am aware that a Sydney rugby league footballer received \$250,000 because he was photographed naked in the shower. Presumably, his reputation was damaged because his genitals were photographed. But contrast that with the \$51,000 he would have received under the table of maims if he had lost his genitals in an industrial accident! Relativities between the damages for physical injury and the damages, so-called, for reputation are absurd.

Obviously, avoiding litigation is a worthy aim. Litigation is extraordinarily expensive in western jurisdictions, which is part of the problem. As one German said, "Yes, the British have a Rolls Royce legal system. The problem is that most people cannot afford Rolls Royces." The legal system is inequitable because it favours the rich who can afford to continue their cases for a long time with the best lawyers. Ideally, the object of defamation law would be to make restitution. Sometimes restitution can be made by giving people money but in other cases that is not so. It seemed extremely likely that my colleague Ian Gilfillan would win a seat in the South Australian Parliament. The day before the election a newspaper printed a defamatory article to which he was not able to respond, which probably cost him the seat. If my colleague were to be compensated financially, a court would have to take into account the probability of his winning based on private polling or opinions before the election and other things he may have been able to achieve, which are not necessarily easily quantified.

When opportunity costs are involved restitution is often very difficult. However, it is a shame there is no cap when it is simply reputation. Presumably, people who make huge amounts of money and whose reputations are called into question, which results in huge financial losses, could quantify those losses. It is a remedy for the rich. When poorer people are killed, compensation for the family is far less than that awarded to people whose reputations have been sullied. Some of us might say that life is more important than reputation. In the *Crucible* John Proctor says, "Take my life but leave my name", which is very heroic because he will be killed if he does not confess. If he dies his reputation remains intact, if he confesses to something he did not do his life is spared, but he will be disgraced. For most people it would be more important to win the case and have their reputations restored by some order of the court or statement by the person who had done wrong rather than be awarded damages greatly in excess of what other people would receive if their lives were ruined through physical injury. It is a shame that the cap has not been brought in at \$350,000.

The practical aspects of the Internet must be tested. The Standing Committee on Social Issues is examining the power of the Internet and the possible censorship of pornographic material. The late Doug Moppett, who had the gift of magnificent commonsense, summed it up when he said that it was like shutting the window after the wall has blown away. When material published on the Internet is subject to the law of defamation in New South Wales, technically it will be very difficult for people to sue for information published on the Internet in the New South Wales jurisdiction. In practice it will have a great deal of effect on defamation action and defamation law in the medium term. It has not happened yet, but we are on the brink of it. We must congratulate the Government on the progress it is making, but we need uniform defamation laws in Australia. If the Internet is to be managed in any way defamation laws throughout the English-speaking world must be uniform.

The Hon. IAN MACDONALD (Parliamentary Secretary) [3.28 p.m.], in reply: I shall respond to the comments made by the Hon. Ian Cohen and then seek leave to incorporate my reply to the second reading debate in *Hansard*. The law of defamation exists to protect the reputations of individuals and the interests they have in their honour, dignity and standing in the community. It also plays a crucial role in ensuring a correct balance between the protection of that individual reputation and free speech. Freedom of speech is a cornerstone of a free and democratic society. It can be quickly stifled when individuals are threatened with a defamation action by powerful corporations. It is the mere threat of litigation that can force people into silence.

While court statistics show that very few defamation matters in which the plaintiff is a company make it to final judgment, those that do can eat up an enormous amount of the parties' money and the court's time, not to mention the fact that they can be a public relations disaster for the corporation suing. Perhaps the most infamous example of why corporations should not be allowed to sue for defamation is the English case dubbed "McLibel", in which McDonalds sued two activists for handing out anti-McDonalds leaflets. The case ran for 2½ years in the mid-1990s and remains the longest-running trial in English legal history. If a corporation is so concerned about its reputation that it believes litigation is the only way to protect it, a number of options can be pursued. Corporations have always been, and will continue to be, able to sue for injurious falsehood or passing off, as well as bring a claim under the Commonwealth Trade Practices Act for misleading and deceptive or unconscionable conduct. While I appreciate that the remedies available to corporations under the Trade Practices Act will be against their commercial rivals rather than against media organisations, sufficient protection is available to corporations to safeguard their economic interests. Unlike most individuals, corporations frequently have the ability to engage in counteradvertising and to run effective publicity campaigns to protect their public profile.

As I mentioned in the debate last week, small or family businesses are unlikely to be seriously affected by the proposal to prevent corporations from suing for defamation. This is because it will commonly be the case that individuals will be sufficiently identified to sue in their own right, rather than in the company name. After all, a story on a current affairs program about a small family company, such as a hairdressing business, motor repair shop or a restaurant is not much of a story unless it identifies and obtains comments from, or at least attempts to obtain comments from, the people who are responsible for the business. Should a small business suffer economic loss as a result of its reputation being harmed, the principals of the business would almost always be able to sue for their own economic loss in an action for defamation. After all, most individuals associated with a small company would rely on that company for their main or sole source of income.

The Defamation Task Force advised me that there would be very few, if any, cases in which individuals are not identified in a story about a small company, and that an action would generally be available in injurious falsehood, which requires the plaintiff to demonstrate falsity, malice and economic loss. I appreciate that establishing malice can sometimes be difficult to prove, but it is important to understand that one way in which malice can be established is by showing reckless indifference by the defendant as to whether the material is true or false. Approached from this angle, any careless reporting conducted by a current affairs program, for example, would be at serious risk of an adverse court finding.

Of course, in the case of individuals associated with a corporation, the bill makes it clear that an individual who is a member of a company, including a director or shareholder, can bring a claim for defamation if he or she is defamed in a publication that also defames the company. In other words, in no way does the new rule preventing corporations from suing for defamation preclude an individual in the company from asserting that right. By providing in the bill that corporations will no longer be able to sue for defamation, we will be ensuring that an essential component of a free and open democracy-free speech-is protected and encouraged. To leave the law as it stands would serve only to allow the threat of litigation to have a chilling effect on free speech. As I foreshadowed earlier, I now seek leave to incorporate my reply to the second reading debate.

Leave granted.

Defamation Law Reform has generated considerable interest for some time. It was the subject of a Law Reform Commission Report in 1995, a forum was convened in 2000 and there have been attempts over the years through the Standing Committee of Attorneys General to achieve some sort of uniformity across Australia. Perhaps the principal reason the topic of defamation law reform frequently provokes heated debate is that so many powerful interests collide under this sphere of law: freedom of speech; protection of reputation; and protection of privacy.

The reforms contained in the bill before the House today will ensure that the Defamation Act provides the people of New South Wales with effective and appropriate remedies should their reputations be harmed. They will ensure that the law of defamation does not place unreasonable limits on the publication and discussion of matters of public interest and importance. They will promote speedy and non-litigious methods of resolving disputes, and they will avoid protracted litigation wherever possible.

These reforms will be achieved in a number of specific ways. Amendments to the Defamation Act will divert those cases that can be dealt with by other means away from extended litigation by a revised, and upgraded offer of amends procedure. A publisher will be able to make an offer of amends to a person aggrieved by a defamatory or purportedly defamatory statement. The offer must include an offer to publish a reasonable correction and apology, if appropriate, and an offer to pay the expenses reasonably incurred by the aggrieved person. The publisher may also decide to include an offer to pay compensation in appropriate cases. Under amendments proposed by the Government a publisher will have 28 days within which to make an offer of amends after being told that a publication is or may be defamatory, although there will be scope for negotiations to continue beyond the 28 days, provided any renewed offer of amends is genuine. Once a publisher performs its part of a settlement offer, including paying any agreed compensation, the aggrieved person cannot begin or continue a defamation action.

The amendments will also provide an incentive to settle defamation proceedings before they reach the courts by applying costs penalties to an unreasonable failure to resolve a matter. It will also be a defence in defamation proceedings that a reasonable offer of amends was made but that it was not accepted. The Government has been assisted in the preparation of this bill by some very worthwhile contributions by other members of Parliament. The honourable member for Manly in the Legislative Assembly made some useful suggestions in relation to the costs provisions of the bill and his amendments have been incorporated into this section.

It is important to keep in mind that the revised offer of amends is one option for parties to settle proceedings, and is aimed at settlement occurring before litigation gets under way. It does not preclude parties from pursuing other forms of settlement. Parties will still be able to settle matters according to the offer of compromise regimes under the Supreme Court and District Court Rules, and, of course, they will also be entitled to settle defamation matters on any terms they see fit at any time of the proceedings. Nevertheless, to further encourage plaintiffs to seek to vindicate their reputations at the earliest possible opportunity, the bill will shorten the limitation period for bringing a defamation action from six years to one year, with a discretion to extend the period in appropriate cases to a maximum of three years from the date of publication.

In my view, what is important in weighing up a balance between free speech and protection of reputation is ensuring that responsible discussions of matters of public importance are protected. This has been achieved, I believe, by providing greater guidance to the court in assessing a defence of qualified privilege. The bill sets out a list of factors that a court may take into account when determining qualified privilege. Those factors include the extent to which the matter published is of public concern and the extent of a person's public functions or activities.

In keeping with the view that the law of defamation exists to protect reputation and the interest which individuals have in their honour, dignity and standing in the community and that, conversely, a corporation's interest in reputation is economic, corporations will not have the right to sue for defamation. In the interests of greater clarity and certainty about the scope of protected reports, the amendments will extend protection to accurately reported third party statements. Specifically, this includes the publication of reports of media conferences given, or media releases issued, by or on behalf of public officials or public authorities in their official capacities.

Finally, the Government is proposing some minor amendments to the offer of amends procedure as originally proposed in the bill. These amendments will essentially clarify certain aspects of the making of offers of amends that I am confident will further encourage parties to resolve any dispute early and with as little cost and inconvenience as possible. In summary, the amendments to the Defamation Act contained in the bill will strike a balance between the free flow of information of matters of public interest and importance, and the protection of reputation.

Motion agreed to.**Bill read a second time.****Motion by the Hon. Richard Jones agreed to:**

That standing orders be suspended to allow the moving of a motion forthwith: That it be an instruction to the Committee of the Whole that it has the power to consider amendments relating to damages for non-economic loss.

Motion by the Hon. Richard Jones agreed to:

That it be an instruction to the Committee of the Whole it has have the power to consider amendments relating to damages for non-economic loss.

In Committee

Clauses 1 to 4 agreed to.

Schedule 1

The Hon. GREG PEARCE [3.35 p.m.]: I move Opposition amendment No. 1:

No. 1 Page 4, schedule 1 [5], proposed section 8A. Insert after line 12:

- (3) Despite subsection (1), a corporation may assert or enforce a cause of action in defamation in respect of the publication of any matter by means of which a defamatory imputation about the corporation is made if:
 - (a) the corporation employs fewer than 10 persons at the time of publication of the matter, and
 - (b) the corporation has no subsidiaries (within the meaning of the *Corporations Act 2001* of the Commonwealth) at that time.

The Opposition is not satisfied with the Government's suggestion that small businesses would not be adversely affected by this sledgehammer approach to removing the right of corporations to sue. It is certainly not happy with, and disagrees with, the assumption that individuals will always be identified when a small private or family company is defamed. The defamation of a small business could cause significant injury to the family or the individuals involved in the company. It is not acceptable to argue that compensation for damage to reputation can be obtained through injurious falsehood, because that remedy is available only for provable financial loss. In addition, to succeed, one must prove malice, which would be extremely difficult for a small business. The Government suggested that individuals would always be identified and, therefore, would have the right to sue. It is not fair to expose small businesses to potential damage by having their rights removed and to expect them to seek other legal recourse.

The Hon. IAN MACDONALD (Parliamentary Secretary) [3.37 p.m.]: The Government does not support this amendment. In the case of small or family businesses that are defamed, it will commonly be the case that in practice individuals will be sufficiently identified to sue in their own right rather than in the company name. After all, a story about a small family company is not much of a story unless it is connected to and identifies individuals. The Defamation Task Force considered that there would be few cases in which individuals were not identified in the case of a small company. In those cases, an action in injurious falsehood would generally be available. To make an exception for a small or family company would create more problems than it would solve. For example, it would not be fair to base the exception on the number of shareholders or directors, because some very large and powerful businesses may have relatively few shareholders or directors. This presents a definitional problem.

The Hon. RICHARD JONES [3.38 p.m.]: I support the Liberal Party amendment. Often when small businesses comprising 10 or fewer people are defamed the person involved is not identified. The company could be very small and could be ruined. Family and small businesses need adequate protection. Therefore, I support the amendment.

The Hon. IAN COHEN [3.39 p.m.]: The Greens support the amendment moved by the Liberal Party. In fact, in discussions with the Opposition we sought to have the figure increased to 20. Small family companies could easily have 20 employees when one counts cleaners and other staff, including, more recently, security staff. Small companies with that number of employees, particularly family businesses, should receive that level of protection. Therefore, the Greens support the amendment.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 22

Mr Breen
Dr Chesterfield-Evans
Mr Cohen
Mrs Forsythe
Mr Gallacher
Miss Gardiner
Mr Gay
Mr Harwin

Mr M. I. Jones
Mr R. S. L. Jones
Mr Lynn
Reverend Dr Moyes
Reverend Nile
Mr Oldfield
Mrs Pavey
Mr Pearce

Dr Pezzutti
Ms Rhiannon
Mr Ryan
Mrs Sham-Ho
Tellers,
Mr Colless
Mr Jobling

Noes, 14

Dr Burgmann
Ms Burnswoods
Mr Costa
Mr Della Bosca
Mr Dyer

Mr Egan
Mr Hatzistergos
Mr Macdonald
Mr Obeid
Ms Saffin

Ms Tebbutt
Mr Tsang
Tellers,
Ms Fazio
Mr Primrose

Pair

Mr Samios

Mr West

Question resolved in the affirmative.**Amendment agreed to.**

The Hon. IAN MACDONALD (Parliamentary Secretary) [3.45 p.m.], by leave: I move Government amendments Nos 1 to 5 in globo:

- No. 1 Page 5, schedule 1 [6], proposed section 9D (3) (c), line 16. Omit "(if any)". Insert instead "(if appropriate in the circumstances)".
- No. 2 Page 5, schedule 1 [6], proposed section 9D (3) (d), line 19. Omit "(if any)". Insert instead "(if appropriate in the circumstances)".
- No. 3 Page 5, schedule 1 [6], proposed section 9D (3) (g), lines 30 and 31. Omit all words on those lines. Insert instead:
 - (g) must include an offer to pay the expenses reasonably incurred by the aggrieved person before the offer was made and the expenses reasonably incurred by the aggrieved person in considering the offer,
- No. 4 Page 6, schedule 1 [6], proposed section 9D (5) (a), lines 17-19. Omit all words on those lines. Insert instead:
 - (a) the end of 28 days after the day the aggrieved person gives the publisher notice in writing informing the publisher that the matter in question is or may be defamatory of the person, or
- No. 5 Page 7, schedule 1 [6], proposed section 9D. Insert after line 10:
 - (12) An offer to make amends is taken to have been made without prejudice, unless the offer otherwise provides.

I commend the amendments to the Committee.

The Hon. GREG PEARCE [3.45 p.m.]: The Opposition supports the amendments.

Amendments agreed to.

The Hon. GREG PEARCE [3.46 p.m.]: I move Opposition amendment No. 2:

- No. 2 Pages 10 to 12, schedule 1 [12] and [13], line 1 on page 10 to line 18 on page 12. Omit all words on those lines.

This amendment will remove new section 25A, about which the Opposition has great concerns, as it would allow immunity for press releases and press conferences, particularly by government departments and spokesmen. This section is inappropriate in the lead-up to the forthcoming election.

The Hon. IAN MACDONALD (Parliamentary Secretary) [3.47 p.m.]: The Government does not support the amendment. The Defamation Act currently includes a defence relating to the publication of fair and protected reports. Schedule 2 to the Act explains that protected reports relate to reports on the public proceedings of Parliament, courts and other public bodies. In the interests of greater clarity and certainty about the scope of protected reports, the bill will insert a new section 25A into the Act to extend protection to accurately report third party statements.

Specifically, this will include the publication of reports of media conferences given, or media releases issued, by or on behalf of public officials or public authorities in their official capacities. The new section will also protect subsequent reports based on earlier reports of media conferences, if the person making the subsequent report is not aware that the earlier report is unfair. The new section will not preclude a person bringing a defamation claim against the original maker of the statement. However, the section will protect media organisations that subsequently publish the report.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 22

Mr Breen	Mr M. I. Jones	Dr Pezzutti
Dr Chesterfield-Evans	Mr R. S. L. Jones	Ms Rhiannon
Mr Cohen	Mr Lynn	Mr Ryan
Mrs Forsythe	Reverend Dr Moyes	Mrs Sham-Ho
Mr Gallacher	Reverend Nile	
Miss Gardiner	Mr Oldfield	<i>Tellers,</i>
Mr Gay	Mrs Pavey	Mr Colless
Mr Harwin	Mr Pearce	Mr Jobling

Noes, 14

Dr Burgmann	Mr Egan	Ms Tebbutt
Ms Burnswoods	Mr Hatzistergos	Mr Tsang
Mr Costa	Mr Macdonald	<i>Tellers,</i>
Mr Della Bosca	Mr Obeid	Ms Fazio
Mr Dyer	Ms Saffin	Mr Primrose

Pair

Mr Samios

Mr West

Question resolved in the affirmative.

Amendment agreed to.

The Hon. RICHARD JONES [3.51 p.m.]: I move:

Page 12, schedule 1. Insert after line 23:

[16] Section 46A Factors relevant in damages assessment

Insert after section 46A (2):

- (3) However, a court is not to make an award of damages for non-economic loss that exceeds the maximum amount that may be awarded to a claimant for non-economic loss for the purposes of section 16 (2) of the *Civil Liability Act 2002*.

The amendment provides that the highest amount of compensation payable for non-economic loss in defamation cases should be the same as the highest amount payable in personal injury cases. Section 16 (2) of the Civil Liability Act 2002 provides that the maximum amount of damages that may be awarded to a claimant for non-economic loss is \$350,000. The defamation laws in Australia are notorious for being skewed in favour of protecting the reputations of prominent people, and there has been ongoing concern about the frequency of defamation cases and the size of awards made.

New South Wales produces more defamation writs per capita than England and the United States of America, with one writ in New South Wales per 79,000 people. In contrast, England produces one defamation writ per 121,000 people, and the United States produces one defamation writ per 2.3 million people. The Government recently legislated to cap compensation for non-economic loss in personal injury cases. There is clearly no reason why defamation plaintiffs should be favoured over personal injury plaintiffs.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.52 p.m.]: I support the amendment. As I said in the second reading debate, it is unreasonable to suggest that one person's reputation is more important than another person's life, and the amendment addresses that issue. A plaintiff who wins his or her case and is awarded damages is, in a sense, vindicated. The damages awarded in defamation cases should not be greater than the maximum award of damages in personal injury cases.

The Hon. IAN MACDONALD (Parliamentary Secretary) [3.53 p.m.]: The Government does not support the amendment. As honourable members will be aware, the Civil Liability Act 2002 limits the maximum award of damages for non-economic loss in personal injury claims to \$350,000, an amount that is indexed annually. The indexed amount currently stands at \$365,000.

Section 46A of the Defamation Act directs a court to take into consideration the general range of damages for non-economic loss in personal injury awards in New South Wales, including damages awards limited by statute. Of course, this means that a court must take into account the cap on damages specified in the Civil Liability Act. In my view, section 46A provides adequate guidance for courts in assessing damages for non-economic loss, and I am confident that the courts will give serious consideration to the cap on damages set out in the Civil Liability Act.

The Hon. GREG PEARCE [3.53 p.m.]: The Opposition is not convinced that harm to reputation equates in some way to non-economic loss for personal injuries and, therefore, it does not support the amendment.

Amendment negatived.

Schedule 1 as amended agreed to.

Scheduled 2 agreed to.

Title agreed to.

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

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by the Hon. Ian Macdonald agreed to:

That standing and sessional orders be suspended to allow the moving of a motion forthwith relating to the conduct of the business of the House.

Order of Business

Motion by the Hon. Ian Macdonald agreed to:

- (1) That the Coal Mine Health and Safety Bill and the Coal Industry Amendment (Fees for Rescue Services) Bill be considered together at the second reading stage; and
- (2) That the questions on the motions for the second readings of these bills and subsequent stages be dealt with separately in respect of the separate bills.

COAL MINE HEALTH AND SAFETY BILL

COAL INDUSTRY AMENDMENT (FEES FOR RESCUE SERVICES) BILL

Second Reading

The Hon. IAN MACDONALD (Parliamentary Secretary) [3.56 p.m.]: I move:

That these bills be now read a second time.

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

Leave granted.

COAL MINE HEALTH AND SAFETY BILL

The Carr Labor Government remains strongly committed to protecting the health and safety of the State's 9,500 coal mine workers.

Coal is one of the State's largest exports, with total production last financial year of \$5 billion.

However, the success of this industry has, in the past, come at a terrible cost.

Tragically, more than 1,500 coal mine workers have been killed in New South Wales since 1900.

This year is the centenary of the Mount Kembla disaster where 96 men and boys lost their lives.

This tragedy remains Australia's worst industrial disaster.

Sadly, there have been other disasters, which have taken coal miners from their families.

Catastrophes such as:

- the fire and explosion at Bellbird colliery in 1923, with the loss of 21 lives;
- the fire at Bulli colliery in 1965, with the loss of four lives; and
- the explosion at Appin colliery in 1979, with the loss of 14 lives.

In more recent times, three miners were killed in the 1991 roof fall at Western Main colliery.

In the same year an outburst also occurred at the South Bulli colliery where three more lives were taken, and in 1996, there was the tragic loss of four lives in the inrush at the Gretley mine.

In late 1996, against a backdrop of tragic deaths and near misses, this Government commissioned a wide ranging review of mine safety in New South Wales and implemented a number of key reforms.

These changes have included:

- a new specialist investigation unit to thoroughly investigate and report on serious mine safety incidents;
- the adoption of a prosecution policy and a \$1 million mine safety prosecution fund;
- a Mine Safety Advisory Council to bring together Government, employers and unions to work on mine safety issues; and
- the reform of mine safety laws.

This Government has overseen significant improvements in mine safety.

However, there is no room for complacency when the lives and safety of New South Wales' coal mine workers are at stake.

The safety performance of the mining industry still needs to further improve.

One death, one injury is one too many.

The *Coal Mine Health and Safety Bill* is the result of an extensive review of the laws covering health and safety in coal mines, and in particular the *Coal Mines Regulation Act 1982*

The Bill will modernise the current twenty year-old coal safety legislation.

The *Coal Mine Health and Safety Bill* has been prepared following a detailed consultation process with mining industry operators and employees.

The Minister for Mineral Resources, the Honourable Eddie Obeid, announced the start of this process in July 2000.

This saw the release of a comprehensive discussion paper - *Transforming Health and Safety Regulation in New South Wales Coal Mines*.

The paper called for comments and submissions from those with an interest in improving safety in the New South Wales coal industry.

Based on the outcomes of the first round of detailed consultation, a further paper titled *Safety Works* was released by the Minister for Mineral Resources for community comment in February 2002.

The *Coal Mine Health and Safety Bill 2002* reflects the outcomes of this extensive consultation process.

I take this opportunity to thank—on behalf of the Minister for Mineral Resources—all those who, through submissions or comments, have contributed to the development of the Bill.

In particular, the Minister has advised me that the representatives of mining companies and mining workers, have both been particularly constructive throughout the consultative process.

As members of the house would be aware, the *Occupational Health and Safety Act 2000* applies to every industry in NSW, including the coal mining industry.

However, the potential danger inherent in any coal operation is too high to be dealt with solely by the *Occupational Health and Safety Act*.

That is why there has always been specific coal mine health and safety laws in this State.

The Bill replaces the twenty-year-old *Coal Mines Regulation Act* with new, modern legislation that better protects the health, safety and welfare of people who work in the NSW coal industry.

The *Coal Mine Health and Safety Bill* is complementary to the more general Occupational Health and Safety Act.

The Government must have a strong role in the regulation and enforcement of mine safety standards.

If coal mines are not appropriately regulated there can be catastrophic loss of life.

This Bill provides a framework to manage the particular risks arising from coal mining, such as underground fires, explosions or roof collapses.

The Bill lays the foundation for an integrated approach to mine safety - through the development of health and safety management systems, major hazard management plans and emergency systems.

This Bill does not reduce the importance of Government inspectors, investigators and mine safety officers in providing independent and effective safety regulation for the industry.

I will now describe some of the central features of the *Coal Mine Health and Safety Bill*.

The Bill will apply to all places of work within a colliery holding under the *Mining Act 1992*.

The Bill requires a colliery holder to nominate an operator for any coal operation.

The operator must be the employer with day to day control of a coal operation.

A coal operation may be an underground mine, an open cut mine or a coal preparation plant.

A central element of the Bill is the requirement that an operator develop and implement a comprehensive health and safety management system as a condition for mining to be undertaken.

At the present time there are a variety of rules, schemes, systems and plans required under the *Coal Mines Regulation Act* to be prepared by a mine manager.

The Bill consolidates that mixture of requirements within a single, integrated and comprehensive health and safety management system.

The various rules, schemes, systems and plans will become important elements of the integrated system.

Health and safety management systems will be required to cover such matters as: major hazard management plans; the management structure for a coal operation; and a contractor management plan.

The systems will be comprehensive, and cover all those at a coal operation including employees, visitors and contractors.

To maintain existing arrangements, training requirements for the systems will need to be compatible with training schemes required under the Coal Industry Act 2002.

An important part of an operator's health and safety management system will be a management structure.

The management structure must include competent persons to perform key health and safety related functions.

The ongoing operation of health and safety management systems will be monitored by the Department of Mineral Resources inspectorate.

These officials will have available prohibition and improvement notice powers to ensure identified safety deficiencies are remedied.

The Bill will ensure that effective emergency provisions are also developed and maintained at coal operations.

The Bill requires an emergency management system to be developed.

This system would operate separately from the health and safety management system for two important reasons.

Firstly, it reinforces the importance of adequate emergency preparedness.

Secondly, it recognises that in an emergency different means of management, such as the formation of incident control teams and the close engagement of external emergency services may be necessary.

As with the health and safety management system, an emergency system will cover employees, visitors and contractors at a coal operation.

The Bill retains important provisions of the *Coal Mines Regulation Act* which are intended to protect the community from potential health and safety impacts of coal mining or to protect the safety of people in adjoining mines.

These include an ability for the Minister to require the leaving of barriers or protective pillars in mines, the closing of shafts or outlets in abandoned mines, the control of emplacement areas and a requirement for permits for former mines to be used for tourist or educational activities.

To ensure appropriate compliance and enforcement of the new laws, a range of offences, in addition to those contained in the *Occupational Health and Safety Act*, are included in the Bill.

Penalties for offences in the Bill are at a level commensurate with similar offences under the *Occupational Health and Safety Act*.

When enacted the legislation will be enforced in mines by inspectors and others with powers under the *Occupational Health and Safety Act*.

Another important feature of the Bill is the proposed new Coal Competence Board, which will replace the Coal Mining Qualifications Board.

The Coal Competence Board will oversee the development of competence standards and assessment of people performing particular functions in coal operations.

Importantly, the Board will be able to continue to arrange for the examination of candidates and the issue of certificates of competence.

Standards of competence for those performing critical health and safety functions in coal operations are essential if risks are to be appropriately identified and managed.

Those who work in coal mines need to have the recognised competencies to ensure they are able to perform their duties without placing themselves and others at risk.

A person will not be able to be employed in connection with a coal operation as a Manager, Deputy Manager, Under Manager in Charge, Under Manager or Deputy if they do not hold the relevant qualification for that position.

The new Act will not commence without regulations being made that recognise these positions and the corresponding competency standards and functions.

Those currently in statutory positions will be taken as having the necessary capability to perform the corresponding functions under the *Coal Mine Health and Safety Act*.

An important part of safety management is to ensure that employees who often work in challenging underground conditions, are fit for work and not fatigued.

Section 168 of the *Coal Mines Regulation Act* contains important safety provisions regarding hours of work.

As part of the modern legislative framework, these provisions are not expressed in the Bill, but rather will be retained in the regulations.

It is important to note that the regulations will be a key component of the safety framework that gives operational effect to important provisions of the Bill.

To ensure a smooth transition to the new legislation, the regulations will be developed in close consultation with mining company representatives and mine worker representatives.

Where necessary, the regulations will be able to make provision for existing arrangements, under the *Coal Mines Regulation Act*, to be acceptable as fulfilling requirements under the *Coal Mine Health and Safety Act*, for a limited period.

This will allow existing safety measures to satisfy the relevant requirements of the new legislation, while the required work is undertaken to implement new safety standards.

The *Coal Mine Health and Safety Bill 2002* provides a basis for a safer coal industry in New South Wales.

We must learn from the lessons of the past, by ensuring that effective measures are in place to prevent disasters and that the general safety, health and welfare of our coal mine workers is protected.

The Carr Government remains committed to putting in place the best possible arrangements to protect the lives, health and safety of our coal mine workers.

We trust that those who share a similar commitment will support the timely passage of this Bill.

I commend the Bill to the House.

COAL INDUSTRY AMENDMENT (FEES FOR RESCUE SERVICES) BILL

Since 1 January 2002 the Coal Industry Act 2001 has provided for altered arrangements in the NSW coal industry in respect of the delivery of occupational health and safety, workers compensation and mines rescue services.

Honourable members will recall that those services are now performed by private corporations approved by the Minister for Industrial Relations who, apart from exercising an appointment power in relation to the companies' boards of industry-representative directors, retains a reserve monitoring and regulatory role under the Act in relation to the companies' performance of their approved statutory functions.

The mines rescue functions specified in the Act are undertaken by Mines Rescue Proprietary Limited.

Section 22 of the Coal Industry Act presently prohibits the charging of fees by Mines Rescue Pty Limited in the exercise of its principal underground coal mine rescue services as listed in the Act's section 14.

The funding of these services is intended to be accommodated under the Act by the company's annual monetary levying of owners of all coal mines (being both underground and open cut operations) according to the mine's size, rescue training needs, accident risk assessment and likely cost of rescue services.

It is the case that Mines Rescue Pty Limited is not an instrumentality or agent of the New South Wales Crown and the new statutory arrangements are designed to allow the coal industry parties (Construction, Forestry, Mining and Energy Union and the NSW Minerals Council Limited) to be responsible for the overall administration of the industry's functioning, including mine rescue activities.

In this capacity, the board of directors of Mines Rescue Pty Limited has informed the Government of its unanimous view (corresponding with the common stance of their backing bodies) that the present section 22 fee-charging prohibition is unsustainable in terms of the future financial standing of the company.

The Government accepts the case presented by the company.

Accordingly, the Coal Industry Amendment (Fees for Rescue Services) Bill proposes that there should be permissible fee-charging by the approved mines rescue company for the provision of rescue services after the first eight hours (or greater prescribed period) of an emergency at an underground coal mine.

The Mines Rescue Pty Limited board advises that the likely cost of its rescue services in an emergency are as much as \$0.2 million per day. The company points out that it is unable to accumulate adequate reserves under the present levy system to cope with a prolonged emergency such as the 1979 Appin explosion when Mines Rescue Service personnel and brigades were involved at that mine for approximately six weeks.

The board emphasises that to simply increase the current statutory levy could result in the more economically marginal mines being forced to close. This alternative form of action by the company is also not amenable to the Government.

I am further advised by the company that the former Mines Rescue Board which Mines Rescue Pty Limited replaced apparently acted in ignorance of the equivalent section 22 fees prohibition under the repealed Mines Rescue Act 1994.

Whenever the established Mines Rescue Service attended an emergency, the cost for the first shift (or 8 hours) in respect of both underground and open cut coal mines was met as a charge against the statutory levy which the former board made on the industry. All operating and labour costs for employees and brigades after that first shift were then to be charged to the colliery (and its insurer).

Since 1994 there have fortunately been no emergencies extending beyond eight hours involving risk to life.

The system of charging all collieries after the first eight hours apparently dates from the 1970s.

Prior to the adoption of the fee-charging system some mine managers used the Mines Rescue Service as a source of free labour. For example, with spontaneous combustion at mines, heating might advance to a point where breathing apparatus and mines rescue teams were required to make the mine safe. Additionally, the initially free service over the first 8 hours for open cut mines was introduced so as not to discourage those mine managers from activating the service if they were in any doubt that the service was really required to be used.

Clearly, there is established industry acceptance of the present common fee-charging system for rescue work at both underground and open cut coal mines despite former and current Act provisions.

Moreover, the responsible coal industry parties charged with performing mine rescue services are of the firm view that the alternative of differential economic treatment according to mine type would be financially unsustainable for Mines Rescue Pty Limited and the industry at large in the event of a major emergency or a series of emergencies.

For these reasons, the Government is convinced that the Coal Industry Act requires appropriate amendment.

To this end, the bill which I introduce today establishes a threshold of 8 hours (being the accepted industry standard) before fee-charging will be permitted by the mines rescue company in the actual provision of rescue services in dealing with an emergency at an underground coal mine in New South Wales.

The term "emergency" has a specific meaning under the Coal Industry Act. It is defined to relate to an actual or imminent occurrence (such as fire, explosion, accident or flooding) that has resulted in a person's death or injury or is endangering or threatening to endanger a person's life or physical well-being.

Fee-charging will not apply at any stage to the mines rescue company's exercise of its more general or non-emergency section 14 principal functions at underground coal mines—for example, functions relating to the training and equipping of brigades.

Concerning the intended non-entrenchment of the eight hours mark as the threshold point for mines rescue fee-charging, it is to be noted that the proposed variant regulation-making power will be limited only to possibly increasing the allowable fees-free

period. The eight hours (or first shift) mark is the industry's recommended and currently applicable fees threshold, but the Government is of the view that the Act should contain some regulatory flexibility to perhaps afford lessened mines emergency rescue costs to mine owners over time as a result of, say, enhanced rescue operations.

The regulatory power is not so variant as to permit a period of less than eight hours as this would be both contrary to the present industry standard and potentially cost disadvantageous to mine owners at some future time.

Honourable members may be assured that the bill is acceptable to Mines Rescue Pty Limited, the Minerals Council and the Construction Forestry Mining and Energy Union whose key officers were made aware of the bill's contents in the drafting process.

The recognition of the Government in its coal industry structural arrangements reform of last year was that the industry parties are in the best position themselves to know how their industry can optimally function.

Confirmation of the correctness of the Government's Coal Industry Act approach lies in this bill's genesis in the approved company's early analysis of the currently inadequate mines rescue funding arrangements and the industry's resultant reform call.

I commend the board of directors of Mines Rescue Pty Limited for bringing this matter to the Government's attention as I also now commend the bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [3.56 p.m.]: The Opposition does not oppose the Coal Mine Health and Safety Bill or the Coal Industry Amendment (Fees for Rescue Services) Bill. We recognise the importance of maintaining and strengthening the health and safety conditions of the State's coalminers. We also recognise the need to maintain a world's best standard of conditions in New South Wales coalmines. New South Wales coalmining companies are committed to improving health and safety in the workplace, and I also acknowledge the work of employee representative bodies in this regard. The overview of the Coal Mine Health and Safety Bill as contained in the explanatory note is as follows:

This Bill is about the Health, safety and welfare of people who work at coal operations, that is, people who work at colliery holdings (including coal mines, oil shale mines and kerosene shale mines), at coal exploration sites and in the exploration for or recovery of offshore coal.

The explanatory note goes on to state:

This Bill puts in place special additional obligations, protections and procedures necessary for the control of particular risks arising from coal operations. The obligations, protections and procedures in the *Occupational Health and Safety Act 2000* will continue to apply to coal operations.

The Coalition supports the broad intent of the legislation. We will not oppose any move that will strengthen the protection offered to the men and women who work in coalmines. It is a dangerous occupation—although, not as dangerous as it was in the past—and that is why we do not oppose the legislation. I have been informed that coalmining companies support the provisions of the Coal Mine Health and Safety Bill, which improve consistency between coal industry specific requirements and the mainstream occupational health and safety regulations that will provide coalmine operators with the flexibility to establish effective management structures and systems to improve the safety and health of coal mine workers.

There are about 60 active coalmines in New South Wales directly employing 10,000 workers in open-cut and underground operations. Almost half the industry work force and two-thirds of physical output come from open-cut mines. The industry has made major advances with regard to health and safety issues, with the New South Wales Minerals Council and individual workplaces implementing new strategies and practices to reduce lost-time injuries and fatalities in coalmining. According to the Joint Coal Board's lost-time injuries and fatalities statistics for 2000-01, the frequency of workers compensation claims resulting in one or more days lost shows a dramatic decline in the period 1992 to 2001.

I suspect that anyone who has visited mines in the Hunter—as I did a week or so ago when I toured some Coal and Allied mines—would have noticed on entering a mine a major board showing, for the benefit of both visitors and coalminers, not the days lost but the number of days since the last accident. In many mines the number of such days is considerable. Joint Coal Board figures for coalmine fatalities show a decline from 17 fatalities in 1981 to just one so far in 2002. The Minerals Council has informed me that the safety performance of the industry is now on par with that of other industries, including forestry, agriculture, construction and heavy manufacturing.

The bill House has had a lengthy history, starting with the 1997 mine safety review that identified some shortcomings with the regulatory framework associated with coalmine health and safety. The consultative process for this bill began in July 2000 with the release of a discussion paper. The Government released a position paper in February this year, with feedback considered during the final drafting stages. However, some

concerns remain about the speed with which the bill has come before the House this afternoon. It is a concern that the draft bill was not referred to the New South Wales Mine Safety Advisory Council for review or endorsement despite policy advice being that council's stated purpose. I understand further that the department and the minister's office resisted requests to refer the bill to the Coal Mines Safety Advisory Committee for review despite a resolution from the committee in this regard.

Following a six-month hiatus after the close of submissions on the safety works discussion paper, key stakeholders had only four days in which to review a 150-page first draft bill and then a whole 24 hours to review the revised draft. Despite the significant new requirements on contractors, they have had no opportunity to review or to comment properly on the bill as they are generally not members of the industry groups that were consulted. This is the typical scenario with which we are faced at the end of the parliamentary sittings each year. It is becoming the hallmark of this Government, as it tries to force through by the end of the sitting legislation that has not been considered properly.

As I said before, this bill will apply in addition to the Occupational Health and Safety Act 2000. Current Coal Mine Regulation Act regulations will be remade after the passage of this bill and additional new regulations will be made. Furthermore, consideration will be given to applying to coalmines hazard-based regulations under the Occupational Health and Safety Act. Employers and peak industry groups have identified several positive features of the proposed legislation, including greater consistency with the Occupational Health and Safety Act; placing primary responsibility on employers rather than on individual mine managers and other designated personnel; the requirement to implement a health and safety management system, which is already utilised widely by many mine operators across New South Wales; the placement of a rigid set of coalmine management and supervisory positions, with requirements for documented management structures comprising experienced personnel; and the retention of a specialised and expert mines inspectorate in the Department of Mineral Resources, with functions and powers consistent with WorkCover inspectors.

Despite our position of not opposing the bill, the Coalition shares the concerns of many industry representatives and employers relating to the workplace consultative mechanisms and the Construction, Forestry, Mining and Energy Union [CFMEU] industry check inspectors who will be put in place under this legislation. The bill strengthens considerably the powers and functions of government-funded district or industry check inspectors. Under the bill before the House, four industry check inspectors—who will be appointed directly by the CFMEU rather than employee elected—will have the power to stop work in coalmines across the State. In addition, coalmine operators will be required to forward to CFMEU offices a range of documents detailing health and safety management and safety incidents. CFMEU industry check inspectors will be able to delegate to a site check inspector their power to stop work. Workers at coalmines will be prevented from electing occupational health and safety inspectors and site check inspectors will be elected instead. Additionally, regulations to be made under the legislation will specify which workers at coalmines will be able to vote in elections for site check inspectors and will provide for a specified union to conduct such elections.

This is the part of the bill that concerns the Coalition. We understand that significant and detailed concerns about these provisions were expressed to the Government during the consultative and drafting process but, according to the Government, they are strictly non-negotiable. The coalmining companies are concerned that the details I have mentioned will entrench the CFMEU in the inspection process and that CFMEU officials will be able to use their power under the legislation to stop work over real or perceived safety concerns in order to further their own agenda. There is also a concern that the appointment of CFMEU officials will effectively double up on existing inspectorate powers afforded to the New South Wales Department of Mineral Resources. The Government has some questions to answer. Why has the CFMEU been offered an entrenched position of undeniable power in this bill? Why are these provisions non-negotiable? Is the Government being held to ransom by the CFMEU in this regard?

I emphasise that the Coalition is not seeking to water down in any way the health and safety provisions in this legislation. However, we are concerned that the Government is shifting from regulation to legislation—a function that will effectively entrench CFMEU officials in an undoubted position of power. I note that new mining legislative requirements were put in place in Victoria—which also has a Labor Government—at the end of October with absolutely no specified role for unions. Why has the New South Wales Government legislated to entrench their role? We will seek to amend the bill appropriately in Committee.

The Coalition does not oppose the establishment of the proposed Coal Competency Board to replace the Coal Mining Qualification Board. This board will oversee the development of appropriate competency standards and the assessment of people performing particular functions in coalmining operations. This is an

important part of the bill and we recognise that it is essential that the appropriate training, assessment and accreditation is undertaken. The Minister for Land and Water Conservation in another place stated in his second reading speech on this legislation that it is important to learn from the past and to ensure that effective measures are in place to prevent accidents in coalmines. The Coalition supports that statement totally, and that is why we will not oppose this legislation.

The Hon. MELINDA PAVEY [4.08 p.m.]: The Opposition is also pleased to support the Coal Industry Amendment (Fees for Rescue Services) Bill, which seeks to amend the Coal Industry Act 2001 to permit fee charging by the Mines Rescue Service for the provision of rescue services after the first eight hours of an emergency at an underground coalmine. Many honourable members will be aware of the excellent work done by accredited mines rescue units across New South Wales. The highly trained members of mines rescue brigades undertake difficult, dangerous work at the time of accidents in underground coalmines, often putting themselves at risk to save the lives of miners trapped underground. It is a sad fact that accidents do happen in underground coalmining operations, and it is only through the excellent work of these dedicated and highly trained rescue personnel that the death toll from underground mining operations is not greater.

The former Mines Rescue Board and the Joint Coal Board ceased to exist from 1 January this year. The activities of the two entities were placed with a new private company called Coal Services Pty Ltd, which is now charged to provide occupational health and safety, workers compensation and the Mines Rescue Service to the New South Wales coal industry. Coal Services Pty Ltd is owned by the coal industry, with the New South Wales Minerals Council and the Construction, Forestry, Mining and Energy Union [CFMEU] each taking a 50 per cent shareholding in the company. The board of directors of Coal Services includes: two from the New South Wales Minerals Council; two from the CFMEU; two independent directors; and a seventh director to be the managing director and chief executive officer of the company.

The reason that I have highlighted the structure of the board of Coal Services Pty Ltd is that the proposed legislative change allowing Mines Rescue Pty Ltd to charge a fee for service in underground rescue operations exceeding eight hours resulted from a request from the board. In other words, it has the support of both industry and the union movement. It is testament to the New South Wales coal industry that fatalities in New South Wales underground coalmines have fallen from a high of 16 in 1980-81 to just two in 2000-01. However, there will always be a need for a well-resourced and well-funded rescue service to provide rescue operations when they are needed. That is the nature of this industry.

The move to cost recovery is reflective of the need to maintain Mines Rescue Pty Ltd in an acceptable financial position. It is important to note that the proposed cost recovery measures do not extend to the other core work of mines rescue—that of training and equipping rescue brigades at underground coalmines. Instead, in the event that a rescue at an underground coalmine takes longer than eight hours, the service will shift to a cost recovery basis. I have been informed that if the cost recovery mechanism does not take effect then it is likely that there would be a need in the future to raise the level of the compulsory levy that all coalmines in New South Wales pay annually to fund rescue services. While large corporate operators may not have a problem with funding an increased levy, smaller operators and mines operating at the edge of their financial resources may have some difficulty in meeting an increased levy. That in turn could lead to the closure of some of those marginal operators if they are unable to meet their annual levy contributions.

I take this opportunity to extend the congratulations of this House to the New South Wales Minerals Council on its recent innovative solutions to safety risks in New South Wales mines awards. The council recently presented a range of awards to creative and innovative solutions that will prevent injuries and accidents in mines. The winner of the award was the Camberwell Coalmine at Singleton for its hydraulic pressure bleed manifold which prevents serious burns, eye injuries and oil injection injuries by allowing the safe release and testing of hydraulic systems in heavy equipment commonly used across the mining industry, such as excavators and front-end loaders. It also enables the environmentally friendly disposal of hydraulic system oils. Our congratulations to that company for its innovative solution.

I am sure that some of the other award recipients will be able to make an ongoing contribution to the coal industry across the world. They certainly need some better answers in China where there are large numbers of injuries and deaths in coalmines. In conclusion, the Opposition is pleased to be able to support this legislation. I want to extend the thanks of the Deputy Leader of the Opposition to the executive director of the New South Wales Minerals Council, John Tucker, for his advice on this matter. John is also one of the directors of Coal Services Pty Ltd. The Opposition offers support for this important legislation.

Reverend the Hon. FRED NILE [4.14 p.m.]: The Christian Democratic Party supports the Coal Mine Health and Safety Bill and the Coal Industry Amendment (Fees for Rescue Services) Bill. The Coal Mine Health and Safety Bill will replace the outdated Coal Mines Regulation Act 1982 with modern legislation to better protect the health, safety and welfare of people who work in the coal industry. A couple of years ago the Standing Committee on Law and Justice, chaired by the Hon. Brian Vaughan, conducted an inquiry into workplace safety and inspected various mines in the Hunter Valley. We inspected a longwall mining operation. We travelled in an underground mobile vehicle and then, on reaching the end of the tunnel, we walked to the coal longwall mining operation. We wore safety helmets, jackets and heavy rubber boots. I admired miners working in such conditions. I know that longwall mining has been introduced to speed up and more efficiently remove coal from mines but that operation certainly increases dangers to miners. There is a lot of noise and coal dust when a wall is virtually removed. Metal pneumatic machinery holds up the wall of the coalmine and inches along and it is almost like looking at a scene in a Dante painting.

The Hon. Duncan Gay: That is the closest you will ever get to Hades.

Reverend the Hon. FRED NILE: That is the point I am making. I have always had great admiration for coalminers but having been in the mine my admiration dramatically increased. Safety issues are so important for them and that is why we are very pleased to support this legislation. We know that the large coalmining industry is very important in this State. This legislation is designed to protect the health and safety of 9,500 coal mine workers in this State. The industry brings in a great deal of revenue for New South Wales and Australia. The total production last financial year was more than \$5 billion. We need health and safety legislation because, tragically, since 1900 more than 1,500 coalminers have been killed in New South Wales. I imagine that is the highest death rate of any industry in Australia.

This year was the centenary of the Mount Kembla disaster when 95 men and boys lost their lives. Other tragedies include the 1923 Bellbird colliery accident in which 21 lives were lost; the 1965 Bulli colliery fire in which four miners died; the 1979 Appin colliery explosion in which 14 lives were lost; and the 1991 roof fall at the Western main colliery when three lives were lost. In 1996 at the South Bulli colliery three people lost their lives when miners suddenly broke into an old tunnel which was full of water, and similarly four lives were lost at the Gretley mine. We do not need to be reminded of the dangers inherent in underground coalmining in this State.

We also inspected a number of open coalmines. Open coalmining does not compare with underground mining as a dangerous occupation, but it involves different types of dangers. When we inspected the open coalmines I noted the presence of huge trucks; they gave the impression of being almost as big as this Chamber. Huge excavators remove coal from the walls of the mines and then place it in huge trucks. Obviously, if the miners are not careful, if a mine operator is careless, or if there is a mishap, miners could still be killed in an open coalmine. We are pleased to support the Coal Industry Amendment (Fees for Rescue Services) Bill, which will allow for more modern health and safety management practices with, importantly, an emphasis on consultation with the work force.

In the past there was almost a tradition in Australian mines, and perhaps in mines in the United Kingdom, of confrontation: the mine owners and/or operators versus the miners. We must move beyond that, and I believe that that is the purpose of this bill with its emphasis on consultation. That is probably one reason why the Government has continued with industry check inspectors. Although the Opposition gave the impression that it is an innovation, I understand that it is not. I have been advised that industry check inspectors have always been nominated by the Mining and Energy Division of the Construction, Forestry, Mining and Energy Union [CFMEU]. I imagine that the check inspector initiative offers an incentive for mine operators and miners to work in a spirit of co-operation, the bottom line being miner safety and a reluctance to use these powers for frivolous reasons, for example, to cause a mine to stop operating if another union demanded a wage increase.

I expect the industry check inspectors to carry out their duties correctly and not to abuse the position they hold. The purpose of the provision seems to be to achieve co-operation and to encourage miners and their representatives to work in harmony with mine operators. We are concerned that deleting that provision could cause alienation and take the industry one step back instead of moving forward. We support the Coal Industry Amendment (Fees for Rescue Services) Bill.

The Hon. IAN COHEN [4.22 p.m.]: The Greens support the Coal Industry (Fees for Rescue Services) Bill which, while providing for fee for rescue services beyond eight hours, should not result in any disincentive

to mining companies availing themselves of opportunities for equipping, training and safety auditing of day-to-day mining practices, which could otherwise be the case. Only by the timely and regular attendance to mining safety matters can the considerable hazards of this activity be minimised. A fee for extended service only may provide an incentive to improve workplace standards.

It is to be hoped that the less dramatic but, nevertheless, important sources of mine-related mortality and morbidity—the day-to-day hazards of dust, fumes, noise, vibrations and a host of other dangers, both underground and at the surface—do not slip into the background. Only by continual vigilance and improvement to coalmine workplace health and safety can we as a society justify our dependence on this activity, which is damaging specifically to the health of those who extract coal for us, and to all of us through destabilisation of the climate on which our collective health and safety depends.

I turn now to the Coal Mine Health and Safety Bill. Coalmining has always been a dangerous business. Indeed, only the organisation of workers into unions has forced improvements to health and safety conditions over time. For decades miners suffered from black lung as a result of breathing in coal dust, even though the technology for removing it had long been available. Too many miners died a horrible death as a result; so, too, those who perished down the mines as a result of cave-ins and subsidences. Fortunately our society has legislated to ensure that there are adequate standards to minimise such occurrences. Even so, even with our laws and precautions, far too many miners still perish down the mines. Our society has made a deal with the devil in becoming so reliant on coal as our primary source of energy. Is it any wonder that this lustrous black inheritance makes possible a lifestyle unprecedented in history? Now, however, the world's top scientists are suggesting that it is unwise to continue with this lifestyle, although there is still coal underground, because of the negative climatic consequences of our high life.

The Hon. Duncan Gay: Point of order: While the honourable member's contribution up until now has been totally within the leave of the bills, he is now moving into an area that I believe is well outside the leave of the bills. I totally agree with the commitment he made earlier, but he is now addressing the rights and wrongs of using coal, which are completely outside the purview of the bills before the House. I ask you to draw the honourable member back to the bills before the House.

The Hon. IAN COHEN: To the point of order: It will probably take longer to respond to the interjection than to read the few remaining lines of my speech. The health and safety of miners is very much tied up with the important use of the product. Drawing another relevant factor into the use or otherwise of coalmining is not unreasonable in terms of extrapolating the health and wellbeing of miners in relation to the health and wellbeing of all people involved in this industry and outside.

The PRESIDENT: Order! It is a convention in this House that members may make general comments about aspects of a bill that is being debated. The member may proceed.

The Hon. IAN COHEN: Addicted as we have become to this treasure trove of the distant past, we are obliged to ensure that those who work in this most dangerous workplace are properly protected. Recently, the body in charge of mine safety—the Commonwealth-State Joint Coal Board—was swept away, to be replaced by a private company operated by the the Construction, Forestry, Mining and Energy Union [CFMEU] and the Minerals Council jointly established last year. Now, less than a year after we passed that coal industry bill into law, we are faced with another weighty, 120-page bill which seeks to give effect to the far-reaching changes in the way health and safety are managed. Guidance from the Federal Government is nowhere to be seen, despite the strong recommendation of the International Labour Organisation Convention on Safety and Health and Mines, that national consistency is a key factor in ensuring effective delivery.

Nonetheless, the Greens note the assurances of the Mining and Energy Division of the CFMEU that it has played an integral role in the development of the bill and believes that it will improve coalmine health and safety. Unfortunately, this legislation continues the artificial distinction between the verb "to mine" and the noun "mine". It is not obvious at first, but the activity of exploration appears to be exempt from this bill, because while mine owners may have built what looks like "a mine", miners are not "mining" under the narrowest possible meaning of the verb but exploring. This continues the artificial distinction and protection of the minerals exploration industry, which is also exempt from many of the environmental controls under which other industries are required to operate. The election of site check inspectors by the work force is a welcome step, but we are disappointed that the right to know of the work force and of the wider community is suppressed by restrictions on the information that may be disclosed. That only one-third of workplace agreements make reference to occupational health and safety matters is a sad reflection on the low status these important matters have in practice.

It is difficult to accept that this results from a lack of interest in occupational health and safety by the work force; rather it is the result of the difficult bargaining environment in which workers are placed when these matters are relegated to the bottom drawer. There has to be consultation with the people who work at the coal operation in setting up the health and safety management system. We applaud this provision and hope that all mineworkers will be able to use this opportunity to render their workplaces, on which we all depend, much safer than they have been in the past. The Greens support both pieces of legislation.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.30 p.m.], in reply: I thank honourable members for their contributions to debate on the Coal Mine Health and Safety Bill. I have a lengthy address in reply and seek leave to incorporate it in *Hansard*. I have specific points to make about the matters raised by the Deputy Leader of the Opposition and I will deal with them in Committee.

Leave granted.

I would like to take this opportunity to address the concerns raised in the debate on the Bill.

Firstly, the Opposition expressed a concern that this Bill was not subject to adequate consultation.

This certainly was not the case.

In developing this Bill, extensive consultation took place over an 18-month period.

This involved the public release of both a discussion paper and position paper, which forms the policy basis for this Bill.

The Mine Safety Council was directly involved in the preparation of the discussion and position papers, which formed the basis for further consultation.

It is the height of hypocrisy that the Opposition claims there has been inadequate consultation.

The Shadow Minister for Mineral Resources, the Honourable Duncan Gay, failed to provide a response to the Government's position paper, despite a written assurance that a response would be forthcoming.

This failure indicates that the Opposition either doesn't have any policies or doesn't see mine safety as a priority.

There seems to be some confusion within the Opposition in regard to the arrangements for Industry Check Inspectors.

Industry Check Inspectors, known previously and more commonly as District Check Inspectors are vital health and safety personnel that have been contributing to mine safety since early last century.

History has shown the importance of the role of these positions in saving the lives of mineworkers.

In 1997, for example, at a Hunter Valley colliery, employees were exposed to diesel machines that had not undergone weekly gas testing.

This presented a potential hazard, which could have serious health effects from exposure to toxic gases.

The Industry Check Inspector took action and required untested diesel machinery to cease operation until tests were undertaken.

When the Department of Mineral Resources' Inspector reviewed the Industry Check Inspector's notice they found it to be appropriate.

In another example, coal mine workers were exposed to the potential risk of a roof collapse late last year at an Illawarra colliery.

Roof collapses have over many years resulted in the loss of lives.

In this case, the Industry Check Inspector issued a notice requiring a method of roof support being established that did not expose workers to the potentially catastrophic risk of an unsupported roof.

The Government Inspector in this case supported the action of the Industry Check Inspector, suspending operations in that coal panel.

History shows that the powers of Industry Check Inspectors have been used sparingly and responsibly. They have only been used in circumstances that clearly warranted their use.

The Bill essentially maintains the status quo in regard to the powers and authority of Industry Check Inspectors currently available under the Coal Mines Regulation Act.

The Government's approach on Industry Check Inspectors was outlined in the Government position paper released in February of this year.

At the time, the Opposition failed to raise any objections.

This is however not surprising, as previous Coalition Governments have supported the important safety role of these positions.

During the Griener and Fahey Governments, the Coalition has consistently supported the important role of the CFMEU in coal mine health and safety issues.

In fact the Griener and Fahey Governments provided a total of \$560,000 to the CFMEU to help fund their District Check Inspectors.

This is money well spent and has been maintained by this Government as it contributes to improved mine safety.

It is worth noting that since 1984, the law in NSW has provided for Industry Check Inspectors to be elected by members of the CFMEU.

This was the case even throughout the period of Coalition Government for very good reasons.

The CFMEU pays for over three-quarters of the total costs associated with Industry Check Inspectors.

The CFMEU is making a significant financial contribution to improve mine safety on behalf of their members.

More importantly, what has been critical to the success that Industry Check Inspectors have had in saving mineworkers lives has been their independence.

In addition to the role of industry compliance and Government mine safety law enforcement officers, Industry Check Inspectors have a vital role in protecting the lives of the State's mineworkers.

Their capacity to be an independent check and balance on mine safety and so contribute to better safety outcomes, is a role that is supported by this Government.

The involvement of employee representatives is crucial to improving mine safety.

This involvement reflects one of the key recommendations of the Mine Safety Review, which identified the need to ensure appropriate consultation with all key stakeholders including employee representatives.

The coal mining industry has a long history of the work force being able to elect representatives, known as 'Site Check Inspectors' who could then conduct safety inspections on their behalf.

Site Check Inspectors have a very similar role to the Occupational Health and Safety representatives introduced by the Occupational Health and Safety Act 2000.

To reflect the particular risks inherent in coal mining, Local Check Inspectors are provided with necessary powers to ensure mineworkers can be protected from imminent danger.

Local Check Inspector arrangements have been essentially retained in the Bill and Local Check Inspectors are referred to as Site Check Inspectors.

Under the Bill, all those employed in or about a coal operation are entitled to vote to elect a Site Check Inspector.

The Bill does provide the capacity for a Site Check Inspector at a coal operation to be delegated a power to suspend operations where there is an imminent danger to the safety or health of persons.

There are, however, strict procedures and conditions that must be met before a Site Check Inspector can be delegated this power and then exercise it.

The Site Check Inspector will only be able to exercise that power if they have received prescribed training and the Industry Check Inspector is not available or it is not practicable for them to attend at short notice.

As is the case now, these notices will cease to have effect if withdrawn by the issuing Site Check Inspector or, automatically, on attendance and assessment by a Government inspector.

Most importantly, the Bill provides an important safeguard by allowing for the disqualification of a person acting in the role of a Site Check Inspector should they misuse their powers.

In conclusion, I thank all Honourable Members who have contributed to the debate on the Bill.

I commend the bill to the House.

Motion agreed to.

Coal Mine Health and Safety Bill read a second time.

In Committee

The CHAIRMAN: Order! The Committee will deal with the Coal Mine Health and Safety Bill.

Parts 1 to 9 agreed to.

Part 10

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [4.34 p.m.]: I move Opposition amendment No. 1:

No. 1 Page 81, clause 173 (1) (a), lines 11 and 12. Omit all words on those lines.

The Opposition has moved this amendment because it is concerned with the entrenched position the Construction, Forestry, Mining and Energy Union [CFMEU] will gain under the bill. The honourable member for Swansea in the other place made a lengthy contribution criticising the Opposition for the position it has adopted on this section of the bill.

The Hon. Jennifer Gardiner: Which union is he in?

The Hon. DUNCAN GAY: One wonders what union he is in or which union sponsors him. The former Coalition Government did fund the position of district chief inspector provided by the CFMEU but I emphasise that that is not the current proposal. The current proposal pulls the CFMEU role out of the regulation and puts it fair and square in the legislation. Again I emphasise we are not trying to wind back any of the safety regimes put in place through this legislation. As I indicated in my speech on the second reading, the extra safety provisions were crucial and important. I cannot stress that point enough. The sections of this bill relating to the power of the CFMEU are of great concern. Detailed examination of the bill shows that the legislation is essentially inconsistent with a recent agreement reached by all mineral and petroleum resource Ministers to adopt a consistent approach to mine safety through the strategic mine safety framework.

As I said earlier, Victoria's new mine safety regulations, which commenced at the end of October, did not contain any specific union role. In Victoria, consultation and workplace representation is in line with the general occupational health and safety requirements and not in line with a specific union. Concerns have been raised in relation to the CFMEU's role as proposed in the bill. They include the fact that this is specifically special treatment for the CFMEU and the impact of these sections of the bill on non-union workplaces. I do not know how it will work in those mines that do not have CFMEU people. Does that mean that to fulfil this role the mine will have to import CFMEU people? No other New South Wales industry sector has union-specific provisions entrenched in its legislation. Concerns have also been raised about the removal of the current requirement for inspectors to have minimum safety qualifications and the fact that the Minister for Mineral Resources is unable to refuse to appoint a person to these positions.

In summary, the Coalition remains opposed to an entrenched position for the CFMEU in this legislation. I repeat for the benefit of Government members, we are not watering down safety provisions in this bill. We are not trying to unravel the mechanisms and safety regimes in this important bill; we are just against special treatment for mates.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.36 p.m.]: The Government does not support this amendment, which would end the current arrangements for industry check inspectors, a vital group of individuals who play a key role in protecting and maintaining safety standards in coalmines. The Coalition has criticised the provisions in the bill that allow the Construction, Forestry, Mining and Energy Union [CFMEU] to appoint industry check inspectors. Its belated opposition to this provision is nothing more than shameless political grandstanding. The law currently states that industry check inspectors are selected by the CFMEU. I remind the Hon. Melinda Pavey that this is the very same law that was in force for the entire period of the Greiner and Fahey governments. Any honourable member who wants to check this needs only to refer to clause 6 of the Coal Mines Regulation (Election of Check Inspectors, District Check Inspectors and Electrical Check Inspectors) Regulation 1984. When the Coalition was in government it was quite happy for the CFMEU to select industry check inspectors.

There is more. The Greiner and Fahey governments provided \$560,000 directly to the CFMEU to help fund its industry check inspectors. It is understandable that the Greiner and Fahey governments, like the Carr Government, recognised the importance of the industry check inspectors selected by the CFMEU. Industry check inspectors save mineworkers lives. For example, late last year at an Illawarra colliery coal mine workers were exposed to potential risk of a roof collapse. As honourable members will appreciate, roof collapses can result in serious loss of life. In this case the industry check inspector attended the scene and issued a notice prohibiting work until a safer method of roof support was used. The government inspector later arrived on the site and supported the action of the industry check inspector. The industry check inspector's decisive action probably saved lives.

Finally, the election of industry check inspectors is covered by the rules of the CFMEU and the Workplace Relations Act. Clause 173 of the bill has been drafted to reflect this, rather than relying on the wording of previous or existing regulations. The Opposition's amendment is purely political and, if successful, would put at risk a successful part of our safety regulations.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 14

Mrs Forsythe
Mr Gallacher
Miss Gardiner
Mr Gay
Mr Harwin

Mr M. I. Jones
Mr Lynn
Mr Oldfield
Mrs Pavey
Mr Pearce

Dr Pezzutti
Mr Samios
Tellers,
Mr Colless
Mr Jobling

Noes, 23

Mr Breen
Dr Burgmann
Ms Burnswoods
Dr Chesterfield-Evans
Mr Cohen
Mr Costa
Mr Della Bosca
Mr Dyer

Mr Egan
Mr Hatzistergos
Mr R. S. L. Jones
Mr Macdonald
Reverend Moyes
Reverend Nile
Mr Obeid
Ms Rhiannon

Ms Saffin
Mrs Sham-Ho
Ms Tebbutt
Mr Tsang
Dr Wong
Tellers,
Ms Fazio
Mr Primrose

Pair

Mr Ryan

Mr West

Question resolved in the negative.

Amendment negatived.

Part 10 agreed to.

Parts 11 to 14 agreed to.

Schedules 1 to 3 agreed to.

Title agreed to.

Coal Mine Health and Safety Bill reported from Committee without amendment and passed through remaining stages.

Second Reading

The PRESIDENT: Order! The House will resume debate on the Coal Industry Amendment (Fees for Rescue Services) Bill.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.48 p.m.], in reply: I seek leave to incorporate my speech in reply to the second reading debate.

Leave granted.

I thank honourable members for their contribution to the debate.

This Bill amends the Coal Industry Act 2001 to permit fee-charging by the Mines Rescue Service for the provision of rescue services after the first 8 hours (or greater prescribed period) of an emergency at an underground coal mine

Currently Section 22 of the Coal Industry Act prohibits the charging of fees by Mines Rescue Pty Limited in the exercise of its underground coal mine rescue services.

The board of directors of the company has unanimously requested the legislative change on the basis that—

- the costs of a major rescue emergency would be financially crippling for the company;
- fee-charging after the first shift is the accepted industry practice; and
- the alternative action in increasing annual financial levies payable by all coal mine owners could result in the closure of the more economically marginal mines.

Fee-charging will only apply to rescue services in an 'emergency' and will not apply to the company's exercise more general functions (eg training and equipping of brigades) at underground coal mines.

The proposed regulation-making power will be limited only to increasing the allowable fees-free period of the first 8 hours.

This proposal is supported by the NSW Minerals Council and the CFMEU—Mining Division.

I commend the Bill to the House.

Motion agreed to.

Coal Industry Amendment (Fees for Rescue Services) Bill read a second time and passed through remaining stages.

STANDING COMMITTEE ON PARLIAMENTARY PRIVILEGE AND ETHICS

Report

The Hon. Helen Sham-Ho, as Chair, tabled Report No. 23, entitled "Report on Guidelines Concerning Unauthorised Disclosure of Committee Proceedings", dated December 2002.

Ordered to be printed.

PORT BOTANY EXPANSION

Return to Order

The Acting Clerk Assistant tabled, in accordance with the resolution of the House of Thursday 21 November 2002, documents relating to the proposed Port Botany Expansion received by the Acting Clerk today from the Director-General of the Premier's Department and referred to in paragraph 1 of the resolution, together with an indexed list of documents.

Return to Order: Claim of Privilege

The Acting Clerk tabled a return identifying documents considered privileged, which under paragraph 4 of the resolution should not be made public or tabled. In accordance with the resolution the Acting Clerk advised that the documents were available for inspection by members of the Legislative Council only.

CRIMES LEGISLATION AMENDMENT BILL

Second Reading

Debate resumed from 21 November.

The Hon. JAMES SAMIOS [4.52 p.m.]: The purpose of this bill is to amend provisions of various crimes legislation in procedure and principle. It is designed to make the criminal justice system more efficient. The Opposition recommended a number of the proposed reforms. The bill is a continuation of a series of reforms to crimes legislation as part of the State Government package to make the court system more efficient and to continue to make issues of the justice system more black and white. First, the bill provides for changes to the Bail Act 1978 to set out the conditions under which, and the extent to which, the Supreme Court may review bail conditions or decisions made in other courts. Second, the bill will remove the presumption of bail allowed for criminals who commit further crimes while in custody for a separate offence. Third, it will ensure that the

presumption against bail for serious drug offences remains, and makes clear the provisions of the Act which refer to applications for, and the granting of, bail.

The bill also provides for amendments to be made to the Children (Criminal Proceedings) Act 1987 to ensure that children who commit offences under the Firearms Act 1996—specifically, offences that relate to the manufacture or sale of firearms, if the offences are punishable by imprisonment of 20 years or more—are prosecuted by law and not in the Children's Court. The amendments will specify the criteria a court must take into account when a decision is made as to the system under which a child will be tried. The amendments will also provide that a court may take into account, when deliberating on a confiscation order, any property or benefit of a defendant standing trial for a serious crime, and any gain derived by the defendant through his or her notoriety as a criminal—for example, threats or minor standover tactics that have resulted in monetary or property benefits, but did not involve the commission of further crimes.

The Crimes Act 1900 also will be amended to remove a possible anomaly in respect to when a murder may be reduced to manslaughter. The changes will ensure that Crown Prosecutors, Acting Crown Prosecutors, Sheriffs Officers and solicitors who are employed by the Director of Public Prosecutions are "law enforcement officers" for the purposes of division 8A, "Assaults and other actions against police and other law enforcement officers". These changes will ensure that the residential address of a health care provider does not need to be stipulated on an application for an apprehended personal violence order, and that a work address will be sufficient. The Crimes (Sentencing Procedure) Act 1999 will also be amended to allow a Local Court to impose a second sentence on top of a first sentence, up to a total of no more than three years and six months if the conviction relates to the assault of a correctional officer while the offender is in a correctional facility for the original crime, and clarifies operating standards for the provision of applications for the redetermination of life sentences.

The Criminal Procedure Act 1986 and the Justices Act 1902 are also amended to allow magistrates to issue warrants for the arrest of accused persons who are not present during summary proceedings or committal hearings. The Mental Health Act 1990 will be amended to provide for the transfer of inmates back to standard correctional facilities after the completion of treatment for mental illness which is ordered as part of a sentence. The Mental Health (Criminal Procedure) Act will also be amended to enable a magistrates to order that a person who has breached a discharge order be brought back before the magistrate, and to define the categories of persons who should be dealt with under section 32 of the Act. The amendments will also enable the making of community treatment orders under the Act without an inquiry being held into a case under the Mental Health Act 1990.

The bill will also amend the Search Warrants Act 1985. The amendment will enable a person who is arrested by police at premises being searched under a search warrant to be detained at the premises at the discretion of police for a limited time. The amendments will specify the time period which is asserted to be a "limited time", and sets the conditions for periodic detention. I reiterate that the Opposition does not oppose the bill. But I note that many of the amendments proposed by the Government originated from the Opposition in support of the preservation of law and order, and recognition by the Opposition of the need for a speedier, more accurate and more equitable system of justice. The Opposition will accept the amendments that have been circulated, except for the amendment relating to the Children's Court, which has been discussed with the Minister's officers. I understand that that amendment will be dealt with during the Minister's reply.

Reverend the Hon. FRED NILE [4.58 p.m.]: The Christian Democratic Party supports the Crimes Legislation Amendment Bill. The bill sets out a number of miscellaneous reforms that are designed to improve the delivery of justice and administration of criminal law in this State. It covers a number of legislative fields, including the Bail Act 1978. The Christian Democratic Party supports the proposed amendments. We believe that the amendments will result in the Bail Act working more efficiently. The proposed amendments to the Children (Criminal Proceedings) Act 1987 will codify the criteria that magistrates are to take into account when deciding whether a person should be dealt with according to law, or in accordance with the Act. It will include firearms offences within the definition of "serious children's indictable offence". A concern which has been expressed in Australia, particularly in Sydney, and which is a major subject of discussion in the United States of America, is why children's courts are closed.

We have always accepted that as a fact of life but there is now growing concern. One might say that there is a public perception that justice may not be being done in the Children's Court. Having them closed suggests a degree of secrecy. There are moves in the United States of America now to consider opening children's courts while maintaining suppression of the names and images of child defendants. The courts are

closed to protect children but the public should be able to know what happens in the Children's Court, especially as brutal murderers and rapists aged 15, 16 and 17 have recently been convicted. In many ways we would not regard people of that age as children—rather, as young adults—so why should they have extended to them the benefits or privileges of the Children's Court? I ask the Government to consider adopting developments in the United States in this regard.

We support the amendment to the Confiscation of Proceeds of Crime Act 1989. Some serious offenders, because of their notoriety, have been paid for writing books, providing articles or even doing paintings. People seem to want paintings by notorious murderers. If criminals receive money in that way, the State should be able to confiscate the money and use it to the benefit the community. That is a great idea. We support the amendments to the Crimes Act 1900, the Crimes (Sentencing Procedure) Act 1999, the Criminal Procedure Act 1986, the Mental Health (Criminal Procedure) Act 1900, and the Search Warrants Act 1985. I have previously commented on major problems occurring with search warrants, mainly through the actions of people such as John Marsden who are expert at finding technical errors in search warrants with the result that evidence collected under such search warrants, which is often crucial to the prosecution case, cannot be presented in court.

I have mentioned before the case of Mr Burrell and the kidnapping and almost certain murder of Mrs Whelan. When such critical pieces of evidence such as point notes indicating a kidnapping plan and others outlining a plan for ransom are disallowed in court because of a technicality involving a search warrant, the justice system is brought into disrepute. I urge the Government in its review of the legislation to find some way of overcoming that dilemma. If a search warrant is ruled invalid for some technical reason, an appeals court or some other body should be able to overrule the decision of the judge who orders the inadmissibility of evidence obtained as a result of a so-called faulty search warrant. This would be to the benefit of justice. And that is the key objective: to have justice in this State. We support the bill.

The Hon. IAN COHEN [5.04 p.m.]: The Greens support the Crimes Legislation Amendment Bill but have some concerns about it. The bill sets out a range of changes to criminal legislation relating to matters of both procedure and policy. The Government claims that the purpose of the bill is to "facilitate the efficient delivery of criminal justice in this State". The Greens support some of the changes proposed by the bill but not others. I understand that the Government has recently withdrawn its original proposal to increase the Children's Court sentencing cap from 3 years to 3½ years. The Greens are pleased with the late changes to the bill and thank the Government for them. Unfortunately, the information provided by the Government on the changes proposed by the bill has been somewhat insubstantial given that some of the changes could have serious implications. This is part of the problems of dealing with legislation at this time of the year and at this stage of a Parliament.

One concern is that the amendment proposed in schedule 3 to the Confiscation of Proceeds of Crime Act, particularly the definition of "tainted property", needs to be refined in order to place a limitation on its impact. At present the definition is far too wide. This definition, unless limited as suggested by the Law Society, could have unjust implications. In regard to the Bail Act, the Government is seeking to remove the presumption in favour of bail for a person charged with an offence alleged to have been committed while the person was an inmate of a correctional centre. The Greens are strongly opposed to the removal of the presumption in favour of bail in these circumstances. Removing a presumption in favour of bail can quite significantly limit the person's liberty and can have significant impacts upon a person's choices and interaction with the criminal justice system. A person is innocent until proved guilty. This fundamental tenet of the common law must be preserved. Each case must be weighed on its merits without prejudice.

The Greens support the Government's efforts to clarify the original legislative intent of self-defence and also its moves to allow health care workers who apply for an apprehended personal violence order not to supply their residential addresses in their applications. The Greens do not support the amendments to the Crimes (Sentencing Procedure) Act, whereby the Government is seeking to allow the Local Court to exceed its three-year accumulated sentencing cap in circumstances where a prisoner has assaulted a prison officer. The Greens do not support these reactionary amendments, which seek to allow the court to impose an additional consecutive sentence. In general, the Greens support the bill but have reservations about some aspects of it.

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.07 p.m.], in reply: I thank honourable members for their contributions to the debate. The bill sets out various non-contentious amendments to legislation to improve the administration of criminal law in this State. I seek leave to have the remainder of my short speech in reply incorporated in *Hansard*.

Leave granted.

The areas that the bill addresses are wide ranging. They relate to:

- Detention of arrested persons for the purpose of carrying out a search warrant;
- Mental Health;
- Protection of public servants;
- Clarification and codification; and
- Various other "Tidy up" provisions.

I turn now to a matter raised in the debate:

In relation to the concerns raised in relation to amendments to section 25 of the *Confiscation of Proceeds of Crime Act 1989*, I make the following comments.

The amendment set out under item [1] of Schedule 3 to the Bill creates a further category by which benefits can be confiscated from persons who have committed a serious offence. The Bill would ensure that that the benefits gained by a serious offender, who has commercially exploited his or her notoriety as a criminal, can be included in asset confiscation proceedings. This could include, for example, any fee or other benefit provided by a publisher or broadcaster for an interview, article or book about the defendant's exploits.

It offends common decency that a convicted criminal, who may have caused considerable suffering to victims of his or her crime, would be able to gain a financial or other benefit by reliving and reviving the criminal act. This amendment will go some way to deterring such shameless behaviour, and may provide some comfort to grieving victims to know that their pain cannot in future be exploited by the offender for personal gain.

In relation to concerns raised in relation to the **search detention periods**, I make the following comments:

This scheme overcomes serious practical problems that police have encountered when executing search warrants. Where a person arrested at a scene is the owner or occupier of the premises, he or she also has an interest in remaining. However, the Government recognises that they are entitled to certain rights, such as access to legal advice, and as such this scheme endeavours to ensure that those rights are protected as far as is reasonably possible.

The Government also wishes to ensure that the total time that a person is arrested and detained by the police before being taken before a justice is reasonable in all the circumstances. It is highly undesirable that police detain a person for excessive periods of time. All the circumstances must be taken into account on a case by case basis to make this determination.

The Government has not prescribed a particular length of time, as in some cases it may be simply a matter of a few hours (for example, considering an arrested person's mental health) or as long as several days (for example, where an arrested person is admitted to a hospital for medical treatment for several days, and while there remains in the custody of the police officer).

The Attorney General's Department consulted with members of the Working Party on Part 10A of the *Crimes Act 1900*. It is a commendable balance of the interests of both police and arrested persons. The provisions will be reviewed after 12 months, and at that time submissions will be sought from interested stakeholders.

This Bill proposes a series of reforms, concerning matters of both procedure and principle that are designed to facilitate the efficient delivery of criminal justice in this State.

I commend the Bill to the House.

I put on the record in relation to Government amendment No. 2, which the Hon. James Samios referred to in his contribution, that paragraphs (a) and (b) of proposed section 33AA (5) restate the existing law. They do not reflect amendments to the law. They are designed to reflect existing section 33A (4). 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 agreed to.

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.09 p.m.], by leave: I move Government amendments Nos 1 to 11 in globo:

No. 1 Page 6, schedule 2. Insert after line 3:

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

juvenile justice officer means a juvenile justice officer employed in the Department of Juvenile Justice.

person subject to control has the same meaning as it has in the *Children (Detention Centres) Act 1987*.

No. 2 Page 6, schedule 2. Insert after line 21:

[3] Section 33A Cumulative or concurrent orders etc

Insert after section 33A (5):

- (6) This section does not apply to a control order to which section 33AA applies.

[4] Section 33AA

Insert after section 33A:

33AA Cumulative or concurrent orders - assault on juvenile justice officers

- (1) In this section, **control order** means an order referred to in section 33 (1) (g).
- (2) This section applies to a control order made by the Children's Court (the **new control order**) if:
- (a) the order is made in relation to an offence involving an assault, or any other offence against the person, on a juvenile justice officer committed by a person while the person was a person subject to control, and
 - (b) the person is subject to another control order (the **existing control order**) at the time the new control order is made.
- (3) The period for which the person is required to be detained under the new control order commences when the period for which the person is required to be detained under an existing control order expires, unless the Children's Court directs that the period is to commence sooner.
- (4) Such a direction may not be given unless the Children's Court is of the opinion that there are special circumstances justifying such a direction.
- (5) The Children's Court must not make a new control order, or give such a direction, if the order or direction would have the effect of requiring a person:
- (a) to be subject at any time to control orders requiring the person to be detained for more than 3 years (taking into account any period for which the person has already been detained under an existing control order), or
 - (b) to be detained for more than 2 periods specified in different control orders, being periods that are not to any extent concurrent.

No. 3 Page 6, schedule 2. Insert after line 25:

[4] Schedule 2

Insert at the end of the schedule (with appropriate Part and clause numbers):

Part Provision consequent on enactment of Crimes Legislation Amendment Act 2002

Application of section 33AA

Section 33AA, as inserted by the *Crimes Legislation Amendment Act 2002*, applies only to a new control order (within the meaning of that section) made in relation to an offence committed after the commencement of that section, and so applies whether or not the existing control order (within the meaning of that section) was made before the commencement of that section.

No. 4 Page 6, schedule 2, Explanatory note. Insert after line 36:

Item [4] inserts a new section 33AA into the Act dealing with the making of a control order by the Children's Court for an offence involving an assault, or other offence against the person, against a juvenile justice officer committed while the person being dealt with by the Children's Court was detained in a detention centre after being found guilty of committing an offence.

The new section requires the new control order to be consecutive with any other control order to which the person is subject, unless the Children's Court is satisfied that there are special circumstances justifying the control order being concurrent with another control order.

Items [1] and [3] make consequential amendments.

No. 5 Page 6, schedule 2, Explanatory note. Insert after line 38:

Item [4] inserts a transitional provision consequent on the insertion of proposed section 33AA into the Act.

No. 6 Page 16, schedule 5. Insert after line 3:

[1] Section 3 Interpretation

Insert in alphabetical order in section 3 (1):

detention centre has the same meaning as it has in the *Children (Detention Centres) Act 1987*.

juvenile justice officer means a juvenile justice officer employed in the Department of Juvenile Justice.

person subject to control has the same meaning as it has in the *Children (Detention Centres) Act 1987*.

[2] Section 55 Sentences for offences generally

Insert after section 55 (5) (a):

- (a1) a sentence of imprisonment imposed on an offender in relation to an offence involving an assault, or any other offence against the person, against a juvenile justice officer committed by the offender while a person subject to control, or

[3] Section 56 Sentences for offences involving assault by convicted inmates

Omit section 56 (1). Insert instead:

(1) This section applies to:

- (a) a sentence of imprisonment imposed on an offender in relation to an offence involving an assault, or any other offence against the person, committed by the offender while a convicted inmate of a correctional centre, or
- (b) a sentence of imprisonment imposed on an offender in relation to an offence involving an assault, or any other offence against the person, against a juvenile justice officer committed by the offender while a person subject to control.

[4] Section 56 (3A)

Insert after section 56 (3):

(3A) Such a direction may not be given in relation to:

- (a) an offence involving an assault, or other offence against the person, against a correctional officer committed by the offender while a convicted inmate of a correctional centre, or
- (b) an offence involving an assault, or other offence against the person, against a juvenile justice officer committed by the offender while a person subject to control,

unless the court is of the opinion that there are special circumstances justifying such a direction.

[5] Section 56 (6)

Insert after section 56 (5):

- (6) In this section, a reference to *another sentence of imprisonment, other sentence of imprisonment or further sentence of imprisonment* is taken to include a reference to a period for which a person is required to be detained in a detention centre under an order referred to in section 33 (1) (g) of the *Children (Criminal Proceedings) Act 1987*.

No. 7 Page 16, schedule 5 [1], lines 6-13. Omit all words on those lines. Insert instead:

Omit section 58 (3). Insert instead:

(3) This section does not apply if:

- (a) the new sentence relates to an offence committed by an offender involving an assault, or other offence against the person, against a correctional officer while a convicted inmate of a correctional centre, or against a juvenile justice officer while a person subject to control, and
- (b) either:
 - (i) the old sentence was imposed by a court other than a Local Court or the Children's Court, or
 - (ii) the old sentence was imposed by a Local Court or the Children's Court and the date on which the new sentence would end is not more than 3 years and 6 months after the date on which the old sentence began.

- (4) In this section, a reference to an *old sentence of imprisonment* or *another sentence of imprisonment* is taken to include a reference to a period for which a person is required to be detained in a detention centre under an order referred to in section 33 (1) (g) of the *Children (Criminal Proceedings) Act 1987*.

No. 8 Pages 16 and 17, schedule 5 [5], line 29 on page 16 to line 5 on page 17. Omit all words on those lines. Insert instead:

Application of amendments to sections 55 and 56

- (1) An amendment to section 55 or 56 made by the *Crimes Legislation Amendment Act 2002* applies only to a new sentence of imprisonment imposed in relation to an offence committed after the commencement of the amendment, and so applies whether or not the old sentence was imposed before the commencement of the amendment.
- (2) In subclause (1), **new sentence of imprisonment** means a sentence of imprisonment imposed on an offender who, when being sentenced, is subject to another sentence of imprisonment that is yet to expire, or in respect of whom another sentence of imprisonment has been imposed in the same proceedings, and **old sentence of imprisonment** means that other sentence of imprisonment (that term having the extended meaning given by section 56 (6), as inserted by the *Crimes Legislation Amendment Act 2002*).

Application of amendment to section 58

The amendment to section 58 made by the *Crimes Legislation Amendment Act 2002* applies only to a new sentence (within the meaning of that section) imposed in relation to an offence committed after the commencement of the amendment, and so applies whether or not the old sentence (within the meaning of that section, as amended by the *Crimes Legislation Amendment Act 2002*) was imposed before the commencement of the amendment.

No. 9 Page 17, schedule 5, Explanatory note. Insert after line 7:

Item [4] amends section 56 of the *Crimes (Sentencing Procedure) Act 1999* to deal with the imposition of a sentence of imprisonment for an offence involving an assault, or other offence against the person, against a correctional officer committed while the offender was a convicted inmate of a correctional centre, or against a juvenile justice officer committed while the offender was detained in a detention centre under the *Children (Criminal Proceedings) Act 1987* after being found guilty of an offence.

The amendment requires the sentence of imprisonment to be served consecutively on any other sentence of imprisonment to which the offender is subject, or on any control order detaining the offender in a detention centre under the *Children (Criminal Proceedings) Act 1987*, unless the sentencing court is of the opinion that there are special circumstances justifying the sentence of imprisonment being served concurrently, or partly consecutively and partly concurrently, with another sentence of imprisonment or control order.

Items [1]-[3] and [5] make consequential amendments.

No. 10 Page 17, schedule 5, Explanatory note, lines 17-22. Omit all words on those lines. Insert instead:

Item [1] amends section 58 to allow a Local Court to impose a sentence of imprisonment that is consecutive or partly consecutive on another sentence of imprisonment imposed by a Local Court (or on a control order made by the Children's Court) that will result in a total accumulated sentence of up to 3 years and 6 months, where the new sentence relates to an offence involving an assault, or other offence against the person, against a correctional officer committed by the offender while a convicted inmate of a correctional centre, or against a juvenile justice officer committed while the offender was detained in a detention centre after being found guilty of an offence.

The amendment also makes it clear that the length of a period of detention in a detention centre under a control order made by the Children's Court is taken into account in calculating the limit applying to a Local Court on accumulation of sentences of imprisonment.

No. 11 Page 17, schedule 5, Explanatory note, line 23. Omit "a consequential transitional provision". Insert instead "consequential transitional provisions".

Amendments Nos 1 to 5 clarify the intention of the Government that when sentencing a juvenile who is the subject of a control order or a sentence of imprisonment, and who assaults a juvenile justice officer in a juvenile detention centre, the Children's Court must accumulate the control order, unless there are special circumstances and subject to other existing limitations. The Government believes it is appropriate to apply some additional guidance to judicial officers about the need to ensure that serious assaults upon juvenile justice officers do not go unpunished.

Amendments Nos 6 to 11 provide that when sentencing an adult who is subject to a sentence of imprisonment and who assaults either a correctional officer or a juvenile justice officer in a correctional centre or juvenile detention centre, the court must accumulate the sentence of imprisonment, unless there are special circumstances. The amendments do not change the law otherwise—that is, there is no accumulation limitation where the offender is serving a sentence ordered by the District Court or Supreme Court. These amendments represent an appropriate strengthening of the presumption in favour of consecutive sentences for proven assaults upon correctional officers. I commend the amendments to the Committee.

The Hon. JAMES SAMIOS [5.10 p.m.]: The Opposition does not oppose the Government's amendments.

Amendments agreed to.

Schedule 2 as amended agreed to.

Schedules 3 and 4 agreed to.

Schedule 5 as amended agreed to.

Schedules 6 to 10 agreed to.

Title agreed to.

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

ROAD TRANSPORT (VEHICLE REGISTRATION) AMENDMENT BILL

Second Reading

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.12 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 purpose of the bill before the House is to amend the Road Transport (Vehicle Registration) Act 1997 and the Motor Dealers Act 1974 to introduce measures to combat the practice of registering New South Wales based commercial vehicles in other States, to avoid the payment of New South Wales registration charges and New South Wales compulsory third party insurance premiums. Registration authorities in each Australian jurisdiction have the power to require a vehicle to be registered in their State/Territory if the vehicle is principally based or garaged in their jurisdiction. Currently, the Roads and Traffic Authority [RTA] relies on the person applying for an exemption from New South Wales vehicle registration to supply a valid interstate address indicating an interstate base of operation or garage.

The RTA and NSW Police work with interstate authorities to determine the validity of suspicious addresses, but this is time-consuming, costly and ineffective where the provision of a false address has nevertheless secured interstate registration. Insurers, motor traders, some car rental companies and the community have raised concerns with the RTA and Government about increased fraudulent activity to avoid registration and higher third party accident insurance premiums in New South Wales, such as the fixing of interstate plates on new business vehicles, and the falsification of interstate business addresses to comply with the exemption from registration for visiting vehicles.

It has become an increasingly common practice for a number of car rental, fleet management, trucking and coach companies to operate vehicle fleets in New South Wales although the vehicles are registered in Victoria, Queensland or Western Australia on the basis that the vehicle fleet is primarily based in those jurisdictions. In fact, Avis Rent a Car and Hertz Australia Pty Ltd have specifically made representations to the Government supporting changes to legislation to create a level commercial playing field for car rental companies. Mr George Proos, Managing Director of Avis, wrote to the Minister for Roads in the following terms:

"The continued acceptance of this practice to register all rental cars out of the State of New South Wales by the Government results in these companies being given an unfair competitive advantage when doing business in this State."

This legislation ensures that cars primarily used by companies in this State are registered in this State, pay compulsory third party insurance in this State and do not result in the loss of stamp duty on sales and leases in this State. On the basis of those vehicles that can be identified, fraudulent activity of this kind is estimated to cost the Government at least \$800,000 per year in lost revenue from unpaid RTA registration charges. However, the total number of interstate registered business vehicles based in New South Wales is unknown and likely to be costing a significantly higher amount in forgone revenue. Interstate registered vehicles based in New South Wales also cost the State and private sector lost revenue in third party insurance premiums, stamp duty on transactions and the sale/lease of motor vehicles. Let me outline the details of the legislation.

Firstly, this legislation is designed to target corporations—and not individuals—that circumvent New South Wales registration requirements in three ways. The first is by creating an offence for a licensed motor dealer to affix interstate plates to a vehicle in New South Wales without the approval of the RTA. This seeks to prevent organisations that import cars through Sydney's port, have them registered with interstate plates by a New South Wales motor dealer and then operate the fleet primarily here in New South Wales. The sanctions proposed are an \$11,000 fine and power for the Department of Fair Trading to revoke a licence.

The second way in which it will target corporations is by creating an offence for a corporation to "cause, permit or allow an interstate registered vehicle owned by the corporation to be used on a road" in New South Wales unless the corporation can show: that the vehicle was less than 90 days old; that during the 90 days prior to the offence the vehicle had been outside New South Wales for a continuous period of at least 48 hours; or that, in the case of a car rental company, the vehicle was rented to the same person for the whole of the 90-day period immediately before the offence. The sanction proposed is an \$11,000 fine per

offence. Finally, the bill enables the RTA or police to direct the production of documents for the purposes of ascertaining whether a corporation has committed such an offence.

The rationale on which the Road Transport (Vehicle Registration) Act is based is that motor vehicles using New South Wales roads principally should be registered in New South Wales. Currently it is an offence under the Act to use a motor vehicle or a trailer on a road or road-related area without being registered in New South Wales. However, the Act recognises that the use of prescribed vehicles does not constitute such an offence. The regulation under the Act prescribes interstate registered vehicles temporarily visiting New South Wales. In a prosecution for using an interstate registered vehicle without being registered in New South Wales, to avoid conviction, the defendant has the burden of showing that the vehicle is temporarily in New South Wales. However, to satisfy that burden the defendant only has to present or point to evidence that suggests a reasonable possibility that the vehicle is a visiting vehicle. The easy availability of this defence has, in the absence of admissions by the defendant, deterred police prosecutions being launched.

This bill introduces a strategy to eliminate, or at least minimise, the unscrupulous evasion by certain dishonest operators of motor vehicles used for business purposes. For too long these operators have been using the New South Wales road network without contributing to road funding in this State. It should be remembered that the major portion of the total registration charge for light motor vehicles in New South Wales is motor vehicle tax, which, for light vehicles, is calculated according to the weight of the vehicle and pays for maintenance of the road network. Motor vehicle tax in New South Wales is allocated entirely to road funding, which funds the building and maintenance of road services and facilities, and in particular is also used to fund road safety initiatives. Let me provide some further detail on the four parts of the legislation.

First, the bill inserts new clause 22, creating a new offence of a licensed motor dealer causing or permitting the fixing of interstate registration plates to vehicles within New South Wales without the approval of the Roads and Traffic Authority. This provision is aimed at some motor dealers who fix interstate number plates to vehicles destined to be based in New South Wales to avoid the cost of New South Wales registration and third party insurance premiums. Of course, the fixing of interstate registration plates for proper purposes will be permitted. For example, in border areas the RTA will be able to authorise certain dealers to fix interstate plates—that makes good sense. This will permit dealers in border areas to fix interstate plates to new vehicles purchased by customers who live across the border. If the RTA has not approved the fixing of interstate plates, there will be a defence where a defendant satisfies the court that there was a reasonable explanation for fixing the plates in New South Wales, and it was not done with the intent to evade New South Wales registration requirements.

Second, new clause 22A creates a new offence of a corporation causing or permitting the use on a road or road-related area of an interstate registered vehicle without New South Wales registration. The defendant corporation will not be guilty of the offence if it establishes any one of a number of defences. The primary defence is that during the previous 90 days the interstate registered vehicle was outside New South Wales for a continuous period of 48 hours. The maximum fine for this offence will be 100 penalty units, or \$11,000. This level of penalty is consistent with the level of penalty in relation to a corporation in the national road transport law. Essentially, it is proposed that the legislation will contain two classes of offence. For individuals the existing offence and penalty currently in the legislation will be retained, that is, 20 penalty units or \$2,200, and the existing burden of proof will also be retained.

For corporations, a new offence will be created which increases the burden of proof, and a maximum penalty of 100 penalty units will apply. Effectively, if prosecuted, a defendant corporation will have to satisfy a court that a vehicle has been outside the State for two days in the past 90 days. This requirement is not seen as onerous for corporations, given that a vehicle used principally within New South Wales should be registered here. The actual geographic base of vehicles used for business purposes, including hire vehicles and their movements into and out of the State, are facts peculiarly within the knowledge of the business. It is considered that imposing the burden of proof on a defendant corporation will be the most effective measure to prevent, and expose, the improper use of interstate registration. The increase in the burden of proof should not involve any undue hardship on the defendant corporation, which is in the best position to provide the relevant information to a court.

Thirdly, the bill inserts new clause 22B, empowering the police and authorised RTA officers to demand the production of documents relating to the operation of interstate registered vehicles apparently used for business purposes in New South Wales. This power does not apply to vehicles apparently used for private or domestic purposes, because it is recognised that private individuals would be unlikely to have the appropriate evidence to document their vehicles' past movements, whereas business organisations would be expected to keep that information as part of their normal business practice.

Finally, this bill also proposes to amend the Motor Dealers Act 1974 to allow the suspension or cancellation of a motor dealers licence where a dealer is guilty of the offence of fixing or permitting the fixing of interstate registration plates to vehicles within New South Wales without the approval of the RTA. The arrangements proposed in this bill will not impact unduly on law-abiding business operators. In fact, I anticipate that this bill will be enthusiastically welcomed by honest business operators.

I commend the bill to the House.

The Hon. JENNIFER GARDINER [5.12 p.m.]: The primary purpose of the Road Transport (Vehicle Registration) Amendment Bill is to stop the rorting of vehicle registration that is taking place when a vehicle that is used primarily in New South Wales is registered interstate. The second reading speech refers to the \$800,000 per year in lost revenue for the Roads and Traffic Authority [RTA] from unpaid registration charges, but that reference was qualified by the statement that it is almost impossible to determine the exact amount. The Opposition believes that the amount of lost revenue is actually much higher than that.

The bill makes it an offence for a licensed motor dealer to affix interstate plates to a vehicle in New South Wales without the approval of the RTA. That is to prevent New South Wales motor dealers who import cars through Sydney ports from registering the vehicles in another State, but then operating the fleet primarily in New South Wales. The bill provides for a fine of \$11,000 for such behaviour and empowers the Department of Fair Trading to revoke the licence of a person or persons found guilty of such an offence.

The bill also makes it an offence for a corporation to cause, permit or allow an interstate registered vehicle owned by a corporation to be used on New South Wales roads unless the corporation can show that the vehicle is less than 90 days old, or that during the 90 days prior to the offence the vehicle had been outside New South Wales for a continuous period of at least 48 hours, or that, in the case of a rental car company, the vehicle was rented to the same person for the whole of the 90-day period immediately before the offence. There are fines and other sanctions in the bill covering those offences.

The bill also enables the RTA or NSW Police to direct the production of documents for the purposes of ascertaining whether a corporation has committed an offence, and provides for certain *prima facie* offences for people who may be caught by the provisions of the bill. A certain amount of guilt until innocence is proved is attached to such offences, and the person under investigation will have to produce a number of documents to prove he or she was using a vehicle in accordance with the prevailing laws. At present in New South Wales, and indeed in the other States, there is a requirement that vehicles be registered in the State where they are effectively housed or garaged once a certain period has expired.

The Opposition has a number of concerns about this bill. We believe that the Government must crack down on the problem of interstate registrations, but there is the question of why this practice is occurring in the first place. Why do people want to register their vehicles in another State? The reason of course is that people seek to register vehicles outside New South Wales to avoid the higher registration premiums that are applicable in New South Wales, which has higher registration fees than most other States, including Queensland, Western Australia and South Australia. A person registering a new car must also pay the licence plates fee introduced by the Government to prop up the failing roads budget presided over by the Minister who has virtually bankrupted the RTA. A comparison of registration fees shows that the fee in Queensland is \$36.90, in Western Australia it is \$15.75, and in South Australia—we see many vehicles, particularly hire vehicles, in New South Wales that have been registered in South Australia—renewal of registration is only \$6 and a new registration is \$21. So New South Wales has higher registration charges than any other State, and that is why people have their vehicles registered in States other than New South Wales.

As we all know, New South Wales is the highest taxing State in Australia, and that, of course, is one reason why people seek to reduce their costs and register their vehicles elsewhere. The latest figures of the Australian Bureau of Statistics and Research relating to State and local taxation for 2001 throughout Australia show that every person in New South Wales pays about \$2,373 in State and local taxes compared with \$2,083 in Victoria and \$1,517 in Queensland. This bill is just another example of higher taxes being imposed by the Carr Labor Government, which is driving people to register their vehicles in other States.

Another factor contributing to the cost burden on New South Wales road users is stamp duty that is payable on vehicles—another reason why people register their vehicles interstate. The stamp duty on motor vehicles in New South Wales is very high. Other States have practically no stamp duty on motor vehicles. Not surprisingly, car hire firms and other companies with a higher volume of vehicles or vehicle fleets seek to minimise costs by registering their vehicles in States in which more reasonable business tax rates apply. The extremely high tax rates in New South Wales are pushing businesses into other States. We need to look at not only vehicle registration fees but also stamp duty and other ancillary fees related to motor vehicle registration. Clearly the Carr Government's intention is to catch people who seek to minimise their motor vehicle outlays.

As I have said, the Minister believes that the Roads and Traffic Authority loses revenue of about \$800,000, but we think the figure is a lot higher given the ancillary charges and taxes the Government will reap when New South Wales vehicles registered interstate are registered in New South Wales. One can only hope that the additional revenue will go back into the Roads budget. The pathetic Minister for Roads, Mr Scully, has been unable to obtain sufficient funds to ensure that New South Wales has a proper, safe road network. By his own admission he has declared that the State's roads have reached "a critical point". However, I suggest they are beyond that.

After seven, nearly eight, long years of neglect by the Carr Labor Government much of the New South Wales road network is in a disgraceful state of repair, much as they were at the end of the Wran era. In 1988 the condition of our roads was a critical factor in the defeat of the Wran-Unsworth Government and the election of the Greiner-Murray Government. At best, roads crisscrossing New South Wales were built in the 1970s and at worst well before that, which makes them more than 30 years old and well past their use-by date. New South Wales has a greedy Treasurer, who continues to overspend his budget, then props it up by imposing more and more taxes. Figures show that New South Wales is by far the highest taxing State with a per capita tax rate of \$2,373.

The Hon. Amanda Fazio: Point of order: My point of order relates to relevance. The bill deals with the registration of motor vehicles. The honourable member is attempting to steer clear of referring to vehicles that are registered interstate, such as hire car businesses, to avoid paying registration in New South Wales. The Hon. Jennifer Gardiner might be interested in giving somebody a history lesson on road funding in New South Wales over the last couple of decades, but it is not relevant to the bill.

The Hon. Tony Kelly: To the point of order: The real reason they are registered in Victoria is that registrations do not have to be checked every year, only every alternate year. The bill has nothing to do with Victoria.

The Hon. John Jobling: To the point of order: As you have often said, debate is generally allowed to be fair and wide ranging. My colleague is dealing with examples of road transport and road transport registration within this State by way of comparison. I contend that the honourable member is in order.

The Hon. Richard Jones: To the point of order: The legislation quite clearly says, using the Government's briefing, that we will save something like \$800,000 a year. How that \$800,000 is spent is relevant. The honourable member could talk about any matter dealing with road funding and it would be relevant.

The PRESIDENT: Order! As I have ruled previously, it is a convention in this House that, when contributing to debate on a bill, members may speak fairly generally about aspects of the bill.

The Hon. JENNIFER GARDINER: Thank you. I was on the straight and narrow. I appreciate your ruling. However, I can understand the incredible sensitivity of Labor members about the State tax burden, particularly as it affects drivers in New South Wales. They do not like the fact that road funding became a big issue towards the end of the Wran and Unsworth governments. It was a major campaign item in the 1988 election and it contributed to the defeat of the Labor Government and the election of a Coalition Government. Now that members on the Government side of the House have indicated their sensitivity about the pathetic state of Mr Scully's roads in New South Wales I will recommend to our campaign committee that we rev it.

The Hon. Richard Jones: What about the Silver City Highway? It hasn't even been sealed.

The Hon. JENNIFER GARDINER: The Hon. Richard Jones has raised an incredibly good point. I will put that even higher up on our list.

Ms Lee Rhiannon: Be careful, Richard. They will remember you for roads rather than other things.

The Hon. JENNIFER GARDINER: He has always been multidimensional. He has very broad-ranging interests. I thank members of the Labor Party for their interjections. They have certainly helped to clarify their election sensitivities. The poor arrangement in New South Wales is necessary for the Treasurer to collect even more money. Standard and Poor's report on its review of the New South Wales triple-A credit rating stated:

The strong property market has delivered the Government enough, though unexpected, extra stamp duty revenue to offset its difficulty of keeping costs within budget.

As all honourable members know, that difficulty has run to \$5.5 billion between 1996 and 2002. The 2001-02 financial year was Labor's worst yet. Its expenditure was over budget by more than \$1.6 billion. Additional stamp duty paid on vehicles that will be required to be registered in this State will enable the Hon. Michael Egan, in the unfortunate event that he continues as Treasurer of this State, to continue to prop up the budget, although he has already run up a deficit of more than \$5.5 billion. Registration fees will go into the Roads and Traffic Authority budget.

One can only hope that that money will be properly applied to funding better roads in this State. Certainly, that would be the position of the Liberal and National parties coming into government. In the other place the honourable member for Wagga Wagga referred to military personnel transferring from one military base to another. Interstate personnel who are transferred to bases in New South Wales, such as Wagga Wagga, Singleton and Williamstown, are reluctant, because of their postings, to change the registrations of their motor vehicles from their home States.

The Hon. John Jobling: It is a real problem.

The Hon. JENNIFER GARDINER: As the Hon. John Jobling said, it is a problem. The bill does not deal with special dispensation for such personnel, although I understand from the Hon. Duncan Gay that special dispensation applies to the registration of animals that belong to service personnel. The registration of such animals brought from interstate to a New South Wales base is considered sufficient for the purposes of the Companion Animals Act or any other ancillary Act that applies to such animals. There is an inconsistency. Although members of the Opposition do not oppose the bill, we are concerned that it is another straight out grab for money. The Minister for Transport, and Minister for Roads is cash strapped. He has blown his budget.

An analysis by the Opposition of the RTA Pacific Highway project costs obtained from the RTA annual reports over the past five years revealed startling results. The estimated cost of every single one of the Pacific Highway projects listed in the 2001 RTA annual report is significantly higher than estimated. Mr Scully has overseen cost blow-outs on Pacific Highway projects totalling in excess of \$660 million. As we all know, he has shown extremely poor management of the M5 East project. In November 1996 the Minister for Roads, Mr Scully, informed Parliament that the M5 East was a \$520 million project. However, by the time it was opened in December 2001 the cost of the project had blown out to almost \$800 million. The Government has presided over an M5 East project that has ended up 54 per cent over original budget estimates, which, in dollar terms, is a massive \$280 million.

The Hon. Richard Jones: It is still not filtered.

The Hon. JENNIFER GARDINER: As the Hon. Richard Jones said, it is still causing grave concern to many citizens of this State, some of whom visited the Parliament last evening. One can only commend them for their fortitude and tenacity. I look forward to seeing them in the next few months on the election campaign trail. Blow-outs on such projects total almost \$1 billion. It is little wonder that the Minister is desperate to get his hands on every cent he can. We understand that the existing laws of New South Wales require people with motor vehicles registered in another State to register them in this State. The bill is an extension of that practice. With those reservations, I support the bill.

The Hon. RICHARD JONES [5.28 p.m.]: I support the bill. When I was hiring cars up north while my car was not functioning properly, I noticed that more often than not they were registered interstate. I thought that was rather curious. Clearly, at least the smaller hire car companies are rorting the system. But that is fair enough, because they are trying to save money—and that is what business is about. They are trying to maximise profits and returns, and to reduce expenditure. Nevertheless, they are engaged in a rort. I am pleased that legislation has been introduced to put a stop to such activity. Large companies like Avis and Hertz have tried to stop the rorting because the practice has unfair consequences for them. The Silver City Highway from Broken Hill to Tibooburra is only half sealed. The highway goes from sealed to unsealed; it does not make sense.

In times of hardship and drought such as this, we should facilitate vehicles moving north and south, particularly from Victoria and South Australia, because many tourists travel up to Tibooburra and Broken Hill. We should ensure that the tourist trade develops quickly, because it will provide a supplementary income for many land-holders and farmers in New South Wales who are doing it very hard. Clearly, tourism is the most sustainable long-term business proposition for these people. I hope that happens and that the Government progresses the sealing of that highway and other major tourist routes in the west as soon as possible to increase the opportunities for interstate and overseas tourists to enjoy our natural wonders, particularly our kangaroos, emus and birds.

A number of national parks have been established in the area that will attract tourists from throughout the world. I hope that the Government will provide the necessary infrastructure to facilitate the development of tourism in those regions. I am sure it will look at that issue shortly. I would not normally raise it in this debate, but I cannot conclude my contribution without mentioning the M5 East. It is shocking that the Roads and Traffic Authority is oblivious of the fact that 40-odd tunnels in Japan are filtered. The RTA officers who appeared before the committee knew of only one filtered tunnel in that country. Committee members found that extraordinary.

The Hon. John Jobling: They found a few in the bush.

The Hon. RICHARD JONES: They had no idea and had not done any research. They knew about two or three filtered tunnels in Norway, but they did not know that two-thirds of the long tunnels in Japan were filtered.

The Hon. John Jobling: We have pushed them and they have now found 20.

The Hon. RICHARD JONES: I asked the head of the RTA, Paul Forward, whether the authority had an obligation to provide safe roads. Roads in Sydney are not safe if only because they are adding to the huge pollution burden. More people die from pollution than road accidents as a result of RTA inactivity. It does not require all diesel-powered vehicles more than three years old to be inspected every year to ensure that their emissions are clean. If they are not clean, they should not be reregistered. Evidence was presented to the committee that air pollution in Sydney could be reduced by 80 per cent if such a scheme were introduced. Particulate matter emitted by diesel-powered vehicles is more dangerous than that emitted by bushfires and wood stoves. The RTA is not doing its job; it is not looking after the people of Sydney. It is allowing people to die because of its neglect. It should have filtered the emissions from the tunnel from day one. It refuses to acknowledge what is happening in Japan, Korea and elsewhere.

In reply to the recommendations in the dissenting report, RTA officers said they would implement only voluntary testing of diesel-powered vehicles. The RTA should do its job and ensure that diesel-powered vehicles are tested every year. Removing faulty vehicles from the road could save hundreds of lives a year. The RTA has spent a huge amount trying to prevent accidents by reducing speeding, but if it spent a fraction of that money testing diesel-powered vehicles every year it could reduce emissions by 80 per cent and save hundreds of lives. That would be money well spent. The RTA should take its head out of the sand and start looking after the health of the people of Sydney. It should also ensure that the roads in the far west are sealed. It is not doing its job and it should be scrutinised after the next election.

Reverend the Hon. FRED NILE [5.33 p.m.]: The Christian Democrats support the Road Transport (Vehicle Registration) Amendment Bill 2002, which will prevent corporations circumventing New South Wales registration and green slip requirements by registering their fleet vehicles interstate. I was following a major hire company's vehicles this week and I noticed that some were registered in Victoria and some in Queensland. Obviously those corporations will be picked up by this legislation. It will target them by making it an offence for a licensed motor vehicle owner to affix interstate plates to a vehicle in New South Wales without the approval of the Roads and Traffic Authority [RTA]. That will prevent organisations importing cars through the port of Sydney and registering them interstate through a New South Wales motor dealer and then using them primarily in this State. The legislation imposes an \$11,000 fine and the Department of Fair Trading will have the power to revoke a licence.

The legislation also makes it an offence for a corporation to cause, permit or allow an interstate-registered vehicle owned by a corporation to be used on a road in New South Wales unless the corporation can show that the vehicle was less than 90 days old, that during the 90-day period prior to the offence the vehicle had been outside New South Wales for a continuous period of at least 48 hours, or, in the case of a car rental company, the vehicle was rented to the same person for the entire 90-day period immediately prior to the offence. The legislation imposes an \$11,000 fine per offence. I have been advised that individuals with privately owned vehicles are not subject to these provisions. One honourable member referred to soldiers being affected by the bill.

The Hon. John Jobling: All service people are moved around.

Reverend the Hon. FRED NILE: This legislation does not affect individuals.

The Hon. John Jobling: But it affects individual soldiers.

Reverend the Hon. FRED NILE: It cannot affect them if they are not corporations.

The Hon. John Jobling: It will.

Reverend the Hon. FRED NILE: The Government might provide advice on that. I have been advised that private individuals are not affected by this legislation.

Ms LEE RHIANNON [5.36 p.m.]: The Greens support this bill. We believe it is necessary to ensure that owners of licensed motor vehicles do not affix interstate number plates to those vehicles. These measures are necessary because clearly a scam is being perpetrated. Some commercial operators are hell-bent on avoiding paying New South Wales registration charges and compulsory third-party insurance premiums. That is clearly wrong. Like other members, I became aware of this activity when I hired a car and realised that I had never seen

a rental car with a New South Wales number plate, so I started asking questions. This bill is timely. Law-abiding companies clearly will have no objections to this bill. In fact, they have a lot to look forward to because what they often request will come to fruition; that is, they will have a level playing field for their commercial endeavours.

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.38 p.m.], in reply: I thank honourable members for their comments on this bill and commend it to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT AMENDMENT BILL

Second Reading

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.39 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

Just over three years ago this Parliament enacted the Building and Construction Industry Security of Payment Act 1999. The Act was the first of its kind in Australia. It has set a benchmark for dealing with payment problems in the building and construction industry and similar legislation has already been adopted in Victoria. I understand other States are also considering adopting a similar approach. The main purpose of the Act is to ensure that any person who carries out construction work, or provides related goods or services, is able to promptly recover progress payments. The Government wanted to stamp out the practice of developers and contractors delaying payment to subcontractors and suppliers by ignoring progress claims, raising spurious reasons for not paying or simply delaying payment.

Reports received by my department indicate that the Act is proving very successful in reforming these practices. But changes can be made to make the Act even more effective. The purpose of this bill is to enact those changes. The changes were foreshadowed in a detailed discussion paper I released on 5 September 2002 to coincide with the formal review of the Act required at this time. The responses to that discussion paper were overwhelmingly supportive of the proposed changes. Proposed changes encompass new features to the Act, modifications to existing provisions, and drafting changes to clarify the intent of the Act.

The Act was designed to ensure prompt payment and, for that purpose, the Act set up a unique form of adjudication of disputes over the amount due for payment. Parliament intended that a progress payment, on account, should be made promptly and that any disputes over the amount finally due should be decided separately. The final determination could be by a court or by an agreed alternative dispute resolution procedure. But meanwhile the claimant's entitlement, if in dispute, would be decided on an interim basis by an adjudicator, and that interim entitlement would be paid. However, some claimants have had difficulty enforcing payment of the debt due under the Act. To enforce payment, the claimant has had to obtain a judgment of a court. At present this involves taking out a summons in the appropriate court. The respondent has 28 days to lodge a defence or cross-claim. Then there is a hearing before a magistrate or judge, who has to decide whether to enter summary judgment for the statutory debt or set the matter down for a full hearing.

By raising in court defences such as that the work does not have the value claimed or that the claimant has breached the contract by doing defective work, some respondents have been able to delay making a progress payment for a long time. Those respondents have forced claimants to incur considerable legal costs. They have effectively defeated the intention of the Act. To overcome the problem, the bill clarifies that in court proceedings by a claimant to enforce payment of the debt due under the Act, a respondent will not be able to bring any cross-claim against the claimant and will not be able to raise any defence in relation to matters arising under the construction contract. A respondent who wants to raise these matters must do so in a payment schedule in response to a payment claim under the Act, or in separate proceedings.

Cash flow is the lifeblood of the construction industry. Final determination of disputes is often very time consuming and costly. We are determined that, pending final determination of all disputes, contractors and subcontractors should be able to obtain a prompt interim payment on account, as always intended under the Act. To reinforce this determination, the bill provides that after an adjudication the respondent must pay the claimant the adjudicated amount. The existing legislation gives the respondent the options of paying the adjudicated amount or providing security for payment of the amount. Experience has shown that where respondents have taken the security option, they have then not taken steps to expedite the final resolution of the dispute.

The result is that cash flow to the claimant does not occur, and the claimant has achieved little through the adjudication process. Removing the security option will overcome this situation and ensure that a reasonable interim payment, assessed by an independent party, is made within a short time frame. In addition, the bill includes another important measure for ensuring a claimant can more easily enforce prompt payment of the adjudicated amount. The bill provides that after an adjudication a claimant can ask the Authorised Nominating Authority, who nominated the adjudicator, for a certificate as to the adjudicated amount. The claimant can file that certificate in an appropriate court and automatically obtain judgment for the adjudicated amount.

Under the new procedure there will no longer be need for a summons and a hearing before a magistrate or judge. Claimants will be able to obtain judgment for the adjudicated amount without the need to engage a solicitor. A claimant will be able to obtain judgment on the day that the claimant files the adjudication certificate with the court. These measures not only will expedite recovery of progress payments but will considerably reduce the cost of doing so. If a respondent applies to the court to have the judgment set aside after an adjudication, the respondent will have to pay into court as security the unpaid portion of the adjudicated amount. This will defeat the practice of using legal proceedings to simply delay payment.

There will be some instances where a court may set aside the judgment. The respondent may be able to demonstrate to the court that the requirements of the Act have not been complied with; for example, that there has not been a valid adjudication. But in proceedings to set aside the judgment the respondent will not be entitled to bring a cross-claim or to raise any defence in relation to matters arising under the construction contract or to challenge the determination by the adjudicator. Adjudication is an expedited procedure. The adjudicator has only 10 business days in which to make a decision. There will be instances when the progress payment determined by the adjudicator will be more or less than the entitlement finally determined to be due under the contract. However, it is better that progress payments be made promptly on an interim basis, assessed by an independent party, rather than they be delayed indefinitely until all issues are finally determined.

Presently, when a respondent fails to pay the claimant by the due date for payment under the contract, the claimant's only recourse to enforce payment is to commence proceedings in a court. The bill will give the claimant another option. The claimant will be able to opt to have an adjudicator determine the amount of the progress payment that is due. This is an "optional adjudication". The claimant will still be able to proceed to adjudication earlier if the respondent provides a payment schedule and the scheduled amount is less than the amount claimed. The benefit to the claimant of proceeding with an optional adjudication rather than commencing proceedings in a court is that the claimant will then be able to use the adjudication certificate to obtain judgment expeditiously and without a court hearing. The claimant will be able to initiate an optional adjudication when the respondent fails to provide a payment schedule within time and fails to pay the amount claimed, or the respondent provides a payment schedule but fails to pay the whole of the scheduled amount.

The changes are not only designed to prevent abuses of the intent of the legislation by respondents. We recognise the potential for claimants to abuse also the intent of the legislation. Consequently, the bill restricts claimants to one payment claim under the Act in respect of each reference date. Reference dates will be either dates specified in the construction contract for making progress claims or, if not stated, the last day of each month of the year. There will also be a limit upon how long after construction work is completed a claimant can continue to make payment claims under the Act. The period will be 12 months after the last work was carried out or the goods or services were last provided, or a later date if provided for under the contract.

If the scheduled amount is less than the claimed amount, the Act presently allows the claimant five business days in which to initiate an adjudication. This period will be extended to 10 business days. This reflects the fact that a claimant frequently is unaware there is a payment dispute until the payment schedule is received and the proper preparation of an adjudication application can take more than five business days. Another time which will be extended is the time for the respondent to make payment after an adjudication. Presently, it is two business days. This will be extended to five business days to provide a more reasonable time to organise payment and to ensure work is not suspended prematurely.

A significant new feature is the provision in the bill that interest must be paid on the unpaid portion of a progress payment. Interest will be at the higher of the rates of interest provided for in the construction contract or the rate applicable to Supreme Court judgments. This will stamp out the practice of including a very low rate of interest in a construction contract. A low rate of interest is an incentive to delay payment. We want to remove any such incentive. To further enhance security for payment, the bill provides that, if a progress payment becomes due and payable, the claimant is entitled to a lien. The lien is for the unpaid amount and is over any unfixured plant or materials supplied by the claimant to the respondent for use in connection with the carrying out of the construction work. The lien will not override a pre-existing entitlement of a third party.

Under the bill, authorised nominating authorities are given an enhanced role. Henceforth, all adjudication applications must be made to an authorised nominating authority chosen by the claimant. A respondent will no longer be able to dictate in the construction contract that a particular authorised nominating authority must be used. Authorities will be entitled to charge fees for dealing with adjudication applications and related matters. The Minister will be able to limit the number of authorised nominating authorities and to set the upper limit of fees which may be charged by an authorised nominating authority. The bill provides that the adjudicator's determination must include the reasons for the determination unless both the claimant and respondent request otherwise.

The bill also puts a stop to "adjudicator shopping". This is the practice of a dissatisfied claimant making repeated adjudication applications until the claimant gets the adjudication decision that the claimant wants. Henceforth, if one adjudicator has decided that work, or related goods or services, have a certain value, in a subsequent adjudication the adjudicator or any other adjudicator will have to give the work, goods or services that same value. An exception is where the claimant or respondent satisfies the adjudicator that the value of the work, goods or services has changed since the previous adjudication. If the adjudicator's determination includes a clerical mistake or minor error or miscalculation, the adjudicator may correct the determination.

The Act has provision to enable an unpaid claimant to suspend work but there is no reference to when the claimant must recommence work. It is proposed to allow the claimant up to three business days to resume work after the claimant has been paid all moneys due under the Act. The bill further provides that if, as a consequence of the suspension, the respondent removes from the construction contract any part of the work or the supply of goods or services, the respondent is liable to pay the claimant's loss or expense arising from such removal. That loss or expense can be included in a progress claim.

Under the present Act the costs of the adjudicator are shared equally unless the adjudicator finds the adjudication application or the adjudication response was wholly unfounded. Experience has shown that there are many instances where the adjudication application or response was not wholly unfounded but was, nevertheless, so unmeritorious or ill-prepared that the responsible party should be made to pay more than half the costs. Under the bill the adjudicator will be empowered to determine how costs should be apportioned. This includes fees paid to an authorised nominating authority, for example, on lodgement of an adjudication application or for an adjudication certificate, that are provided for in the bill.

As previously mentioned, authorised nominating authorities will be empowered to issue adjudication certificates which can be used to obtain judgment. Such certificates can also include the amount of interest and adjudication costs payable by the respondent to the claimant. In the light of the enhanced role of authorised nominating authorities, the bill provides an authority with protection for anything done, in good faith, in the reasonable belief that it was done in exercising the authority's functions under the Act. Notices served under the Act will also be able to be served in a manner provided for under the construction contract.

To further enhance the remedies available to a claimant, the bill incorporates an amendment to the Contractors Debts Act 1997 to provide that the Contractors Debts Act covers all debts arising under the Building and Construction Industry Security of Payment Act. The Contractors Debts Act establishes a debt recovery procedure that allows a claimant to whom money is owed to seek payment of that money from a principal who engaged the defaulting respondent. This amendment will ensure all claimants under the Building and Construction Industry Security of Payment Act will be able to avail themselves of this procedure.

Minor changes have been made to remove possible ambiguities, for example, to ensure that progress payments include milestone payments, that progress claims under the Act can be made under construction contracts that have no provision for progress payments, and that progress claims can include the final amount claimed and retention moneys. The voiding of contract provisions that seek to contract out of the Act is extended to include any contract provision that can be construed as an attempt to deter a claimant from taking action under the Act. The proposed amendments will not affect payment claims made before the commencement of the amending Act. Such claims will be dealt with as if the amending Act had not commenced.

The Hon. JAMES SAMIOS [5.40 p.m.]: I speak on behalf of the Opposition. The Building and Construction Industry Security of Payment Act 1999 entitles certain persons who carry out construction work or supply related goods and services under construction contracts to timely payment for the work they carry out and the goods and services they supply. The Act also provides a procedure for securing the payments to which persons are entitled under the Act. Since the commencement of the Building and Construction Industry Security of Payment Act on 26 March 2000, its operation has been monitored by the Department of Public Works and Services. That monitoring resulted in the release of a discussion paper by the Minister for Public Works and Services on 5 September 2002 and coincided with the formal review of the Act that was required at the time.

Responses to the discussions are reflected in the proposed amendments contained in the Building and Construction Industry Security of Payment Amendment Bill. The purpose of the bill is to amend the Building and Construction Industry Security of Payment Act 1999 first, to provide that progress payments to which persons are entitled under the Act include final payments and single or one-off payments; second, to provide for interest to be payable on unpaid progress payments; third, to provide claimants with the option of having their payment claims adjudicated under the Act rather than having to take court action to recover the amount owing; and, fourth, to provide that an adjudicator's determination of a payment claim may be set out in an adjudication certificate which may then be filed as a judgment for a debt in any court of competent jurisdiction.

The bill also amends the Contractors Debts Act 1997 to provide that a claimant who has filed an adjudication certificate may be issued with a debt certificate under section 7 of that Act in order to obtain payment of a debt under that Act from the defaulting contractor's principal. The bill makes other procedural and minor amendments to the 1999 Act. The Opposition has consulted extensively with developers and subcontractors on this matter, including Leighton Contractors Pty Ltd, the Master Builders Association of New South Wales, the Newcastle Master Builders Association, Multiplex Constructions (NSW), Bovis Lend Lease Pty Ltd, the Timber and Building Materials Association, the Air-conditioning and Mechanical Contractors Association of NSW, the National Electrical and Communications Association, the Civil Contractors Federation (NSW), the Master Painters Australia, Australian Business Ltd, the Housing Industry Association, the Property Council of Australia, the Office of the Minister for Public Works and Services and the Department of Public Works and Services.

Overall, dialogue with those bodies was extensive. Following that dialogue the Opposition is prepared to not oppose the bill, but points out concerns that have been expressed by developers and others. As a result of those concerns, the Opposition will move an amendment, which I understand will be agreed to by the Government, to reduce the review period from three years to one year. Essentially, the Opposition supports the general thrust of the bill, which is to provide more equitably for payment, and for the review to occur in one year instead of three years, as provided in the 1999 Act.

Reverend the Hon. FRED NILE [5.44 p.m.]: The Christian Democratic Party supports the Building and Construction Industry Security of Payment Amendment Bill. As honourable members would know, this bill modifies the Building and Construction Industry Security of Payment Act 1999, which had to be reviewed after three years. A detailed discussion paper was released on 5 September covering some of the proposed changes. Those changes are supported by various interest groups and stakeholders that are affected by the Act. Apparently some devices have been used by builders to avoid paying their subcontractors, even under the 1999 Act, and this bill will make it difficult, if not impossible, for them to avoid meeting those obligations in future.

In the past some builders have used court processes to delay paying money that they owed to their subcontractors. To overcome that problem, the bill clarifies that in court proceedings by a claimant to enforce payment of the debt due under the Act, a respondent will not be able to bring any cross-claim against the claimant and will not be able to raise any defence in relation to matters arising under the construction contract. To assist that process, the bill provides that after an adjudication the respondent must pay the claimant the adjudicated amount. Previously there was an option of paying the money or providing security.

In that circumstance, security became another device to avoid paying cash. Subcontractors need to be paid urgently, they need a cash flow, and, obviously, a security would not meet that need. Removing that security option will overcome this situation and ensure that a reasonable interim payment, assessed by an independent party, is made within a short time frame. The bill provides also that after adjudication a claimant can ask the authorised nominating authority, who nominated the adjudicator, for a certificate as to the adjudicated amount. The claimant can file that certificate in an appropriate court and automatically obtain judgment for the adjudicated amount. We fully support those practical amendments.

Ms LEE RHIANNON [5.47 p.m.]: The Greens support the Building and Construction Industry Security of Payment Amendment Bill. As we know, subcontractors and suppliers often have problems recovering payments, and that is simply unacceptable. Often subcontractors are forced out of business and pushed into an untenable financial situation because developers and contractors, for whatever reason, choose to hold up payments. This bill is a reminder that a free and unfettered marketplace does not work. Business operations in some areas need to be regulated, and it is clear that this is one of those areas. For those reasons the Greens are pleased to support the bill.

The Hon. RICHARD JONES [5.48 p.m.]: I support the Building and Construction Industry Security of Payment Amendment Bill. This is an important bill and there is no doubt that the building and construction industry needs protecting. A friend of mine who owned the company RUP Constructions Pty Ltd was sent into liquidation by a number of people who refused to pay their last payments on houses he was building for them in Sydney. John Arthur, a barrister, of 62 Shirley Street, Wollstonecraft, who refused to pay the last \$200,000 or \$300,000 owing on his house, said, "Take me to court then, mate. You know it will take a long while to get your money." My friend's company built very fine buildings using top-quality ecologically sound timber. He was in business for quite some time, until crooks such as John Arthur sent him broke. In Sydney there are many people who do not pay their bills on time. Hopefully this bill will ensure that those who are owed money will get their money on time. I congratulate the Government on introducing this bill.

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.49 p.m.], in reply: I thank honourable members for their wholehearted support of the bill. 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. JAMES SAMIOS [5.52 p.m.]: I move the Opposition amendment on sheet C-123:

Page 18, schedule 1. Insert after line 29:

[49] Section 38 Review of Act

Insert after section 38 (3):

- (4) A further review of this Act (as amended by the *Building and Construction Industry Security of Payment Amendment Act 2002*) is to be undertaken by the Minister as soon as possible after the period of 12 months from the commencement of Schedule 1 [29] to that Act.
- (5) A report on the outcome of the further review is to be tabled in each House of Parliament within 3 months after the end of that period of 12 months.

The amendment will provide for a review of the Act to be undertaken as soon as possible after the 12-month anniversary of the commencement of section 17, in lieu of the three-year period already provided for in the 1999 Act.

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.52 p.m.]: The Government supports the amendment.

Amendment agreed to.

Schedule 1 as amended agreed to.

Schedule 2 agreed to.

Title agreed to.

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

BUILDING LEGISLATION AMENDMENT (QUALITY OF CONSTRUCTION) BILL

In Committee

Consideration resumed from 3 December.

Schedule 2

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.00 p.m.]: I moved my amendment when we last considered this bill in Committee on the basis that recommendation No. 1 of the Campbell committee, which called for the establishment of a home building compliance commission, was not in the bill. I asked Parliamentary Counsel to draft an amendment to the bill to establish such a commission but I was informed that it would be a very big job—it would take about two weeks—and would change the purpose of the bill, thereby possibly preventing its passage. That undertaking seemed too difficult.

The Hon. Dr Peter Wong then suggested that the Government could be obliged to implement the recommendation by amending the bill to provide for a review of the Act in 12 months. The Hon. John Ryan suggested a two-year time frame to obviate the excuse from the Government that it did not have sufficient time to conduct a review and to ensure its acceptance of recommendation No. 1. The Government was a little unsure of its position in this regard—and I think that is why consideration of the legislation was adjourned. The suggestion of the Hon. John Ryan is now enshrined in a Government amendment to my amendment. I trust that the Government will support my amendment, given my reasonable acceptance of its amendment, which seeks to change 12 months to two years.

The Hon. JOHN RYAN [6.00 p.m.]: The Opposition supports the spirit of the amendment of the Hon. Dr Arthur Chesterfield-Evans. It seeks essentially to implement the first recommendation of the Joint Select Committee on the Quality of Buildings, which committee members considered to be very important. All committee members—I hope that I do not insult anyone present—concluded that it was necessary to correct a culture of stagnation within the Department of Fair Trading, which was not apparent in other departments such as PlanningNSW. PlanningNSW appeared to be far more committed to the need for change and of advocating on behalf of consumers. We felt that in its submissions to the committee the Department of Fair Trading was completely defensive and appeared to be totally wedded to making no further changes. We were concerned that, no matter what changes we recommended, while the decision remained in the hands of the department there would never be progress.

The Government has obviously decided not to implement the committee's first recommendation—I know how government works and I understand why this Government has come to that conclusion. I recall a particularly telling moment during the committee hearings. We had heard evidence from officers of the Department of Fair Trading, who had answered in the negative to virtually every question we had asked about change. They were followed by witnesses from PlanningNSW. They were like a breath of fresh air so committed were they to change and to ensuring that processes worked properly. Their approach motivated all committee members, whether from the Government, the Opposition or the crossbench.

The amendment of the Hon. Dr Arthur Chesterfield-Evans—which we welcome—accepts the Government's approach but hangs over its head like the sword of Damocles the proviso that, if the Government does not implement the committee's recommendations in a fashion that delivers genuine, measurable improvements for consumers, an audit will highlight that issue and a future government may decide to do things

differently. I understand that the Government intends to accept my suggestion. Instead of conducting the review in 12 months—that may be too soon as it will be argued that the reforms have not been bedded down and people have just learned their jobs; I can write the report now—it will occur in two years, when it will be as plain as a pikestaff whether the reforms have worked. If they have not worked, an overwhelming and compelling case will be made to take this responsibility from the Department of Fair Trading and to establish an independent building commission. There may be other good reasons for doing that, but we commend the amendment to the Committee. We understand that the Government intends to support it while moving amendments sympathetic to a suggestion that I made earlier in the debate.

The Hon. IAN MACDONALD (Parliamentary Secretary) [6.04 p.m.], by leave: I move Government amendments Nos 1 and 2 in globo:

- No. 1 In the Australian Democrats amendment omit "12 months" from proposed subsection (5) to be inserted in section 145 of the *Home Building Act 1989*. Insert instead "2 years".
- No. 2 In the Australian Democrats amendment omit "12-month" from proposed subsection (6) to be inserted in section 145 of the *Home Building Act 1989*. Insert instead "2-years".

We have had considerable discussions with the Hon. Dr Arthur Chesterfield-Evans. These amendments will allow adequate time for evaluation of the reforms in the bill. The two-year period is also consistent with the recommendation of the Joint Select Committee on the Quality of Buildings that there be a performance audit after two years. I commend the amendments to the Committee.

The Hon. Dr PETER WONG [6.04 p.m.]: I support the principle of the Government amendments. However, I share the views of many Opposition and crossbench members in regretting that the Government does not have the courage to adopt recommendation No 1 of the Joint Select Committee on the Quality of Buildings. I do not believe the Department of Fair Trading will embark on reform. I will believe it when I see it.

The Hon. HELEN SHAM-HO [6.05 p.m.]: I support the amendment of the Hon. Dr Arthur Chesterfield-Evans that seeks to establish a home building compliance commission. That is an important point. I am not so sure that a commission will be established as a result of the Government's amendments. The Government must return after next year's State election with an undertaking to implement recommendation No. 1 of the Joint Select Committee on the Quality of Buildings. I will hold the Government to that commitment.

Government amendments Nos 1 and 2 agreed to.

Australian Democrat amendment as amended agreed to.

The Hon. IAN MACDONALD (Parliamentary Secretary) [6.06 p.m.], by leave: I move Government amendments Nos 1, 2 and 8 in globo:

- No. 1 Page 35, schedule 2. Omit proposed paragraph (a1) (to be inserted in section 114 (3) of the *Home Building Act 1989* pursuant to Amendment No. 1 of Australian Democrats amendments (C-088) made in committee).
- No. 2 Page 35, schedule 2. Omit proposed Part 7A (to be inserted in the *Home Building Act 1989* pursuant to Amendment No. 2 of Australian Democrats amendments (C-088) made in committee). Insert instead:

Part 7A Home building advisory and advocacy services

115A Home building advisory and advocacy services

- (1) The Minister may engage such persons or bodies as the Minister may determine to provide home building advisory and advocacy services to the public.
- (2) The regulations may make provision with respect to the reports to be furnished to the Minister by persons and bodies engaged under this section.
- (3) In this section, *home building advisory and advocacy services* means:
 - (a) the development and provision of education programs in relation to consumer rights concerning home purchase and home construction, or
 - (b) the provision to consumers of advisory and advocacy services in relation to home purchase and home construction, or
 - (c) the referral of consumers to building consultants and legal practitioners for further advice in relation to the technical and legal aspects of home purchase and home construction, or

- (d) the publication of information as to the programs and services that are available from the Government or from other sources in relation to home purchase and home construction, or
- (e) such other services as are declared by the regulations to be services that are eligible for funding under this section.

No. 8 Page 38, schedule 2, lines 3-13. Omit all words on those lines.

Amendments Nos 1 and 2 will enable home building advisory and advocacy services to be independent from the Government and to offer independent advice to consumers. This proposal is in line with the recommendation of the Joint Select Committee on the Quality of Buildings. As to amendment No. 8, the bill proposes that the conditions specified in parts 1 and 2 of schedule 3A be included in contracts to do residential building work and to supply kit homes respectively. Clause 3 of part 1 relates to final payment. The clause applies to work involved in the erection of a building for which an occupation certificate is required. The final payment, not being less than 5 per cent, will not become payable until the work satisfies all requirements that must be satisfied before an occupation certificate can be issued. The clause does not apply to contracts between head builders and subcontractors or developers and contracts for work not exceeding \$1,000.

This amendment to the home building regulation was proposed in response to a recommendation of the joint select committee that the final payment of 5 per cent be withheld until the issuing of the occupation certificate. Recognising that there may be factors beyond the control of the builder that would prevent the issuing of the occupation certificate, the provision, as drafted, does not require the actual issuing of the occupation certificate. Instead it requires the work to reach the standard necessary for the issuing of the certificate.

Consultation has continued on the bill since its introduction. The Master Builders Association expressed concern that many residential contracts require work to lock-up stage only or to exclude certain work to be undertaken by the owner. In such cases the release of the retention may be delayed. The Housing Industry Association [HIA] also expressed concern about the provision. It argued that because the bill is introducing other checks and balances, such as mandatory inspections by the certifier, these make the retention provision unnecessary. It was also believed the provision will disadvantage small builders because it will tie up capital held in retention. It was argued that this runs counter to the Government's aim of having more financially viable builders. The HIA also argued that it would add to the cost of jobs because of the need to finance the 5 per cent retention. This would disadvantage consumers.

Having considered the arguments of the industry about the impact of the provision on small builders and the possibility of increased costs for consumers generally—bearing in mind that the vast majority of building work is performed satisfactorily—the Government seeks to amend the bill to remove this provision. I commend the amendments.

The Hon. Dr Arthur Chesterfield-Evans: Point of order: Government amendments Nos 1 and 2 as circulated cannot be moved unless the bill is recommitted. The clauses to which they relate have been voted on.

The CHAIRMAN: Order! The point raised by the Hon. Dr Arthur Chesterfield-Evans is correct. Government amendments Nos 1 and 2 cannot be moved at this time. However, I take it that the Hon. Ian Macdonald is persisting with Government amendment No. 8?

The Hon. IAN MACDONALD: Correct.

The Hon. JOHN RYAN [6.12 p.m.]: Amendment No. 8 has the support of the Opposition. I am not exactly sure from where this particular idea came. Although I recall this matter being discussed by the Joint Select Committee on the Quality of Buildings I do not remember the committee making a recommendation, but I stand to be corrected. It has been a busy day and I have not been able to check everything. As I said during my contribution to the second reading debate, we accept that there are some significant logistical difficulties in trying to issue an inspection certificate following work that has nothing to do with the building and difficulties associated with the sale of land. It is not uncommon for people to split the sale of land and the construction of a building. We understand that the occupation certificate does not necessarily suit all conditions and would tie up capital in the land sale until the building had been completed. The Opposition supports the amendment.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.13 p.m.]: I reluctantly support these amendments because of the logistical difficulties. I am concerned that even though the necessary payments have been made, an occupational certificate may not be issued. That has been the case with many buildings in the

Sydney central business district [CBD], particularly with shoddy work on unit buildings. The Australian Democrats believe that private certifiers have been responsible for this problem, which still has not been addressed adequately. Once a builder obtains the final certificate an occupation certificate should be provided before the final payment to ensure that the building is fit for occupation. In many cases people who have made final payment have not been issued with an occupation certificate and technically cannot live in the building—although they often do. They are then in the unenviable position that the building cannot be sold.

Although these amendments have been moved for logistical reasons such as landscaping, deleting the clause will result in people occupying premises without an occupation certificate. They may have to incur considerable expense for restitution in order to sell the property. I seek a commitment from the Government that it will address the issue. I have previously asked a question without notice about the number of buildings in the Sydney CBD that have not been issued with occupation certificates from one particular builder. Interestingly, shortly after I asked that question a builder very well known in town sued Sydney City Council with respect to certification. I wonder if that was merely a pre-emptive strike. I suspect that occupation certificates were not issued for a number of buildings because the walls between the units did not reach the ceiling but that fact was disguised by gyprock. This means that the units are not fire safe.

Government Amendment No. 8 agreed to.

Schedule 2 as amended agreed to.

Schedule 3

The Hon. IAN MACDONALD (Parliamentary Secretary) [6.16 p.m.], by leave: I move Government amendments Nos 9 and 10 in globo:

No. 9 Page 41, schedule 3, lines 1-6. Omit all words on those lines. Insert instead:

(b) that also provides for the sale of a dwelling-house already erected on the lot,

No. 10 Page 41, schedule 3, line 17. Omit "to be erected on the lot".

The Housing Industry Association has raised concern about the proposal for occupation certificates to be provided by the vendor prior to the settlement of transfer for a lot that is part of a house and land package. Where separate contracts are entered into for the purchase of land and the erection of the house, it is not considered feasible to delay the settlement of the land sale pending the completion and, in some cases, commencement of construction of the house. For that reason the Housing Industry Association asks that consideration be given to the removal of this provision. Having considered this request, it is agreed that where there are two separate contracts, that the transfer of the lot should not be unnecessarily delayed for the issue of the occupation certificate.

However, where the purchase of the lot includes either the construction of the dwelling or a newly constructed dwelling in one contract, it is considered appropriate that settlement not take place until the owner is provided with certainty that the dwelling can be occupied. Therefore, it is proposed to amend the provision relating to house and land packages to restrict it to a contract for sale of a lot that provides for the erection of a dwelling on the lot or the sale of a dwelling house already erected. Amendment No. 10 involves removal of the phrase "to be erected on the lot". This phrase needs to be removed as a consequence of amendment No. 9 as the amended clause now applies to dwelling houses already erected as well as dwellings to be erected.

The Hon. JOHN RYAN [6.17 p.m.]: The Opposition supports these amendments. The arguments are similar to those for the previous amendments, although these amendments relate to the sale of land rather than the construction of a building.

Amendments agreed to.

Schedule 3 as amended agreed to.

Title agreed to.

Bill reported from Committee with amendments.

Adoption of Report

The Hon. IAN MACDONALD (Parliamentary Secretary) [6.19 p.m.]: I move:

That the report be now adopted.

Motion by the Hon. Peter Primrose agreed to:

That the question be amended by leaving out all words after "That" and inserting instead "this bill be now recommitted with a view to the further consideration of schedules 1 and 2".

In Committee (Recommittal)

Recommitted Schedule 1

The Hon. IAN COHEN [6.20 p.m.], by leave: I move Greens amendments Nos 1, 2, 3 and 5 in globo:

No. 1 Page 8, schedule 1. Insert after line 2:

[19] Sections 109EB-109EE

Insert before section 109F:

109EB Accredited certifiers to be appointed on nomination of Director-General

- (1) This section applies in all cases in which a person proposing to carry out development appoints an accredited certifier, and not the consent authority, to be the principal certifying authority for the development or to be a certifying authority for any aspect of the development.
- (2) The accredited certifier to be appointed is to be selected by the Director-General at random from among the accredited certifiers:
 - (a) who are registered under section 109EC in relation to the kind of development, or the aspect of development, for which the appointment is to be made, and
 - (b) who have indicated to the Director-General that they are available for appointment in relation to development being carried out in the area in which the proposed development is being carried out.

109EC Register of accredited certifiers

- (1) The Director-General is to maintain a register of accredited certifiers (*the Register*).
- (2) Each person who is an accredited certifier is entitled to have his or her name entered on the Register.
- (3) In relation to each registered accredited certifier, the Register must indicate the kind of development, or the aspect of development, for which the certifier is duly qualified.
- (4) The Director-General must remove from the Register the name of any person whose accreditation as a certifier is suspended or withdrawn under section 109ZA.
- (5) The regulations may make provision with respect to the procedures to be followed in relation to the registration of accredited certifiers and the matters to be recorded in the Register.
- (6) The Register is to be made available for public inspection, free of charge, at each of the regional offices of the Department.

109ED Accredited Certifiers Management Fund

- (1) The Director-General is to establish an Accredited Certifiers Management Fund.
- (2) Into the Fund are to be paid:
 - (a) all fees received under section 109EE (1) (a), and
 - (b) all interest accruing to the Fund.
- (3) Out of the Fund are to be paid:
 - (a) all fees payable under section 109EE (1) (b), and
 - (b) all costs and expenses incurred by the Director-General in connection with the auditing of accredited certifiers under section 118Q, and

- (c) all costs and expenses incurred by the Director-General in the administration of the registration scheme under section 109EC, and
- (d) all costs and expenses incurred by the Director-General in the administration of the Fund.
- (4) The regulations may make provision for or with respect to the operation and administration of the Fund.

109EE Accredited certifier's fees

- (1) For any development in respect of which an accredited certifier exercises the functions of a certifying authority under this Part:
 - (a) there are payable to the Director-General by the person by whom the accredited certifier was appointed as a certifying authority, and
 - (b) there are payable by the Director-General to the accredited certifier, such fees as the Director-General may from time to time determine by order published in the Gazette.
- (2) The fees determined under subsection (1) (a) with respect to any function are not to exceed by more than 10 per cent the fees determined under subsection (1) (b) with respect to the same function.
- (3) For the purposes of section 148A, any payment with respect to an accredited certifier's exercise of the functions of a certifying authority under this Part:
 - (a) that is made by or on behalf of the person by whom the accredited certifier was appointed as a certifying authority, otherwise than under subsection (1) (a), or
 - (b) that is accepted by or on behalf of the accredited certifier, otherwise than under subsection (1) (b), is taken to have been made or accepted on an understanding that the accredited certifier will act, or has acted, otherwise than impartially in the exercise of those functions.

No. 2 Page 8, schedule 1. Insert before line 3:

[19] Section 109G Restriction on issue of compliance certificates

Insert at the end of the section:

- (2) A compliance certificate of any kind must not be issued for any building work or subdivision work unless the certifying authority has kept such field notes, photographs and other records as are required by the regulations to be kept in connection with the issuing of such a certificate.

No. 3 Page 8, schedule 1. Insert after line 11:

[21] Section 109H (3A)

Insert after section 109H (3)

- (3A) An occupation certificate must not be issued for any new building unless the certifying authority has kept such field notes, photographs and other records as are required by the regulations to be kept in connection with the issuing of such a certificate.

[22] Section 109J Restriction on issue of subdivision certificates

Insert after section 109J (3)

- (3A) A subdivision certificate must not be issued for a subdivision unless the certifying authority has kept such field notes, photographs and other records as are required by the regulations to be kept in connection with the issuing of such a certificate.

No. 5 Page 11, schedule 1. Insert after line 13:

- (2) Without limiting subsection (1), the Director-General must ensure that each accredited certifier is subjected to investigation under this section at least once in every 3 years.

Amendment No. 1 seeks to break the contractual nexus between developers and certifiers. As with environmental impact statements, he who pays the piper calls the tune. It is this lack of genuine independence that corrupts the process. The problem at the heart of private certification is the indirect influence that developers exercise because, essentially, they control whether a certifier will get work. The amendment will set up a process whereby certifiers of building work are accredited. Accredited certifiers will then be part of a pool from which the director-general of planning selects at random a certifier to carry out the nominated work. All accredited certifiers are to be members of this pool.

The director-general of planning will maintain a register of accredited certifiers. The register will indicate the kind or aspect of development work that a certifier is duly accredited to perform. This is to be a public register that is open for inspection at all regional departmental offices. The director-general will also manage a fund to which fees for certification work are paid and from which certifiers will in turn be paid. That is where the contractual nexus between developers and certifiers to which I referred earlier is broken.

When people apply for drivers licences they do not have the freedom to choose a tester. Students who sit for an examination cannot choose an examiner; indeed, students have numbers to avoid recognition. This is why these processes can be considered fair and objective. There are some situations in which it is better to be at arm's-length. The Greens believe that certification of building compliance should be one of them. There is no doubt that the current system allows for cosy relationships between mates, and it is certainly leading to shoddy work being certified. One could suggest that corruption is occurring as well. The 1999 changes to the certification processes have not worked for consumers. The amendment will go some way towards addressing that. We are so close to solving the problem, yet so far away from solving it.

Greens amendments Nos 2 and 3 will expressly require that adequate records be kept for compliance certificates to be issued. Such records would include field notes, photographs, et cetera. That will ensure that, for example, before a compliance certificate can be issued for foundations, measurements must be taken, and perhaps photographs, to illustrate the point. Those records must be kept. The provisions will clearly convey to certifiers the message that their work is being monitored. Amendment No. 5 is a transparency provision. It requires that accredited certifiers are thoroughly audited at least once every three years. It is apparent from the number of complaints about shoddy work that the current auditing provisions are inadequate and are not sufficiently rigorous to deter malpractice. I commend the amendments to the Committee.

The Hon. IAN MACDONALD (Parliamentary Secretary) [6.23 p.m.]: The Government does not support Greens amendments Nos 1, 2, 3 and 5. The Government opposes amendment No. 1 because it is not considered appropriate for the director-general of planning to randomly nominate accredited certifiers on behalf of an owner. The appointment of the principal certifying authority is a fundamental part of the development process, and owners should retain the right to choose who certifies their buildings. This amendment would not accord with the national competition policy and the introduction of accredited certifiers to compete with local government in New South Wales.

The Government opposes Greens amendments Nos 2 and 3 as they would create a duplication in the existing Act and regulation. The Environmental Planning and Assessment Act already contains the power, by regulation, to set out which documents are to be provided by an accredited certifier to a council and which documents are to be kept by the accredited certifier. Therefore, the amendments are unnecessary. As for Greens amendment No. 5, the Environmental Planning and Assessment Act already provides clear controls for auditing accredited certifiers. PlanningNSW has been undertaking audits on a random basis and in response to complaints.

The Campbell inquiry also supported the continuation of auditing in a random and complaints-based manner. Random complaints will keep accredited certifiers continually on the alert that they may be audited at any time. Responding to complaints also ensures that serious issues are dealt with quickly by the auditors. This bill seeks to ensure that all certifiers, whether employed by councils or accredited, are randomly audited. To place an onus on the director-general to audit only accredited certifiers every three years ignores this important recommendation of the Campbell inquiry.

The Hon. JOHN RYAN [6.25 p.m.]: The Opposition does not support these amendments. However, they cannot be dismissed as silly. My colleague the Hon. Ian Cohen pointed out one drawback of the current private certification system that was identified and discussed by the Joint Select Committee on the Quality of Buildings, that is, there is clearly emerging in the current private certification system a relationship between some certifiers who seem to work for only one developer. Clearly, they are unlikely to upset that developer and, therefore, human nature being what it is, they are more likely to be less rigorous because they know that if they make trouble for a developer they will not be hired by that developer or even by other developers.

However, the Campbell committee also understood that there was value in the current system of private certification because it provided competition between the certifiers and councils. We were convinced that when councils provided certification as a monopoly operation that was not brilliant either. The new arrangements provide a level of competition between private certifiers and councils, and between all of those bodies with each other. Sometimes that level of competition created efficiency which was valuable and worthwhile for the

industry. We tossed up whether it was worth considering the system of random selection suggested by the Hon. Ian Cohen. The drawback with such a system would be that, essentially, no private certifiers would bother to offer. There would be no value in being a private certifier; private certifiers would simply disappear. All certifications would be done by councils, which would basically remove the reform altogether. We understood the problem but we could not find a solution.

In the interim I understand that the Government suggested something that provides a partial solution. Instead of the developer choosing the certifier, now there is provision in the bill for the person who is hiring the developer to choose the certifier. That means that the person who ultimately pays for the project, and who has an interest in ensuring that it is completed with quality, will choose a certifier who rigorously supervises the developer. That reform appears to be worthwhile. The package before us includes that reform. Although it is not perfect, because we cannot find the perfect solution to this conundrum, it appears to be worth trialling. For that reason the Opposition believes that the Government's solution is preferable to that suggested by the Hon. Ian Cohen, although the honourable member's suggestion is not as silly as it may sound.

If the current system of private certifiers is unable to be improved in terms of the quality of its output, we may have to take up the honourable member's suggestion. In terms of auditing, the idea of random auditing seems to be a sound idea. The Joint Select Committee on the Quality of Buildings was not concerned about random auditing. The issue was whether any auditing was taking place, because up until recently only one person was available to audit private certifiers. And he had audited all of four certifiers! That does not exactly suggest enormous rigour in terms of auditing. However, I understand that PlanningNSW has made a commitment to employ many more auditors who, hopefully, will be more rigorous.

I understand that the auditors will be looking more closely at private certifiers who tend to work for one developer. In those circumstances it seems that those certifiers will be subject to the auditing procedure the Hon. Ian Cohen has in mind: that some time within three years an auditor will look at the certifier's documentation. Under the circumstances, that is entirely appropriate. If the majority of a private certifier's work is for one developer, it could almost be said that that certifier belonged to that developer and required a much more rigorous level of auditing. Chances are that that certifier would be audited some time within three years.

Given the likelihood of the objective of the Hon. Ian Cohen being met in the reformed regime, the Opposition sees no reason to make that legislative amendment. However, if the reform is inadequate and the objectives we want are not achieved—and there have been some catastrophic outcomes in high-rise buildings; the committee visited some buildings where the fire safety requirements were totally inadequate—more radical solutions will have to be considered. For the moment we are prepared to go with the Government's reform proposal and we will not support these amendments.

Amendments negated.

The Hon. IAN COHEN [6.30 p.m.]: I move Greens amendment No. 4:

No. 4 Page 9, schedule 1. Insert after line 12:

[27] Section 109ZA (2) (e)

Omit "300". Insert instead "1,000"

This amendment proposes to increase the maximum penalty that can be imposed on an accredited certifier found to have acted wrongly or negligently. It increases the maximum penalty from 300 penalty points to 1,000 penalty points. While I commend the amendment, I have some concerns about the direction the Greens are taking in increasing penalties, which is not normally our style. Nevertheless, it is obvious the Greens' preference would have been to have the Government accept the other more worthwhile amendments. Given that we now have little choice I maintain that this amendment is better than nothing.

The Hon. IAN MACDONALD (Parliamentary Secretary) [6.31 p.m.]: It is good to know that the Greens are showing some flexibility in their thinking these days. They have joined the law and order campaign. The Government is happy to support the amendment, which seeks to increase the maximum penalty that can be imposed on an accredited certifier found to have acted wrongly or negligently. It will give the Administrative Decisions Tribunal greater flexibility when exercising its power.

The Hon. JOHN RYAN [6.31 p.m.]: The Opposition is happy to support this amendment. It is good to have the Greens joining in the law and order auction. Later we will need standard minimum penalties, but we can get to that before the next election.

Amendment agreed to.

Recommitted Schedule 1 as amended agreed to.

Recommitted Schedule 2

The Hon. IAN MACDONALD (Parliamentary Secretary) [6.32 p.m.]: by leave, I move Government amendments Nos 1 and 2 in globo:

- No. 1 Page 35, schedule 2. Omit proposed paragraph (a1) (to be inserted in section 114 (3) of the *Home Building Act 1989* pursuant to Amendment No. 1 of Australian Democrats amendments (C-088) made in committee).
- No. 2 Page 35, schedule 2. Omit proposed Part 7A (to be inserted in the *Home Building Act 1989* pursuant to Amendment No. 2 of Australian Democrats amendments (C-088) made in committee). Insert instead:

Part 7A Home building advisory and advocacy services

115A Home building advisory and advocacy services

- (1) The Minister may engage such persons or bodies as the Minister may determine to provide home building advisory and advocacy services to the public.
- (2) The regulations may make provision with respect to the reports to be furnished to the Minister by persons and bodies engaged under this section.
- (3) In this section, *home building advisory and advocacy services* means:
 - (a) the development and provision of education programs in relation to consumer rights concerning home purchase and home construction, or
 - (b) the provision to consumers of advisory and advocacy services in relation to home purchase and home construction, or
 - (c) the referral of consumers to building consultants and legal practitioners for further advice in relation to the technical and legal aspects of home purchase and home construction, or
 - (d) the publication of information as to the programs and services that are available from the Government or from other sources in relation to home purchase and home construction, or
 - (e) such other services as are declared by the regulations to be services that are eligible for funding under this section.

These amendments will enable home building advisory and advocacy services to be independent from the Government and to offer independent advice to consumers. They are in line with the recommendations of the Joint Select Committee on the Quality of Buildings.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.32 p.m.]: I support these amendments. However, I intend to move an amendment of my own. I moved my previous amendments because a home building advisory and advocacy service was suggested in recommendations 3 and 29 of the Campbell committee but was not included in the bill. That distressed Irene Onorati, so I moved amendments to include it. The only thing wrong with those amendments was that the service was to be set up as a statutory corporation and the Government did not want to have a statutory corporation, because it did not want the consequent legal liability. I thought that change was reasonable, as recommendation 3 of the Campbell report was that the service be set up as a non-government corporation.

These amendments are slightly different from mine but their content is substantially the same. They will make the home building advisory and advocacy service a non-government organisation somewhat more at arm's-length. The first of my previous amendments insisted that the service be funded. I will accept this amendment—the whole concept has massive support—provided the Government accepts my amendment, which I now move:

That Government amendment No. 2 be amended by omitting the word "may" from line 1 of proposed section 115A (1) and inserting in lieu thereof the word "must".

The effect of this amendment is that the Minister must engage such persons or bodies as the Minister may determine to provide home building advisory and advocacy services to the public. In other words, it is no longer discretionary for the Minister; he must establish that home building advisory and advocacy service. I support the Government amendments as amended by my amendment.

The Hon. Dr PETER WONG [6.35 p.m.]: I move:

That Government amendment No. 2 be amended by omitting the word "may" from line 1 of proposed section 115A (2) and inserting in lieu thereof the word "must".

I support the Government amendments provided that it accepts the amendment of the Unity Party. It is consistent with my earlier amendment that the annual report must be furnished for the Minister and the public to examine.

The Hon. IAN MACDONALD (Parliamentary Secretary) [6.36 p.m.]: The Government supports these absolutely sterling amendments.

The Hon. JOHN RYAN [6.36 p.m.]: There is obviously a story or two behind the arrival of these amendments. Perhaps it is a story best not told, but I know some public servants have been trying their hardest to make sure that amendments of the highest quality arrived before the Committee. I congratulate Julie Heraghty, Chris Aird and Peter Schmidt, who have been watching us with some frustration while we have been caught up in other things but who have worked tirelessly to achieve a legal outcome that would satisfy the Government's stated intention of establishing a non-governmental agency as recommended by the Joint Select Committee on the Quality of Buildings. That is to be commended.

The importance of establishing a non-governmental agency as an advocate for consumers cannot be overstated. It is absolutely vital. Every other stakeholder in the building industry is represented by someone, be it the Master Builders Association, the Housing Industry Association, insurers and so on. The people who supply all the money to make the industry work are the consumers. They have been totally unrepresented except for one sterling person in New South Wales, Irene Onorati. We all know her. We have all had our ears bitten by this lady. Regardless of her irascible temperament, we all admit she has been totally committed to this cause and has done enormous service to the consumers of building works in of New South Wales. Her heart is certainly in the right place.

Honourable members have seen Irene's enormous generosity. She gives of her time and not an insubstantial amount of her resources to help people who are, in some instances, in desperate need, even though they may have bought something phenomenally expensive. Sometimes those people have done all their money and are in desperate circumstances. Sometimes Irene Onorati spends all day from dawn until dusk on the phone or on the fax machine working for them. The service that this organisation will ultimately provide has until now been conducted from Irene Onorati's kitchen table. It is inappropriate for the State of New South Wales to impose all that responsibility on one person.

On odd occasions some of these matters have come to my desk, and sometimes even short bursts of dealing with them have driven me near to the point of nervous exhaustion. It might be said that Irene Onorati's temperament sometimes makes her hard to deal with. I am not surprised that at times she is a bit hard to deal with. I am sure she would accept that. I know that on this occasion she would like me to pay tribute to her long-suffering late husband, who tolerated the burden that all of her work imposed. Sadly, he passed away a few months ago. It is appropriate that we pay tribute to Irene Onorati. I sincerely hope that at some stage we see fit to offer her some Australian honour. The work she has done on behalf of the community has been outstanding. I commend the Government amendments and the amendments to Government amendment No. 2 to the Committee.

The Hon. Dr PETER WONG [6.41 p.m.]: I omitted to mention that in a letter to me Mrs Onorati asked that her thanks be recorded for the excellent work that the Hon. John Ryan has done.

Reverend the Hon. FRED NILE [6.41 p.m.]: The Christian Democratic Party is pleased to support the amendments for they will be of considerable benefit to consumers. In recent years most correspondence we have received has been from consumers who have been angry and upset about the quality of works done by home builders and so on. Hopefully, this legislation will give such persons a way to deal with their grievances and, in the long run, eliminate those sorts of problems from the building industry.

The Hon. IAN COHEN [6.42 p.m.]: Though I appreciate the rush to deal with matters, I feel compelled to take a moment to support what was said by the Hon. John Ryan. Mrs Irene Onorati has done a fantastic job. She has put her heart into it. Irene Onorati and her friends have suffered from the difficulties wrought upon them as innocent victims. She has been a very brave person, because she would not otherwise have taken on advocacy of these matters. I know the Greens would support me in saying that Mrs Onorati deserves official recognition for the fantastic work that she has done for the community.

The Hon. HELEN SHAM-HO [6.43 p.m.]: I endorse what was said by the Hon. John Ryan. I want to put on record my appreciation of the good work done by Irene Onorati over a long time for consumer groups and individuals. They have benefited greatly from her work. Other community members also have suffered because of these issues. They have all suffered enough. I hope this legislation will go some way to addressing these major problems.

Government amendment No. 1 agreed to.

Amendment of the Hon. Dr Arthur Chesterfield-Evans of Government amendment No. 2 agreed to.

Amendment of the Hon. Dr Peter Wong of Government amendment No. 2 agreed to.

Government amendment No. 2 as amended agreed to.

Recommitted schedule 2 as amended agreed to.

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

GENERAL PURPOSE STANDING COMMITTEE No. 5

Government Response to Report

The Hon. Ian Macdonald, on behalf of the Leader of the Government in the House according to the resolution of the House of 30 October 2002, tabled the Government's response to report No. 15, entitled "Feral Animals", tabled 29 October 2002.

Ordered to be printed.

[The Deputy-President (The Hon. Helen Sham-Ho) left the chair at 6.46 p.m. The House resumed at 8.00 p.m.]

NATIONAL PARK ESTATE (RESERVATIONS) BILL

Second Reading

The Hon. IAN MACDONALD (Parliamentary Secretary) [8.00 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

I am proud to introduce this bill, which is a key element in a process of forest conservation and reform unprecedented in the history of this State.

This bill brings the total area of new parks and reserves created by this Government, through its regional forest assessment process alone, to more than 1 million hectares.

This is an unparalleled conservation achievement.

This bill delivers to the people of New South Wales an additional 145,000 hectares of national parks and other reserves up and down the east coast.

It also gives additional statutory protection to more than 300,000 hectares in forest management zones in which logging is not permitted on state forests in the upper and lower north east regions.

And it achieves all this without any impact on the timber industry and without any impact on the forest agreements which this Government has forged to give certainty to industry and to ensure the ecologically sustainable management of our forests.

This bill is in many ways the culmination of all the achievements of our forest policy which this Government has delivered on since 1995.

It does not mean that the efforts to improve conservation and management of our forests is complete, but it does mean that this Government has put in place a reserve system, combined with a suite of other forest reforms, which not only increases the immediate protection of significant areas but also improves the way in which forests are managed for their conservation and resource values.

In delivering important conservation outcomes in the northern regions, the bill implements the Government's commitment to complete its assessment of public lands in the upper and lower north east regions of New South Wales, given in our 2001 *Action for the Environment Statement*.

As a result, approximately 145,000 hectares are being immediately added to reserves under the *National Parks and Wildlife Act* in north eastern NSW and in the southern and Eden regions.

This includes transfers from State forest, Crown land (including leasehold land), freehold land, and also transfers from Crown reserve to State conservation area.

I wish to emphasise that the State forest considered for transfer to national park and other reserves was confined to forest management zone 1, 2 and 3A. There are also some small areas of FMZ 7 (non forestry use) and FMZ 8, an interim zoning, which have been agreed for transfer.

Some small areas of forest management zone 3B and 4 within State forests were included in the bill in advance of their transfer to FMZ 2 or 3A.

These areas have been agreed between State Forests and National Parks and Wildlife Service for transfer to FMZ 2 or 3A—but this had not occurred by the time the bill was introduced.

Accordingly, the Government will move an amendment to remove these areas from the bill, to ensure no areas of State forest in which logging is permitted are transferred by the bill.

Logging is not permitted in forest management zones 1, 2 and 3A and, accordingly, timber volumes will not be affected by the outcomes enshrined in this bill.

Therefore the bill fully preserves the regional forest agreements this Government entered into with the Commonwealth, which allows for the upgrading of areas from informal to formal reserve.

Clause 69 of the Regional Forest Agreement for north-east NSW agrees to the enhancement of the reserve system through "the acquisition of private land by voluntary sale, transfers of Crown lands or transfer of land from an existing reserve tenure to one of higher conservation status."

The agreement requires that any enhancements do not "impede the management of State forest lands or the meeting of wood supply commitments in the region".

Consistent with this, the bill does not in any way affect the 20-year wood supply agreements entered into with the timber industry—agreements which provided it with the certainty they had long been seeking and which previous Governments had failed to deliver.

The timber industry is, of course, not the only industry with an interest in the management regimes of public land. This Government is mindful of the potential effects of changes in tenure over public land on surrounding neighbours and on licence holders.

The changes which this bill implements have been undertaken to improve conservation outcomes while taking into account the impact on other users.

The Government's occupational permit task force will consider management issues relating to impacts on licence holders. Any economic and/or social effects of termination on licence holders will, as far as possible, be dealt with on a case-by-case basis through the task force.

It is not the intention of the Government that licence holders be unduly disadvantaged by its decisions.

The role of the task force will be to assess the impact on land-holders of the revocation of occupational permits and permissive occupancies.

The task force will recommend on initiatives to ameliorate impacts such as the acquisition of freehold land and Crown leases that are no longer viable and on compensation for infrastructure that can be used in the management of the park or reserve.

The task force will include a representative of the NSW Farmers Association and will be based on the model effectively used following the upper north east and lower north east decisions in 1998.

The task force will also consider any economic and social impacts, and the amelioration of these impacts, on occupational permits and permissive occupancies affected by these decisions such as transitional arrangements, fencing and access issues.

This Government has always aimed to achieve a balance with its forestry decisions—to take into account and deal with the issues which all stakeholders have.

That is why we will not allow licence holders to be neglected by this process, and will make every effort to ease the transition from one tenure to another.

I think it is also important to draw attention to the new category of State conservation area under the *National Parks and Wildlife Act*.

This new category of reserve was established with a dual purpose: to protect conservation values while permitting mineral and petroleum exploration and production.

The category of State conservation area has been created to allow for exploration and mining to proceed while also protecting conservation values.

While exploration and mining will require the concurrence of the Minister for the Environment and environmental impact assessments, it is important to emphasise that the Government intends that exploration and mining will occur within State conservation areas.

It is acknowledged that there will continue to be natural areas which have both high conservation values and high mineral value over which the category of State conservation area would still not be appropriate.

State conservation areas are those areas where it has been agreed that it is possible to manage the area for conservation and permit exploration and, if significant discoveries are made, to permit mineral and petroleum production.

If I can deal firstly with the key conservation outcomes on the east coast, in the upper and lower north east regions, the bill provides for the immediate addition of approximately 121,000 hectares to management under the *National Parks and Wildlife Act 1974*.

This is made up of approximately 69,700 hectares in national parks, 3,800 hectares in nature reserves and 47,500 hectares in State conservation areas.

State conservation area additions include both transfers from Crown reserve and the creation of new State conservation areas.

An additional approximate 59,000 hectares will be transferred to the National Parks and Wildlife Service estate after finalisation of discussions with stakeholders, and through voluntary acquisition of Crown leasehold lands by the National Parks and Wildlife Service, bringing the potential maximum reservation to approximately 204,000 hectares.

In the southern and Eden regions, the bill provides for the immediate addition of approximately 24,000 hectares of Crown reserve to management under the *National Parks and Wildlife Act 1974* as State conservation areas.

The bill creates 52 new national parks, nature reserves and State conservation areas and provides additions to 41 existing parks and reserves in the northern, southern and Eden regions.

Furthermore, the bill provides the increased statutory protection of special management zones on State forests under the *Forestry Act 1916*, which I will discuss in more detail at a later point.

This bill gives effect to key aspects of the Government's forest policy, including its commitment to the creation of a comprehensive, adequate and representative reserve system.

The bill also provides for other miscellaneous actions, including revocation of certain State forests in the Sydney and Eden regions for declaration as nature reserves and the transfer of an area in the Eden region to the local Aboriginal land council.

Our success in delivering on this policy is a great achievement for the people—not only of New South Wales but for those beyond our borders. The legacy of this Government's decisions on our forests will be applauded by future generations.

Seven years of forest assessments under this Government has resulted not only in unprecedented levels of scientific and other data, but also in the conservation of more than one million hectares of New South Wales forests.

It has also resulted in a legislative process for ensuring ecologically sustainable forest management through forest agreements and integrated forestry operations approvals.

And it has resulted in 20-year security for the timber industry.

Our aim has been to create a reserve system which is comprehensive, adequate and representative, protecting and conserving the biodiversity of the State's forests through scientific and systematic rather than piecemeal reservation, while at the same time creating viable and ecologically sustainable forest industries.

Central to this achievement has been the *Forestry and National Park Estate Act 1998*. That Act was a major piece of legislative reform which subsequent forestry legislation, including this bill, has been based on.

I am proud that I can set before you this bill which is a key element in such a major undertaking of forest reform.

I now turn to the details of the bill, the object of which is to transfer certain land to the national park estate and to make provision for the transfer of certain land to Aboriginal ownership.

The bill is divided into three parts, which I shall outline to the House.

The first part is the preliminary section, which, among other things, provides for the commencement of the proposed Act on 1 January 2003.

Part 2 deals with land transfers, the details of which are described in the schedules, which I shall discuss shortly.

I draw your attention to clause 11 of the bill, which enables the Director-General of National Parks and Wildlife to adjust the descriptions of land in schedules 1, 2, 3, 4, 6 or 7. These adjustments must be in order to alter the boundaries of the land for the purposes of the more effective management of national park estate land and State forest land and to adjust boundaries to public roads.

Any such adjustment must not result in any significant reduction in the size or value of the land. Adjustments are also authorised in connection with easements.

The Director-General must have the agreement of relevant Ministers to make any changes.

Adjustments must be made before 31 December 2003 or, in the case of an adjustment of the boundary of land adjoining a public road and land described in schedule 4, by 31 December 2007.

Part 3 of the bill covers a number of miscellaneous matters giving effect to the provisions of the bill.

I now turn to the schedules to this bill. Schedule 1 deals with State forest reserved as national park, nature reserve or State conservation area in the northern region.

Schedule 2 deals with Crown lands that are reserved as national park, nature reserve, Aboriginal area or State conservation area in the northern, southern and Eden regions.

Schedule 3 sets out the lands within State forests that are declared as special management zones under the *Forestry Act 1916* in the northern region.

Schedule 4 sets out the land, whose dedication as State forest is revoked, and is vested in the Minister administering the *National Parks and Wildlife Act 1974* for the purposes of part 11 of that Act in the northern region.

Schedule 5 deals with State forest that are to be transferred to the Eden Local Aboriginal Land Council.

Schedule 6 deals with freehold land vested in the Minister administering the National Parks and Wildlife Act or Her Majesty, reserved as national park or State conservation area in the northern and southern region.

Schedule 7 deals with the revocation of remnant flora reserves in the northern and Eden regions. These are fragments remaining after the transfer of the bulk of those flora reserves to the national park estate by the *Forestry and National Park Estate Act 1998*.

Schedule 8 makes ancillary and special provisions relating to transitional arrangements. These include the exclusion of freehold and certain leasehold interests from the provisions of the bill, except in the case of land that immediately before the commencement of the Act was vested in the Minister or Her Majesty for the purpose of part 11 of the National Parks and Wildlife Act 1974.

It deals with existing interests and gives the Minister administering the National Parks and Wildlife Act administration of those interests where land is transferred to the management of the National Parks and Wildlife Service.

Schedule 8 also contains special provisions with regard to access roads within national parks, nature reserves et cetera.

Schedule 9 amends the *Forestry Act 1916* to provide that a notice declaring an area of State forest to be a special management zone may only be revoked by Act of Parliament.

Schedule 9 also amends the *Native Title (New South Wales) Act 1994* to preserve native title rights and interests in respect of a reservation, dedication or vesting of, or declaration over, land or waters by the operation of the proposed Act.

The assessment process in the east coast forests of this State has been conducted with the participation of stakeholders at every level. It has created unparalleled levels of conservation in our forests while ensuring the viability of ecologically sustainable forest industries.

I commend this bill to the House.

The Hon. PATRICIA FORSYTHE [8.01 p.m.]: It is a pleasure to speak on the National Park Estate (Reservations) Bill because it gives me the opportunity to make some comments on the environmental background to this legislation. This is an important bill, but, as the Coalition said in the other place, we have a great deal of concern about the process that has underpinned it, not with the principles enshrined within it. At the outset may I say that it is an enormous privilege to be the shadow Minister for the Environment—a privilege that would be surpassed only by being the Minister for the Environment.

The Hon. Ian Cohen: Hear! Hear!

The Hon. PATRICIA FORSYTHE: The Coalition intends to address that matter next year. I acknowledge the interjection because I believe all members of this House recognise that the environment is important. It is becoming more and more clear to the Coalition that the public policy decisions taken on the environment are important not only for the current generation but also for future generations. During a period of

drought and at a time when serious adversity is being caused by bushfires, the environment is brought into stark focus. All honourable members must stop to consider whether decisions that have been taken in the past and decisions being made at present are in the best interests of the whole community and the future of the environment.

I have been reading with much interest "Blueprint for a Living Continent", a paper prepared by the Wentworth Group of Concerned Scientists and delivered to the Federal Government on 1 November 2002. This is a document of such importance that all members of this Parliament should pay close attention to it. The principles espoused in that paper make it clear that many of the decisions taken in the past will not serve us well in the future. If the environment has been an issue of importance and, indeed, some controversy for many years, it will again be brought into sharp focus in the next Parliament and parliaments of the future because we will have to come to grips with issues that have arisen out of the combination of the drought and other factors—particularly bushfires at this point of time—and all of those factors are relevant to this legislation. My attention was drawn to page 14 of the Wentworth paper, which points out that the reality is simple. The paper states:

... we cannot fix our environmental problems by wishing them away and we can't expect our farmers to pay the full cost of repairing past mistakes. Our nation was built on the back of our rural industries and all Australians have benefited, not just farmers.

I cite that reference as an introduction to the position that the Coalition will take on this legislation. As I stated at the outset, the Coalition does not oppose the bill in principle. The Coalition has a long history of support for the national park estate. The Coalition is proud of that history, which will underpin future Coalition policies. However, having said that, I must say that it is the responsibility of government not only to operate on good principles but also to follow good practices.

The Coalition accepts the proposal enshrined in this legislation to transfer 145,000 hectares of land comprising forests, Crown land, leasehold land, freehold land and Crown reserve land in the upper north-east region, the lower north-east region and the Eden region of New South Wales to the national park estate. However, the process giving rise to the legislation was flawed. I reiterate that the Coalition is not against the principle, and no-one should quote anything in this speech to support a claim that the Coalition opposes the objective of the legislation. However, we are absolutely convinced that the Government got the process wrong. Although this bill relates to national parks, it has been brought forward as a result of the Resource and Conservation Assessment Council [RACAC] process. This bill is the responsibility of the Minister for Planning—a Minister who is said to be impartial in the process—not the Minister for the Environment or the Minister for Forestry. I thank the Minister for Planning's advisers for providing me with an appropriate briefing. I was particular about the questions I asked at that briefing.

One question that I asked related to permit holders, those people who had grazing licences, occupational permits to graze. I asked what was the likely number of families impacted by this legislation. I wrote down the answer, and there were two other people present at the meeting. The Minister's advisers told me that they expected the number to be about 35. After talking to the New South Wales Farmers Association and other people with knowledge of and an interest in the area and reading correspondence from people on the North Coast and the Grafton region, it seems that the number is more like 150. That is a fundamental issue because, first, it tells me that the Government does not know the impact the bill will have. Second, it is clear that the Government has not consulted. The Minister said in his speech in the other place that before introducing the bill the Government had not consulted with the people. Its intention is to do so after the bill has passed through Parliament. The Government will then set up a task force, which it claims will be appropriately representative of all the interests.

The Government particularly identified the New South Wales Farmers Association as one of the key groups, as if that is meant to justify the process. The Opposition believes that a better approach would be to indicate an intention and bring in a draft bill. It has been a longstanding practice to introduce draft legislation as a basis for consultation and then work through the outcomes of the legislation. But the Government should not ask Parliament to pass the bill and then tell the affected people what will happen to them. That is the wrong way around. The Government should take the affected people into its confidence. Shortly, I will read into *Hansard* the views of some of those who will be affected.

While the bill is important to the future of the environment, we must never forget—and it will be a hallmark of my term if I am Minister for the Environment—that the process of dealing with this sort of legislation involves people as well. And this bill impacts on people. When the bill was debated in the other place the Coalition sought three principal assurances. The first was that the part of forest land to be excised from State

forests and handed to the national park estate would in no way impact on the 20-year supply of timber under the regional forestry agreements. The Minister for Planning gave that assurance—and that is the key. If that assurance had not been given, many of the principles underpinning the bill would not have been achieved.

The Government gave an assurance. I have now seen the amendments the Government intends to move to correct its mistakes. It did not get it right; I will say more about that later. What does that tell us? First and foremost it tell us that the process was wrong. The claims of the Opposition about the process have been proven by the fact that the Government has had to correct the maps and amend the bill. The assurance given by the Government that the bill will not impact on any timber supplies has proven to be unreliable. Mistakes have been found. That suggests to us that the bill has been introduced in haste.

We also sought an assurance that freehold land would be transferred into the national park estate only by voluntary agreement. The Minister's advisers assured me during my briefing that all of the freehold land that will go into the national park estate has already been purchased by the National Parks and Wildlife Service and it is now only a matter of transfer of title. I put that on the record because it was a matter of concern. Our concerns in that regard have been satisfied. However, the third issue for the Coalition, a matter that has caused us so much concern, is the fact that the bill is being dealt with on 5 December 2002 when two overwhelming events are occurring. Almost 100 per cent of the State and absolutely all of the areas to be incorporated in the National Park Estate (Reservations) Bill 2002 are drought declared. Secondly, on this very day the State is feeling the terrible impact of bushfires. Bushfires have already been through some of these areas and have had a terrible impact on many of the people there. So we are dealing with the bill on what is effectively the last sitting night of the Fifty-Second Parliament.

In the lower House the Coalition spokesperson said that the bill will make very little change but will have a large impact on people. The bill will not impact on the timber supply because the land involved is already in special management zones. It is already land that cannot be logged. It is already in the areas that have been determined to be inappropriate from which to gain timber, for topographical and other reasons. The freehold land has already been purchased; it is a question now of incorporation into a national park. So nothing changes there; it is already effectively in the hands of national parks. What is the only thing left? The impact on those people who have an occupational permit. I want the House to understand that this is about people. Yes, it is a bill about the environment, and environmental considerations are important, but we must never lose sight of what it means when we make decisions, when public policy impacts on individuals. I have a number of letters from people, broadly speaking in the Grafton community, who will be directly impacted by the bill. I thank each of them for their correspondence. I have not asked each of them for permission to identify them by name so I will not, but I will quote from each of them a little of what they say it will mean for them if the bill is passed. The first letter states:

Our family operates a grazing enterprise north west of Grafton, we have our freehold land and we also lease as an Occupation Permit (OP) a large parcel of land on an annual basis from State Forest. The OP lies between the two parcels of freehold.

This is the area that will be particularly affected by the bill. The letter states further:

The recent bushfires burnt 98% of our freehold and OP area, fires from Guy Fawkes and Gibraltar National Parks swept through our place and we are now faced with a lot of hungry cattle, no feed and burnt fences. We lost between 75 and 100 kilometres of fencing and at a minimum rate of \$3,500.00 per kilometre... who will pay? This latest move by the State Government will be the last straw for not only us but many farming families.

No one from government has talked to us about how this will impact on us, they make these decisions and just walk away.

This family has two freehold parcels of land with the leased land in the middle. If we pass the bill tonight, they will have not only hungry cattle, no feed and burnt fences, but also they will have to fence around the leased area because under the changes their cattle will not be able to stray onto the area that will become national park. They will have to retain the cattle on their burnt land without any feed at a time of drought. That will be the consequence if we pass this bill tonight. Another letter states:

Our family will lose the only remaining Occupational Permit when this National Park Estate (reservation) bill is enforced.

This is not new to us, we have lost a parcel of land with every announcement made by the Government since 1995.

They had extensive land and they say:

In 1996 the remaining thousand hectares and the adjoining occupation permit formed a new national park leaving us with a 66 hectare parcel of freehold too small to run cattle on, completely surrounded by national parks and no practical or legal access.

This parcel was finally sold to national parks in 1999. We have one remaining occupation permit, it was riddled with forest management zones and just as we have been expecting we are now to be forced from this area.

Indeed, they may well be. Would it not be better if the Government had consulted with them prior to the bill coming into the House so they had some idea of their future? Because tonight, if and when this bill is passed, these people will know that hanging over their heads is an uncertain future. Where do they take their cattle in drought? There is no feed left in most of the rest of the North Coast. The cattle cannot be put on agistment when there is nowhere to put them.

The Hon. Richard Jones: Aren't you going to do anything for the wildlife?

The Hon. PATRICIA FORSYTHE: The Hon. Richard Jones could have been here earlier to hear the first part of the contribution. He might have understood the context in which I am putting this. Another letter states:

Along with the freehold area, parcels of Occupational Permits have always been a part of the Station dating back to the mid 1800's. Due to the long association with the freehold and always being managed as a whole property, the boundary between the lease and freehold is not defined nor fenced.

That clarification is going to be one of the issues because the next step for these people is that they are going to have to fence their property. What does that currently mean? Remember I am putting this in the context of time. For the benefit of the Hon. Richard Jones, who could have been here earlier, I am not saying it should not happen, I am saying that in the context of the drought and the fires and no consultation with these people, this is a very onerous piece of legislation. I quote from another letter I received from an affected land-holder:

The fires, the most severe coming from Chaelundi National Park, burnt 65 percent of our country. National Parks did not contact me or notify me of the approaching fire, the only contact made was after the first severe fire when they asked could they use the Station's airstrip.

We have lost fencing, drafting paddocks, gate posts and who will pay to replace them? The problem is, we put fences up and National Parks burn them down, this is the second time in three years fences have been burnt.

This latest Forest Management Zone Bill is nothing more than a land grabbing exercise by National Parks...

As I said, I am not objecting to the fundamental principles. But to put it into context, the affected people will have to deal with the issue of fencing. In many cases they will have no income. We are in a drought. Many of these people have had to get rid of stock.

The Hon. Richard Jones: We have always had droughts.

The Hon. PATRICIA FORSYTHE: You did miss the beginning of my contribution. I am not disagreeing, I am saying that the timing is wrong. The best thing the Government could have done was to have brought this in as draft legislation. The Government could have left it lying on the table for some time, and consulted first, not get the process the other way round, which is what has happened. These people have no idea about their future. I have already agreed that in the future we will have to change many practices. As I said earlier, I have read what the Wentworth group, as an eminent group of scientists, has said about the direction that we need to take. The need for environmental policy and agricultural policy is an important message we cannot ignore. But, in the process, we should not see everything in black and white but put it in the context of what it means for people on the ground and listen to what these people are saying. Another message headed "Another Blow for Farmers" states:

Notices will soon be sent to 154 farming families on the North Coast telling them to evict their cattle from Forest Management Zones within Occupational Permits (OP), as another 145,000 hectares are added to the National Park Estate.

The Minister's office told me they thought it might have been 35 families. The message that I have received states the number is 154 families. The Government does not know and it has not consulted. We are proud of the 145,000 hectares that might be there; we think it is important to add to the national park, but for goodness sake get the process right. Do not just go on principles, do not just have the Premier out there saying, "Isn't it fantastic we have added yet more land to the national parks", while ignoring the people. I came into this place to make a difference in the lives of people. I cannot just stand by and have people write to me that they have nowhere to take cattle to graze, or no money to rebuild fences that have been lost in fires. People will have to put in fences where they have never had fences because they are about to have a new boundary with national parks. It all has to be put in the context of the current drought. I ask that commonsense prevail. That is the position being taken by the Opposition. As one family wrote to me:

Many of the Forest Management Zones were burnt to a cinder in the recent fires when they ravaged through 470,000 hectares on the far North Coast and Northern Tablelands, nothing survived, flora burnt beyond its liking and the fauna is all gone. Nothing escaped this fire. The forest is silent. Now more of our land has been earmarked for the same type of management that allows this type of destruction to be so predictable.

Turning to management, I am perhaps a little softer than some of my colleagues who will speak tonight on this bill because I understand that there will be seasons when, for a number of climatic reasons, we are going to have severe bushfires. There will be severe bushfires that will ravage the national parks and other areas of the State—that is a given. The Government's argument is—and I do not think the facts in any way dispute it—that there is a culture now in the National Parks and Wildlife Service that is against appropriate hazard reduction and, in particular, hazard reduction where parks adjoin private land-holders.

I am a regular consumer of the New South Wales National Parks and Wildlife Service web site. I particularly like the section headed "Bushfires Summary", and I have been following its updates for weeks. Today we are going to add 145,000 hectares to the national park reserves. As at Tuesday 3 December, for the winter and spring period in an average year, over a five-year annual average, about 84,982 hectares would be burnt as a result of bushfires. How much would have been lost in the months from July to the end of November? It was 353,230 hectares. That is interesting because on 18 November the department was saying it was 359,000. I understand that one cannot be precise and the figures seem to have gone backwards. But the more significant issue is the number of fires that have started in a park and moved outside park boundaries. The five-year annual average is 21. These annual figures include the last bad bushfire year of 1997-1998—the worst year—and the annual average is 21. We were at 45 at the end of spring. Imagine what it will be like at the end of summer.

Fires have started outside parks and have moved into them. I do not want to get that out of balance, but when fires move outside parks, in almost all cases they will move into private land. Those are the sorts of messages we have heard here tonight. As we focus on adding to the national parks we have to ask the question, have we allocated sufficient resources to manage what we have? Have we allocated sufficient resources to be able to properly care for what we have and to deal with it at this most critical time? If we say we have sufficient resources in a normal year, that might be so, but this is not a normal year.

The National Parks and Wildlife Service web site always concludes with some fire fact, such as: Did you know that the National Parks and Wildlife Service is "the primary agency in New South Wales with fire suppression and fire management responsibility for parks and reserves in this State"? Notwithstanding the extreme weather conditions, the service has not been doing a good job. One only has to read what it means for people in the Grafton community who are about to lose their occupational permits. If the people affected were consulted, if they knew more about the declaration than when it appeared in the Parliament, and if the New South Wales Farmers Association and the Forest Products Association, who are both represented on the Resource and Conservation Assessment Council [RACAC], were given precise information about where it was to occur and what would be involved, not merely that it would occur, we could have worked through the process.

The Opposition will move a critical amendment to provide certainty for at least a minimum of three years. The drought may finish tomorrow or at some future time but we must have a starting point for proper consultation. Anything less and the process is flawed, which is proved by the fact that the Government will move many amendments tonight. The Government knows that when it gave a commitment in the other place that no timber supply would be impacted on, it got that wrong. If it got that wrong then potentially other aspects of the legislation could be wrong. If they accept the Opposition's amendment, we will be more than happy to support them at the third reading stage. If not, we will not be able to support the Government at the third reading stage of the bill.

The Hon. MALCOLM JONES [8.31 p.m.]: I oppose the National Parks Estate (Reservations) Bill, the object of which is to transfer certain land to the national parks estate in primarily the north-east region of New South Wales and to provide for the transfer of certain land to Aboriginal ownership. This follows land processed through the RACAC assessment system. One of the main complaints about the bill is a lack of consultation with stakeholders, who have not been informed. A number of families have been affected. Surprise! Surprise! Ever since I have been in this place I have continually drawn attention to the Government's lack of consultation on land tenure.

It seems that the hard lessons learned by the National Parks and Wildlife Service on consultation have not been transferred to PlanningNSW. I have been responsible for massive protests during the transfer of land tenure from one category to another. Generally, the National Parks and Wildlife Service have disregarded them.

Over the years I have attempted to access submissions from the public to assess levels of support. Once upon a time this information was available under freedom of information, but some two years ago the current Minister for the Environment refused to grant access to public submissions on the basis that:

... copies of individual submissions could not be released to you as such disclosure may well breach relevant provisions of the Privacy and Personal Information Protection (PPIP) Act.

Because I was not happy with that response I took the matter to the Ombudsman. I argued that public submissions made to local councils or development applications [DAs] were treated differently. Chris Wheeler from the Deputy Ombudsman's office, who has done a terrific job for the people of New South Wales, extracted the following comments on the National Parks and Wildlife Service:

We drew Mr Gilligan's attention to chapter seven of the *Ombudsman's FOI Policies and Guidelines* concerning rights of members of the public to obtain access to objections or submissions lodged with councils about DA's. As the relevant section observes, the Ombudsman considers that such objections and submissions about DA's should generally be disclosed by councils on request, without the need to lodge an application for such documents under the provisions of the FOI Act.

The NPWS has now written to us advising it has amended its guidelines relating to privacy and the handling of public submissions. Those amended guidelines now assert that confidentiality will generally not be available in respect of submissions received from members of the public about reviews or proposals for NPWS managed lands.

The very subtle and slight changes in the attitude of the National Parks and Wildlife Service to dealing with the general public are most welcome and nice to experience. PlanningNSW can learn from these subtle changes. The public must be consulted, otherwise resentment will grow. We must have the public on side when we make decisions that require large amounts of financial commitment from the public to finance land management on this scale, otherwise funding ultimately will dry up. Many people who have access to, or tenure of, public land or whose land adjoins such land will be affected by any changes in land management. People have tenure of public land that has been drawn into the national parks system. The drought and resulting lack of stockfeed across the State have resulted in notification to terminate access.

Transferring land to the national park estate can create access issues. I canvassed long and hard on that issue at this time last year during debate on the national parks and wildlife amendment legislation. The bill seeks to move a substantial quantity of land into the State's national park estate. This involves transferring State forest, Crown land, leasehold Crown land, freehold land and Crown reserve land. The Government has refused to guarantee that freehold land will not be identified as wilderness. The bill exposes further land to such vulnerability. Some 52 new national parks are being created and additions are being made to existing national reserves and parks, but extra resources for park management are not mentioned. The National Parks and Wildlife Service has a poor management record, especially in hazard reduction, control of feral animals and noxious weeds, and access. However, the more enlightened management practices of the National Parks and Wildlife Service, which are emerging, are promising. I would like the Minister to provide more information about due consideration of these issues.

The National Parks and Wildlife Service has a poor record of hazard reduction. I have quoted figures many times in this House. The National Parks and Wildlife Service has a philosophical reluctance to hazard reduction. Hence, insufficient hazard reduction has been undertaken. A great deal can be done to minimise risk if extensive back burning is carried out during wetter periods to reduce hazardous fuel loads. However, we have had to yield to extreme environmentalist ideology that has contaminated the good management practices of the National Parks and Wildlife Service. The results are there for everyone to see. We often lose sight of the big picture when we talk about bushfires in national parks. The "and Wildlife Service" in National Parks and Wildlife Service tends to be forgotten by some environmentalists. When these bushfires burn, as they are a burning now, implementing hazard reduction practices cannot stop them.

Hazard reduction will minimise the intensity of fire in some areas. If hazard reduction had been undertaken responsibly in the past seven years, we would not be experiencing these catastrophes. Notwithstanding that, we would still have bushfires. Fires kill animals in the most painful way possible. The National Parks and Wildlife Service [NPWS] has a duty of care; it must do the best it can for those animals. The practices employed over the past few years have been totally irresponsible. Given current public opinion, I do not believe that these practices will be allowed to continue in the future, once El Niño moves on and we return to more sane weather conditions.

I have referred to hazard reduction in this place many times. Premier Carr and Mr Debus have been told about this often enough to know better. Anyone who rejects that should check *Hansard* to see the number of questions that I have asked during question time and at successive estimates committee hearings. When I wrote

this speech a few weeks ago I suggested that we should pray El Niño would spare us the drought conditions that could quickly create firestorm conditions. Unfortunately, we are currently experiencing the worst firestorms ever. This year will be worse than last year; there is no end to it. I have not been able to spend much time with my bushfire unit, but when the House rises I hope to be able to help out. The firefighters are real heroes. Today is the International Day of the Volunteer. These people do not seek praise, although they deserve it.

Phil Cheney, the Commonwealth Scientific and Industrial Research Organisation's principal scientist and bushfire researcher, has been studying bushfire management for 20 years but land managers do not heed his words. He laments that during his working life he has been trying to persuade people about the need to undertake prescribed burning. He pointed out that when State Forests managed much of New South Wales bush there were regular prescribed burns designed to manage the tree crop effectively, but that certain elements of the conservation and wilderness movement did not believe in man-set fires. That is the source of the problem; it is a political issue, not a management issue, and it is being driven by a ruinous ideology. This State is being burnt to a cinder.

We also have problems with feral animals. General Purpose Standing Committee No. 5 has been involved in a lengthy feral animal inquiry and has produced a substantial report, which I commend to the Government. Sadly, the feral animal situation has reached crisis point. The committee visited constituencies throughout New South Wales and saw the devastation of properties and lives in rural communities. Feral dogs have been the main perpetrators of that devastation. The committee's report into feral animal says it all and contains many recommendations. I urge the Minister for the Environment, the Minister for Planning, the Premier and everyone else to read the report and the recommendations, especially the dissenting report, which was signed by the Hon. John Jobling, the Hon. Rick Colless and me. The report indicates that the feral animal crisis is worsening; it is far from over.

The NPWS must increase its funding commitment to feral animal management. It has the capacity to do so; it is extremely well funded when compared with other government agencies. If it were to focus more closely on this problem, it could target devastated communities. The transfer of land to the NPWS is fraught with danger. The Hon. Patricia Forsythe has eloquently enunciated the potential problems. We would be transferring land into a management system that is beset with difficulties that must be addressed. If they are not, we should not give the service any more land. It is as simple as that. My particular interest is the recreational use of public land. This bill lacks any safeguards for such use. For all of the reasons I and other honourable members have alluded to, I oppose the bill.

The Hon. RICHARD JONES [8.35 p.m.]: As I have said previously, the destruction of the Myall Lakes area by National Lead Inc. brought me into this Chamber. My involvement began about 30 years ago with the Myall Lakes committee. That is when I first met Milo Dunphy and the then Robin Askin—the former Premier later changed his name to "Robert"—told me that I might know something about publishing but I know nothing about politics. It is interesting that I have now come full circle: This will be my last speech on national parks and wildlife reserves. I am sure the Hansard reporters will be happy about that! I have previously shown the House a photograph of New South Wales taken a few weeks ago and one of Australia taken a few months ago. They demonstrate how little is left of our forests, particularly in New South Wales. We must take immediate steps to protect the remainder of the national estate.

The bulk of our forests are in public hands—most of the privately owned forests have been cleared, which is an indictment on those responsible. Far too much forest has been cleared over the years, and most of that clearing has taken place in the past 30 years since I first started campaigning on this issue. I am pleased to say that the Myall Lakes area has been a national park for some years. This bill will add another 69,700 hectares to the national parks system. People are complaining about these additions for various reasons. They believe that because of the drought we should not be adding land to the national estate and we should not be asking people to take cattle out of national parks. We need areas in the State for wildlife as well as cattle. Cattle are relative newcomers to this country; in reality they are feral animals. The wildlife has been here for millions of years but we are leaving it very little space in which to live. Only about 6 per cent of western New South Wales has been included in the national parks system, which is barely enough to provide refuges in time of severe drought.

An NPWS ranger told me the other day that two months ago he was receiving requests to shoot kangaroos, but over the past two months he had received virtually none because there were no kangaroos left to shoot. The NPWS is relying on those refugia to provide stock for a future return to the natural population level. Cattle and sheep should not be grazing in western New South Wales because the country is too fragile. The return from grazing on land in that area is very small compared to the potential return from tourism. It is about

time people woke up to the potential of tourism, particularly if tourists come from Europe. They would be fascinated to see mobs of red kangaroos. They were common 30 or 40 years ago, but they are rare now. Each of those kangaroos is probably worth between \$100 and \$1,000 as a tourist resource. During the 1920s, two or three million koalas a year were shot for the fur trade. No doubt members of the National Party would be involved in that industry today if it were still operating. Koalas were virtually wiped out, and they are now estimated to be worth \$1 million each in tourist dollars.

The Hon. Rick Colless: There are 15,000 koalas in the Pilliga scrub.

The Hon. RICHARD JONES: They would be worth \$15 billion in tourism dollars, I presume. Tourism is the biggest growth industry in Australia. Periodically we have droughts, but the current appalling drought is one of the worst for a long time and seems to be exceeding that of 1982-83, when up to 70 per cent of all kangaroos on the eastern seaboard died. However, the National Parks and Wildlife Service denied that fact in answer to a question I put to it a few days ago. Today the killing quota is much larger than it was 20 years ago. Fortunately we have some remaining refugia, which had been acquired by the service. We desperately need those refugia. I am pleased that the service is not cutting off watering points in those national parks during this heavy drought. If it were, we would have precious few kangaroos left. I hope that the drought will break shortly. A lot of nonsense is talked about the management of national parks. During the parliamentary committee inquiry into feral animals we heard plenty of evidence to the effect that feral animals are controlled much better in national parks than in State forests, land controlled by the Department of Land and Water Conservation or private land.

The National Parks and Wildlife Service has had a lot of pressure placed on it to deal with feral animals. It is spending a lot more money than other government agencies and, I suspect, the private sector with respect to controlling feral animals. It is a nonsense to suggest that when an area is declared a national park it suddenly becomes a haven for feral animals—the animals were there before the area was declared a national park. Hunters have introduced feral animals across the State, including those who benefited by the appalling Game Bill that was passed earlier this year. Pig doggers are introducing pigs, deer hunters are introducing deer—and that is what is causing the problem. I had my eyes opened to the problem in Myall Lakes by one Henry Jones, an old friend of mine. He became my campaign manager in 1972, and during the campaign we achieved a number of firsts that I will not go into at this stage. It is good to know that some remnant areas are in national parks; I hope wildlife will have some refuge in those areas. It is true that the fires that rage through those areas periodically are sometimes caused by lightning strikes and sometimes by motorists throwing cigarettes from their cars—an appalling thing to do.

Reverend the Hon. Fred Nile: Ban smoking in cars.

The Hon. RICHARD JONES: During times of severe fire risk, such as now, people who throw cigarette butts from their car windows should pay a fine. Perhaps the current litter fine should be doubled or tripled—perhaps it should be thousands of dollars instead of a few hundred dollars.

The Hon. Patricia Forsythe: It is a few hundred dollars only because the Coalition amended the original litter bill.

The Hon. RICHARD JONES: Well, that is good. However, the fine should be a lot more than that. How many of the fires that sprung up instantly yesterday were caused by cigarette butts? Many times I have driven around the city and seen people throw cigarette butts out of their car windows—I am sure the Hon. Patricia Forsythe has seen that too. At night one sees the sparks hit the roadway. Recently in William Street I saw a person throw a cigarette butt out of her window. I opened the door and gave it back to her. She said, "I knew you were going to tell me off about that." I said, "Don't do it."

The Hon. Patricia Forsythe: It can be dealt with as a criminal offence.

The Hon. RICHARD JONES: Yes, especially at times such as this when it can result in the loss of life and property. The issue should be treated far more seriously. Smokers do not think about opening their car window and throwing out their cigarette butts. Smoking is not only a dreadful habit that kills people and causes problems for others—for example, infants—it also causes gigantic bushfires. It is one of those disgusting and disastrous habits that we have grown up with over the past 200 years, which is a pity. Garry West, a former National Party Minister, during a visit to the south, said that he would not add a single stick to the national parks system. The National Party has had an antipathy towards national parks forever. If the National Party had been

in government during the past few years we would not have a fraction of the national parks that we currently have. I thank God that the National Party has been only a rump of the Liberal Party—if it had been in power many areas would be logged and not available for national parks. If that were so, we would have far fewer wildlife. Wildlife is under threat across the State.

The National Park Estate (Reservations) Bill creates 69,700 hectares of new national parks—we all welcome that—nature reserves and other informal reserves, which I am sure the community will welcome. However, a handful of anti-national park people will not welcome this bill—but they are a diminishing minority. Regional environment groups and I have a number of concerns about the bill and related policy decisions. Our main concern is the omission from the bill of key parts of the Government's environmental initiatives outlined in its Action for the Environment Statement in June 2001. To be consistent with and implement that statement this bill needs to include the following additional national park reserve outcomes. First, it needs to include the Brigalow Belt South reserve outcomes from the first western regional assessment. I have a photograph that shows that that is one of the last remaining areas and should be protected. Second, it should include the reserve outcomes of the Goulburn subregion of the southern comprehensive regional assessment [CRA] region.

Third, it should include the 14 icon areas under consideration by the Resource and Conservation Assessment Council [RACAC] in the north-east and the full complement of forest management zone [FMZ] 2 and 3A areas, previously agreed by the Government to be of sufficient size and configuration for transfer, including all those that are the subject of objections by the Department of Mineral Resources—that is, approximately 50,000 hectares. The bill is deficient in its provision of security for special management zones. While the bill attempts to provide improved security for State Forest informal reserves FMZ 2 and FMZ 3A by ensuring that the zones cannot be changed without an Act of Parliament, it places little legal constraint on the activities that can occur in the special management zones. Only a government policy decision prevents logging in that zone. Presumably, if the Coalition came to power in March 2003 it would start logging those special management zones.

The Hon. Rick Colless: Not true.

The Hon. RICHARD JONES: Well, the Hon. Rick Colless said that that is true. It is on the *Hansard* record, thank you.

The Hon. Rick Colless: Point of order: I did not say it was true. I said it was not true. The Hon. Richard Jones is verballing me and the Coalition. He is saying things that are simply not true. I ask him to withdraw those untrue statements.

The Hon. RICHARD JONES: I am delighted to withdraw that—I must have misheard him. I am pleased that he said "Not true." The map of the proposed special management zones is inadequate as it does not match the current agreed forest management zone map produced by State Forests in its "North-East NSW Ecologically Sustainable Forest Management Plan 2000". In fact, there are several map sheets from which the entire FMZ 2 and FMZ 3A areas appeared to have been deleted. Curiously, these match the areas where State Forests has been seeking to reopen rainforest for logging by overriding existing government mapping. I have seen an area of rainforest that has been left out. Therefore, I strongly object to this deletion and attempts by State Forests to reopen the existing rainforest mapping. The bill fails to include the upgrading of any FMZ 2 or FMZ 3A areas to flora reserves, despite both the New South Wales North-East Forest Agreement, section 2.3.3 and State Forests own forest management discerning guidelines requiring FMZ 2 and FMZ 3A to be upgraded to FMZ 1, and gazetted as flora reserves wherever possible.

This is the fourth year in which the Government has failed to implement that measure. One has to ask: why? The bill also provides for access roads to be excluded from new parks and reserves. Clause 7 (5) of schedule 8 to the bill requires the granting of a right of way to a land-holder that currently holds a right of way under the Forestry Act. However, this provision should be discretionary as there may be circumstances under which the right of way is no longer appropriate. The definition of "access" in the bill is very broad. Access provisions should apply only to motorised vehicles, particularly in light of the number of wilderness areas that would be affected by this provision. The time limit for amending boundaries, as set out in new section 11, is too long. All boundaries should be finalised within six months of the commencement of the bill and adjustments adjacent to roads after a maximum of 12 months. An Act of Parliament should not be required for changes to special management zones if the level of protection that they afford is improved. Requiring an Act of Parliament for such changes imposes a major administrative barrier.

All areas identified for reservation by the bill are encompassed by occupational permits. Despite the forest agreements for upper and lower north-east New South Wales requiring State Forests to phase out such permits by 1 July 2000, none have yet been phased out. Therefore, the bill should be amended to include the transfer of appropriate areas to FMZ 1 and their gazettal as flora reserves or, at the very least, the bill should specify that a thorough process to upgrade all FMZ 2 and FMZ 3A areas to the highest FMZ category possible should be conducted under the co-ordination of the Resource and Conservation Division of RACAC for completion by June 2003.

The bill should be amended to specify management criteria that include the protection of natural values such as the management principles referred to in section 30G (2) of the National Parks and Wildlife Act; specifically prohibit logging and other timber extraction in special management zones; and allow a special management zone to be amended if the area to be removed from the zone will immediately become a flora reserve—that is, FMZ 1—or reserved under the National Parks and Wildlife Act. The special management zone map should also be amended to put the missing map sheets back in so that the special management zones include all FMZ 2 and FMZ 3A from the SFM plans which have not been otherwise transferred to the National Parks and Wildlife Service estate. The bill should also be amended to identify and include FMZ 2 and FMZ 3A on State Forests purchasers which have since been gazetted as State forests. Proposed section 11 (9) should be amended to allow access roads to be closed where there is no physical means of vehicle access in existence and in use at the time of the commencement of the bill, bearing in mind that those who live in inholdings should have reasonable access.

I welcome these additions to the National Parks and Wildlife Service estate. I am positive that the majority of people in New South Wales, except for a very small rump, would also welcome these additions. It is extremely important that the people of New South Wales have adequate preserved areas to ensure that wildlife in this State does not become extinct. However, I regret that some of the areas that have been totally reserved do not include sufficient habitat to prevent the long-term extinction of some of our more endangered species. I hope that in the future we not only retain these areas for flora and fauna habitat but start reforesting some of the areas that have been unnecessarily cleared. I believe that with proper management we can have good farm production in some of these areas, as well as being able to conserve the flora and fauna of this State. I look forward to that happening from next March onwards.

The Hon. RICK COLLESS [9.02 p.m.]: There is not a lot of difference between the vision that the environmentalists of this country have and the vision that is held by the majority of people in the Coalition parties, particularly the National Party. While that might surprise some of our colleagues on the crossbenches and their supporters, I believe that that is the case. No-one in this world is more committed to maintaining an environment in a sustainable state than people who work with that environment every day, people who rely on that environment for their day-to-day existence—unlike the people who most often are seen as the strongest supporters of the environment, the environmentalists, who do not rely on the land for their day-to-day existence.

The Hon. Richard Jones: We do.

The Hon. RICK COLLESS: You do not rely on the land for your day-to-day income.

The Hon. Richard Jones: I rely on the land, because I eat.

The Hon. RICK COLLESS: You do not rely on the land for your day-to-day income. The vast majority of people on this earth who look after the resources on a day-to-day basis rely on those resources for their day-to-day income. It is their livelihood. It is what they do for a living. They are not about to suddenly rape those resources into submission. When European farmers first came to Australia they brought with them European farming practices. My ancestors came to this land and they settled some of these properties under various arrangements. Many of them were granted soldiers' settlement leases following the various wars. A condition of those soldiers' settlement leases was that they had to clear the land, otherwise they forfeited it. So what were those people doing that was so wrong? They were meeting the conditions under which they were given that land as a reward for going overseas and fighting for Australia. It was a condition that those people cleared that land. Here we are, three-quarters of a century later, saying that these are the people who have been raping our resources.

It is simply a misnomer to suggest that those people did that knowing that they were deliberately doing damage to the land. It is easy to look back in hindsight, with the knowledge that we now have about land management, and say they did the wrong thing. I, for one, am the first to admit that. My family was part of that,

but I make no apology for it because at that time my family was doing the right thing. They were doing the accepted thing. They were doing the thing that was sponsored by government. They were doing the thing that they were expected to do in the interests of this country. I make no apology for it. When I started my working career, I started work as a conservationist. I worked for the Soil Conservation Service for 26 years. I built hundreds of kilometres of contour banks to stop soil erosion. I trained farmers in better farming techniques to stop soil erosion. I believe that the vast majority of farmers have a deep understanding and great knowledge of the way the land works and the processes that occur on the land as they try to eke out a living from it.

Thirty years ago when I started work there was still a fair bit of what we can now loosely call the redneck image—if it grew, people wanted to cut it down; if it moved, they wanted to shoot it. But that was 30 years ago. The farming communities of today have a much greater understanding of the value of natural resources and the importance of managing those resources on a sustainable basis. Things are changing, and things are changing quickly—or they were until about 1995. I wish to share with the House an experience I had in the early 1990s when I was a soil conservationist in the Inverell district. I had a vegetation management program going, without the approval of the department—something I saw as a local need and I was pursuing it on a local basis. My philosophy at that time was that we needed to be careful about land clearing, and we needed to be sure that when we did clear some land we did it in a safe and sustainable manner.

I had an advisory program. I did a few radio interviews and a couple of television interviews, and I put a few articles in the newspaper about the need for better vegetation management. And do you know what happened? Surprise, surprise, I got a lot of response. The farmers in the district wanted to know this information, so they came to me as their advisory officer. I would sit down with them, we would work through some clearing plans, look at the vegetation and soil types, look at the topography and all the matters that were relevant, and we would map out a plan for them. I would say, "Because of all these factors, you should clear this area but leave those areas," and they responded to that. Then, in about 1996 or 1997, an instrument called State environmental planning policy [SEPP] 46 was suddenly announced in the *Sydney Morning Herald*. After SEPP 46 was announced, all those requests I was getting for advice on vegetation clearing stopped overnight.

Do honourable members know why the requests stopped? They stopped because the farmers were scared witless that, if they talked to me, I would prosecute them. So they just pushed the lot over anyway. That was the wrong result. The legislative process had the reverse effect to that which the Government intended. That is the danger with overregulating our natural resources. We are better off working with people and encouraging them rather than standing over them with a big stick and saying, "You do that or do not do that or we will belt you around the ears with a \$1.1 million fine". I have plenty of letters in my briefcase from farmers who have been threatened by the Department of Land and Water Conservation with a \$1.1 million fine. Guess what farmers do when they receive such letters? They laugh at them. How many farmers do we think have \$1.1 million?

The vast majority of those in the farming industry do not have two bob to rub together at present: they are asset rich and cash poor. They do not have \$1.1 million. That sum is so preposterous that the people who receive those letters laugh and say, "Well, let them come and get it if they can". They know that \$1.1 million could not be collected even if the charges were proven in a court of law—and that has never happened. How do we put natural resource management issues into perspective? I believe we should sit down with all the stakeholders—all the players in the game—and formulate carefully our vision for the future. I put it to the House that my vision for our natural resources is not terribly different from that of the Hon. Ian Cohen. He and I have had this discussion and I think he agrees with me.

The Hon. Ian Cohen: Are you verballing me again?

The Hon. RICK COLLESS: No, I am just saying that I do not think the honourable member disagrees. We both want to see sustainable natural resource management. We want our natural resources to be looked after. That vision must be enunciated. We should not have a vision for the next five, 10 or 20 years; we should have a vision for the next 100, 200 or 500 years. I want to make sure that my kids, their kids and their kids' kids can enjoy the quality of life to which I aspire. We must consider the quality of life issue. What is quality of life about? It is about the sorts of things that we want to enjoy and that we want our families and our communities to enjoy. It is pretty simple stuff.

I bet that if everyone who is in the Chamber at present wrote down their 10 quality of life goals, they would not be very different because, fundamentally, we all want the same sorts of things. I will share my goals with the House. I want to have a nice home, I want to be able to afford to take a holiday each year, I want to be able to educate my kids and I want good health care—they are quality of life goals to which every individual aspires.

The Hon. Jennifer Gardiner: And you want to win the next election.

The Hon. RICK COLLESS: Yes, that is a real quality of life goal.

The Hon. Peter Primrose: We do have a lot in common.

The Hon. RICK COLLESS: We do. If we want to enjoy our quality of life for the next 50, 100, 200 or 500 years we must be able to create enough wealth to support it. We must generate enough income to send our kids to school, to buy them nice clothes so that they are not heckled by their peers, to keep a roof over our heads, to buy food and so on. That costs money. But real wealth is not simply dollars and cents; it is something that money cannot buy. Look around the Chamber. I challenge anyone in this Chamber to point out one thing that is not derived from either mining or primary production. Look at the beautiful timber, the steel in the microphones and the calcite in the statues. Where does it come from?

The Hon. Duncan Gay: What about Henry's wig?

The Hon. RICK COLLESS: That is debatable. Where does the paper in the books and the leather on the chairs and benches come from? All these things are derived from either mining or primary production—agriculture and forestry. Mining and agriculture are the wealth-creating industries upon which our whole society depends for its very survival. We must ensure that our environment is sufficiently looked after and managed so that we can continue to produce beautiful timber, leather, the clothes we wear and the sort of food we ate for dinner tonight. The environment provides the resources upon which our very existence relies. We must enunciate how we want our environment to look in 100 years. I will share with honourable members my personal vision for the environment in 100 years, when my grand-kids are—God help them—as old as I am now.

The Hon. Duncan Gay: In 100 years they will be a bit older than you are now.

The Hon. RICK COLLESS: I did say my grand-kids. We must have healthy soil—that is the foundation of all our production. Our soil must be nutritionally balanced and high in organic matter and in soil-borne biodiversity. Biodiversity and nutritional balance make our soils truly productive. We also want 100 per cent groundcover as protection against erosion. We want biodiversity of our flora and fauna. Our flora should be based on deep-rooted perennial plants balanced with productive annuals that can utilise quickly any available moisture, which often comes in small licks. We must provide a safe environment for our special native animal species as well as for domesticated livestock. Our water resources must be healthy and vibrant. We need a healthy river system, with clean water, sustained flows in even the driest of years and a high level of aquatic and avian biodiversity.

How is that achieved? The argument is not so much about how it is achieved, but about creating goals that we want to work towards. If honourable members got their minds around that concept, I have no doubt that we could move towards those goals with a lot less conflict than we have had in this place. The bottom line is that we must manage and maintain all aspects of our environment in a condition that continues to create the wealth—the leather, timber, wool, cotton, silk, food and calcite or whatever else we need to enjoy our quality of life. I have read several times in this House an excerpt from a book that has a great deal of merit. I have given a copy of that book to the Hon. Ian Cohen. The book from which I quoted, which is entitled *Holistic Management: A New Decision Making Framework*, was written by Allan Savory, who started work as a national park ranger in Zimbabwe about 50 years ago. He states in chapter 5:

In my university training I learned, like all scientists of that era, that large animals such as domestic cattle could damage land. Only keeping numbers low and scattering stock widely would prevent the destructive trampling and intense grazing one could expect from livestock.

Once I left university and went into the field as a biologist, my observations led me to question that dogma. I now defend the exact opposite conclusion. Relatively high numbers of heavy, herding animals, concentrated and moving as they once did naturally in the presence of predators, support the health of the very lands we thought they destroyed. This revelation came slowly and only after experience in a large variety of situations, because herding animals, like others, have more than one behaviour pattern, and the effects on land are often delayed, subtle, and cumulative.

In the mid-1960s Zimbabwe erupted in civil war and I was given the task of training and commanding a tracker combat unit. Over the next few years I spent thousands of hours tracking people over all sorts of country, day after day. This discipline greatly sharpened my observational skills and also taught me much about the land, as although I was hunting humans, my thoughts were constantly on the state of the lands over which we were fighting. I doubt many scientists every had such an opportunity for learning. I tracked people over game areas, tribal areas, commercial farms and ranches, and over all different soil and vegetation

types in all rainfalls. Often I covered many different areas in a single day as I flew by helicopter from one trouble spot to the next. Everywhere I had to inspect plants and soils for the faintest sign of disturbance by people trying to leave no hint on their passage.

Gradually I realised that vast difference distinguished land where wildlife herded naturally, where people herded domestic stock, and where stock was fenced in by people and not herded at all. And compared to areas without any large animals, such as tsetse fly areas in which all large game had been exterminated, the differences were startling indeed. Most obvious was the fact that where animals were present, plants were green and growing.

Allan Savory continues:

In areas without animals they were often grey and dying—even in the growing season—unless they had been burned, in which case the soil between plants was bare and eroding and tracking was easy. When I compared areas heavily disturbed by animals, where soil was churned up, plants flattened, and tracking was difficult, it became clear that the degree of disturbance had a proportionately positive impact on the health of plants and soils and thus the whole community.

Savory's work is being adopted by farming communities all around the world—in all States of Australia, the United States of America, New Zealand and South America. It is also being adopted by government agencies in the United States that had previously been locking up land for conservation purposes—as Australia is now doing. Savory's work is being adopted by those agencies concerned about fire risk, in particular, in locked up areas. I refer in particular to areas in California which have been ravaged by fires in recent years, just as Australia has recently been ravaged by fires.

This Government introduced a bill that will ensure that more than 145,000 hectares of land up and down the east coast of New South Wales are not managed. As a result of the provisions in this bill a further 300,000 hectares of land will not be grazed or logged. What impact will that have on the coastal communities that are living in areas where this land will be locked up? What will happen to the quality of life of people such as the Freeman family and Leith Towns and his family in the Clarence area? What emotional impact will it have on them and on their day-to-day operations? I received a letter from the Freeman family, which states:

Notices will soon be sent to 154 farming families on the North Coast telling them to evict their cattle from Forest Management Zones within Occupation Permits [OPs], as another 145,000 hectares are added to the National Park Estate ...

More than half the 154 families are from the Clarence area, the impact will not only affect these families but the whole community, some families will lose two or more Permit areas.

The loss or displacement of around 15,000 head of cattle, the loss of 94,000 hectares of rateable land for Pristine Waters Shire Council, the loss of 110,000 hectares of rateable land for the Grafton Rural Lands Protection board, plus the social and economic turmoil on top of a severe drought and bushfires, makes this a cruel farce.

Other problems and associated costs will be insurmountable, such as defining boundaries, the practicality and cost of fencing and impossible access issues. The question of continuing viability for families with the loss of winter grazing country for breeders and the pressure of having to deal with National Parks, when stock enter their estate, the letters and the threats of prosecution.

Some OPs or Annual Leases have a long history, some dating back to the mid 1800s and these areas formed an important part of the whole property management. Lessees must have done something right with management over the last 150 years as these areas now meet all conservation criteria.

Such letters demonstrate the tremendous emotional impact that this legislation will have on 154 farming families in the Clarence Valley who have been on their land for three to four generations. This legislation will have a severe economic and social impact on those families. Since 1995, 45,000 head of cattle have been removed from those areas. The loss of another 15,000 head of cattle will mean that a total of 60,000 have been taken out of the system. The wealth created by those cattle at the farm gate is approximately \$8 million to \$12 million at early 2002 pre-drought prices, which are somewhat depressed at the moment because of the drought. In Grafton, the long-term impact of that amount of \$8 million to \$12 million would be of the order of \$50 million annually. Even the most optimistic supporter of the tourism industry would not suggest that tourism could generate anything like that amount of money.

Minister Refshauge said in his second reading speech in another place that timber values would not be affected by the outcomes enshrined in this bill. He emphasised that State forests transferred to national parks and other reserves were confined to forest management zones [FMZs] 1, 2 and 3A. However, I understand that forest management zones 4, 7 and 8 will also be transferred, and that those zones are now producing timber. So what did the Minister mean when he said that? Did he mislead the House? It would appear that he did, given that FMZs 4, 7 and 8 are included for reservation while he said that only FMZs 1, 2 and 3A would be affected.

There are social and economic impacts for these communities. However, the real sting in the tail will be the environmental impact. I want to focus on fuel reduction fire hazard, which has been happening in the area.

North Coast forests and northern tablelands forests have been burning since early September, and a tremendous amount of environmental damage has been done, particularly to the native wildlife, because of excessive fuel build-up and no hazard reduction over a long period.

Recently I was in Tenterfield, where many people said to me, "Come out into the forest." And I did. When we walked into the forest it was like a series of black sticks. They said, "Listen, the forest is silent." Those are pretty powerful words. The forest was black and it was silent. There were no birds, wallabies or koalas; there was nothing in the forest except ash. We found one little echidna wandering around. Honourable members who have been in the bush and seen an echidna know that when an echidna senses the presence of people it quickly buries itself in the leaf litter and disappears. This poor little fellow was just walking around bumping into things. He was blind and the end of his snout and his feet were burnt; he was only just alive. That is a fairly horrifying indictment of what national parks are doing to our wildlife.

I spoke to some of the farmers in the area who were rebuilding their fences. They said, "I wouldn't advise you to walk over into that section. It is very high. There are so many dead and burnt animals in there that you can't stand the smell." That is the real impact of National Parks and Wildlife Service management; it is murdering our wildlife. It is not natural and it is devastating. The people who owned the land or ran their cattle on the land previously are absolutely furious that such devastation has occurred through mismanagement since management of the land was taken out of their hands.

Some of the fires were deliberately lit, many were started by lightning and some were prescribed burn escapes. Essentially, the problem is that they burnt because of high fuel levels. It would be a great shame to see the removal of grazing animals from those areas. People like Allan Savory are many steps ahead of the current environmental management of this land. They are setting the way forward for environmental management without the continued dedication of national parks. The mindless blocking out of any grazing animals, based on some ideological premise that it is bad for the environment, is the wrong way to go. We need to open our minds, remove some of our paradigms, remove the blinkers and have a look at a better way of managing the land.

The Hon. IAN COHEN [9.34 p.m.]: I seek leave to table a map I have shown many honourable members. It is called "Additional Areas (Special Management Zones) 2002", and I will seek to incorporate the map into the bill in Committee.

Leave granted.

Map tabled.

The Hon. IAN COHEN: The current bill fails to deliver the outcomes foreshadowed in the New South Wales Government's Action for the Environment Report 2001, and the Australian Labor Party's 1999 election commitments. The area in the bill proposed for current and future reservation in the national parks estate is only 30 per cent of the total unloggable areas that were available for transfer from State Forests, and which could have been transferred to the national parks estate. New South Wales Government agencies such as New South Wales State Forests and the Department of Mineral Resources have clearly resisted the process from the outset, and the result is an inadequate national park reserve outcome and many significant high conservation areas remaining under State Forests tenure that are not adequately managed for conservation.

This process was a unique opportunity for the New South Wales Government to deliver major conservation gains without affecting timber supply. All the areas that are to be protected under this bill, and that could have been protected under this bill, were not available for logging. Only a fraction of those gains are realised by this bill. While all areas of State Forests are zoned according to their forest management zoning, for the purposes of this speech when I refer to forest management zonings [FMZs] I am referring to FMZs 1, 2 and 3A, which are unavailable for logging. It is absolutely clear that the conservation values of the FMZ 1, 2 and 3A areas warrant their protection in secure national park reserves. Extensive areas of identified wilderness, old-growth forests, rainforest, poorly reserved ecosystems and endangered species habitats are left out of national parks under the current proposal.

The contribution that these areas make to conservation is especially critical because of the position of north-east New South Wales as one of the principal centres of biodiversity and one of the most poorly reserved forested regions in Australia. Many unique and irreplaceable forest areas were identified, by the best science available, for reservation in the forest assessment process in 1998, and are still available for logging or have been logged in the intervening period. Over the past four years State Forests has consistently failed to upgrade

the level of protection of unloggable forest management zones in accordance with the Forest Agreement and its own zoning guidelines. Once again, its intransigence has won, over government policy. Similarly, the objections of the Department of Mineral Resources to reservation appear to have been excessive, and have certainly prevented the secure reservation of significant and extensive areas.

The department's widespread objections to all forms of reserve are especially curious, given that State conservation areas legally protect mineral interests. However, it is good to see that this bill improves the security of existing unloggable forest management zones by requiring an Act of Parliament for amendment or revocation. Unfortunately, this still leaves these areas in State Forests' unsafe hands and, the level of protection afforded from most threatening processes is considerably less than that provided by the national parks management. State Forests has consistently failed to manage for biodiversity over its long and sorry history in charge of our public forests. There is no evidence to suggest that it will change now. On the contrary, recent logging in north-east New South Wales has involved flagrant breaches of the logging requirements and resulted in trees many hundreds of years old being logged illegally.

Management of these areas for conservation is essential. Responsible management to control feral animals, weeds, fire, roads, mining and grazing is absolutely crucial to the biological integrity of these areas. The Greens do not believe they will get responsible management from State Forests of New South Wales. For example, the forest agreement required State Forests to phase out occupational permits in clumped non-loggable forest management zone [FMZ] areas by 1 July 2000, but State Forests have not implemented such a phase-out and have in fact shown no intention of doing so. Nor have State Forests of New South Wales shown any intention to purchase Crown leasehold over non-loggable FMZ areas. Similarly, State Forests of New South Wales have not developed plans of management for these areas over the past four years, despite the requirement to do so under various agreements and guidelines.

Furthermore, the gazettal of these areas as special management zones only protects them from logging by tortuous references through Government policy, and there is no direct and explicit protection from logging for these areas. For this reason the Greens will move an amendment to the bill to make this policy explicit. The map of the proposed special management zones is also inadequate. It does not match the current agreed forest management zone map produced by State Forests of New South Wales in their ecological sustainable forest management plan for north-east New South Wales. There are three map sheets from which significant FMZ 2 and 3A areas have been deleted. These match the areas where State Forests of New South Wales has been seeking to re-open rainforest for logging, by revisiting the agreed Government mapping. The areas deleted include more than 8,000 hectares of government-defined high conservation value old-growth forest and research covering 8,000 hectares notes 17 rainforest. We strongly object to these areas being deleted and will move an amendment to re-insert these areas.

The failures of the current process leave vast areas of old growth and rainforest outside National Parks tenure. Three of the most critical, poorly reserved subregions in north-east New South Wales—the Hunter, Clarence and Tenterfield regions—all have extensive areas of FMZ left outside National Parks estate by this current proposal. The FMZ areas left out total 12,000 hectares in the Hunter, 5,000 hectares in the Clarence and 20,000 hectares in Tenterfield, a total of approximately 40,000 hectares of some of the most diverse and poorly represented forests in north-east New South Wales. The proposal also leaves approximately 20,000 hectares of identified wilderness outside National Parks. This includes all of Cataract and Timbarra identified wilderness and parts of Bindery-Mann, New England, Stockyard Creek, Guy Fawkes River, Binghi and Washpool wilderness areas. The transfer of these lands to National Park has been opposed by the Department of Mineral Resources [DMR] only. It is clear that State Forests of New South Wales are completely incapable of managing these areas to protect wilderness values.

Crown leasehold over State forest will only be voluntarily acquired. Requirements are set out in the forest agreement for appropriate consultation. The process in no way interferes with the rights of leaseholders, although it is hoped that it may increase their awareness of their responsibilities for sustainable use of high-value public forests in keeping with public expectations. It is clear that the reservation of all "unloggable" FMZ areas represents a far higher value to the regional communities than the likely utilisation of known or potential mineral deposits within the next decade or more, and the extremely low value of grazing in leasehold areas affected. Both of these activities compromise conservation values.

In the 1998 survey of community attitudes in upper north-east New South Wales, 66 per cent of people surveyed responded that if timber production affected the abundance of species then environmental costs were too high and it might be better to compromise on forestry activities, compared to 15.6 per cent, considering "this

is unfortunate but we need forestry products and employment." Given that FMZ areas have no impact on timber supply the community support for their reservation can be expected to be even higher. An objective analysis of mineral issues proves that many of the current objections by DMR are excessive. Given the outstanding values of the FMZ areas it is apparent that the current proposal does not strike a balance between mineral interests and conservation.

An analysis of mineral potential in the "unloggable" areas, using DMR's own data, indicates that they encompass only 3 per cent of the region's highest potential deposits and 2 per cent of the highest value areas. Furthermore, the inclusion of all of the areas proposed for reservation in the secure reserve system will still leave 1,761,463 hectares or 80 per cent of the highest potential deposits, and 522,910 hectares or 95 per cent of the highest value areas available for exploitation, with 47 per cent and 60 per cent respectively of these occurring under cleared land. The results were similar for each of the highest-value known deposit types. With the inclusion of all areas proposed for reservation in the reserve system, the vast majority of the known major deposits of gold, 86 per cent; silver, 92 per cent; antimony, 88 per cent; copper, 90 per cent; and tin, 74 per cent, across the whole of north-east New South Wales would remain available for exploitation outside the reserve system.

I would like to use the Hunter region of north-east New South Wales to exemplify the worst failures of this bill. In the Hunter region, the DMR has objected to 12,000 hectares of "unloggable" areas being transferred to the National Park estate. The region south of the Hunter received the worst forest reserve outcome in north-east New South Wales in 1998 due to the demands of the coal industry. The productive forests of the region are very poorly represented in reserves. Existing reservation is mostly of sandstone ecosystems that support a completely different set of species and ecosystems. In the Morisset subregion alone, there are 35 threatened and significant species for which insufficient habitat has been protected to meet the minimum set down for their survival by scientists during the regional forest assessment process in 1998. The areas required to maintain minimum viable populations have not been protected.

In the wider Hunter region, 75 out of the 96 threatened and significant species considered during the assessment process have insufficient area reserved to meet their identified requirements for survival of viable populations. The productive forests south of the Hunter River are completely isolated by the extensive clearing of the Hunter Valley to the north, the sandstones to the east and Sydney to the south. These all represent major and almost insurmountable barriers to dispersal and re-colonisation. It is critical that viable populations of threatened species are protected south of the Hunter because they must survive in isolation or not at all. If such viable populations are not maintained then there will be localised extinctions and the species will be lost to the region.

The Olney, Heaton and Awaba areas are particularly important because of their size and contribution to biodiversity targets. They would make a major and invaluable contribution to the national park reserve system in the region. Objections to all forms of national parks tenure by DMR in the Hunter region means that it will remain one of our most threatened and vulnerable forested regions. It also means that the people of the Central Coast—including the Special Minister of State—will continue to have their water supply diminished by logging. The Greens support this bill, but we propose amendments to improve the bill, and address some of the deficiencies I have mentioned.

I am pleased that with the help of Miss Susie Russell the Greens are able to produce the facts. Despite the rhetoric of the green Carr Government and others attempting to show their green aspirations, it is fantastic that we have a statement in the right direction. It is clear that scientifically a huge number of areas are not adequately protected. I thank Susie for the preparation of this information and for her extensive work over a long period. I commend also the many forest activists who work long and hard with no thought for themselves in mapping and investigating these areas so that the Greens have a thorough knowledge of these areas. Despite the rhetoric of the Government, other agencies and individuals in this House, we still have a long way to go to adequately protect the wonderful, irreplaceable assets of our forested areas of New South Wales.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.49 p.m.]: Initially the Democrats were very pleased about this bill. However, after consultation with the National Parks Association, we have some reservations about it. The National Park Estate (Reservations) Bill has several objectives. Under schedule 1 to the bill a total of 64 cells of parcels of land currently dedicated as State forests in the north-eastern forest region will be transferred to the National Parks and Wildlife Service to become national park, nature reserves or State conservation areas. Schedule 2 lists Crown land that will be incorporated into the national park and reserve system. Those include additions to the Oxley Wild Rivers, Willi Willi, Guy Fawkes, Nymboida and Washpool

national parks. Schedule 5 transfers approximately 24.5 hectares of the East Boyd State Forest to the Eden Local Aboriginal Land Council. Schedule 6 lists the freehold land vested in the Crown that will be reserved as national park and as State conservation areas.

If and when passed, the bill will create up to 69,700 hectares of new national parks and conservation reserves. The Environmental Liaison Office sent me a fax dated 26 November outlining some of its concerns. The Environmental Liaison Office is concerned that key initiatives outlined in the Government's Action for the Environment Statement are missing from this bill. Reserve outcomes from the first western regional assessment for the Brigalow Belt South, reserves in the Goulburn subregion, and 14 icon areas under consideration by the Resource and Conservation Assessment Council [RACAC] are missing from this bill. It is a pity because obviously this would have been a good opportunity to include those areas under protection.

Another of the failures of this Government relates to declaring compartments of Pine Creek Forest bordering on Bongil-Bongil National Park, 10 kilometres south of Coffs Harbour. It is an important wildlife corridor between the rainforests of the Dorrigo escarpment and the coast, providing a habitat to about 23 threatened species. Compartments of Pine Creek Forest have been logged by State Forests for the past two years now. However, the Friends of Pine Creek Forest and the Ulitarra Society consider that certain areas of the forest should be portioned off as reserve to protect the population of 800 koalas, which is considered to be the largest on the North Coast.

The National Parks and Wildlife Service and State Forests have acknowledged the significance of the area and have put into place a koala management plan. Fourteen compartments have been set aside by State Forests for further assessment. However, logging practices and a move towards single-timber species plantation forestry still pose a significant threat to the koala habitat. Therefore the Democrats would seek from the Minister in reply a commitment to portion off relevant compartments in Pine Creek Forest to be included as either national park or regional reserve. The National Parks Association also expressed several concerns about the bill. On behalf of the Environment Liaison Office and the National Parks Association Andrew Cox said:

We appreciate the attempt by the Government to provide in the bill improved security for State forest in formal reserves FMZ 2 and FMZ 3A... While the bill will ensure that the zones cannot be changed without an Act of Parliament, there is little legal constraint on the activities that can occur in the special management zones.

Section 21A of the Forestry Act (inserted in 1998) only restricts management of the special management zones beyond conditions determined at the discretion of the Minister for Forests...

This does not adequately restrict the type of activities that can occur. The prohibition of operations is optional, and there are no conservation-based management criteria...

Removing the need for an Act of Parliament to improve the level of protection would remove a major administrative barrier. Examples where this may occur include the purchase of an underlying grazing lease by NPWS or as a result of the 5 yearly review of the mineral prospectivity rating of the land as required under the NSW Forestry Agreement...

The map of the proposed Special Management Zones is inadequate. It does not match the current agreed Forest Management Zones map produced by SFNSW in their Ecologically Sustainable Forest Management plan for north-eastern NSW... There are several mapsheets from which the entire FMZ 2 and 3A areas appear to have been deleted. These match the areas where SFNSW has been seeking to re-open rainforest for logging by overriding existing Government mapping.

We strongly object to this deletion. It would be a major mistake to re-open the existing rainforest mapping in this way as it would require the complete re-mapping of large areas of the north-eastern region, or even the entire region, both of which are completely impractical.

The Special Management Zone map should be amended to put these missing mapsheets back in so that the Special Management Zones include all FMZ 2 and FMZ 3A from the ESFM plans which has not been otherwise transferred to National Parks and Wildlife Service estate. It should also be amended to identify and include FMZ 2 and FMZ 3A on SFNSW purchases which have since been gazetted as State Forests.

Both the NSW NE Forest Agreement (Section 2.3.3) and SFNSW's own Forest Management Zoning Guidelines require that FMZ 2 and 3 A must be upgraded to FMZ 1 and gazetted as Flora Reserves wherever possible. We understand that on several occasions throughout the Government process on Forest Management Zones, North-East Forest Alliance was informed that this would take place as an outcome from this process. Four years after the agreement was signed, the Government has failed to implement this measure.

We note that the bill does not include the upgrading of any FMZ 2 or 3 A areas to Flora Reserves. The bill should be amended to include the transfer of appropriate areas to FMZ 1 and their gazettal as Flora Reserves. At the very least the bill should specify that a thorough process to upgrade all FMZ 2 and 3 A areas to the highest FMZ category possible should be conducted under the coordination of RACD for completion by June 2003...

Schedule 8, Clause 7 of the bill provides for access roads to be excluded from new parks and reserves. There are a number of concerns with this provision.

Subclause 5 requires the granting of a right of way to a landholder that currently holds a right of way under the Forestry Act. This provision should be discretionary as there may be circumstances where the right of way may no longer be appropriate.

The definition of access is very broad. We consider that these access provisions should only apply to motorised vehicles. This is a particularly significant concern with respect to the number of wilderness areas that would be affected by this provision.

Subclause 9 should be amended to allow access roads to be closed where there is no physical means of vehicle access in existence and in use at the time of the commencement of the bill...

Areas for future reservation

Government has released a map showing areas of State forest for future revocation pending the voluntary acquisition of the private land lease over the same area. Unfortunately, several areas of identified wilderness that are suitable for purchase by the Dunphy Wilderness Fund were omitted from this map because of objections by the Department of Mineral Resources.

The validity of the DMR objections to other areas of private land already purchased by the Dunphy Wilderness Fund was the subject of a review earlier this year. This earlier review resulted in DMR modifying the extent of its objection to reservation under the National Parks and Wildlife Act and led to the reservation of eight parcels of land. No such review was undertaken for the lands remaining to be purchased within identified wilderness areas over State forest.

The omission of these leasehold areas from the map creates genuine administrative problems with the Dunphy Wilderness Fund and pre-empts the wilderness acquisition and declaration. We seek your agreement that all identified wilderness within State Forest will be added to maps N2 and N4 that indicate areas of future State forest revocation pending acquisition of the underlying lease.

Protocol for purchase of leasehold with FMZ 4

We note that leasehold boundaries often cut across the boundaries of 'unloggable' FMZs and loggable FMZ 4. Therefore, it is often difficult for the NPWS to purchase leases because they include large areas of FMZ 4. They cannot justify spending the money buying loggable land which SFNSW then block them from reserving. As a result, they miss out on purchasing the 'unloggable' leasehold when it is available. A recent example is the lease over the Chaelundi blockade compartments which was not purchased and thus prevented their reservation.

We agree that there is no justification for spending the scarce conservation dollar buying leases that then remain partly available for State Forest to log. State Forests of NSW gain considerably when NPWS do purchase leases with some FMZ 4 because they no longer have to pay royalties and they are free of leasehold interests which are often problematic and expensive.

We are proposing that a protocol or memorandum is finalised between National Parks and Wildlife Service and SFNSW to ensure that unique opportunities to purchase leaseholds identified for reservation are not lost. This would involve SFNSW contributing funds to buy the lease. The cost of the lease would be divided between the National Parks and Wildlife Service and SFNSW according to the proportional area of 'unloggable' FMZ to loggable areas. We propose that RACD are also signatory to the agreement to resolve any disputes that may arise.

Occupational Permits

We note the Ministers' references to occupational permits in the Second Reading Speech. The NSW Forest Agreements for upper and lower north-east NSW required SFNSW to phase out Occupational Permits in clumped FMZ areas by 1st July 2000. This encompasses all the areas identified for reservation by this bill.

SFNSW have not implemented the OP phase-out required by the Forest Agreement. Instead, permit holders in FMZ 2 & FMZ 3A have had three years notice of the situation as well as having an Occupational Permit Taskforce to oversee the process. Therefore, to ensure the long overdue phase-out of OPs does actually occur, the bill should require the phase-out of Occupational Permits and Permissive Occupancies from areas identified for reservation and clumped FMZ areas identified by the Forest Agreement, by the end 2003.

Another aspect that needs to be addressed is management of the forests. I have received a number of letters from constituents who have held leases for a long time and who will be economically disadvantaged by the loss of those leases. One could argue that those leases have always been discretionary: The fact that they no longer exist puts the Government in the position of a landlord reclaiming his house. Leaseholders have not been in a position to assume that possession would be forever.

Reverend the Hon. Fred Nile: It is the leaseholder's house, in this case.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The house may be part of the lease over the land. Some properties that are contiguous with leasehold land may become economically non-viable. The Government should think about that. I am not sure that the bill addresses that point to the extent that it should. The point made by Hon. Malcolm Jones and others was that the National Parks and Wildlife Service has not been allocating sufficient funds to the management of the national park estate, particularly bushfire management, and that has caused great problems. The Government must not just declare land as additional national park estate, particularly just before an election, but should manage it, and that means allocating sufficient financial resources. Poorly managed land will lead to the spread of bushfires or indeed to the

destruction of forests that have been preserved as icons of conservation values. That is quite unsatisfactory. The national park estate must be properly managed, and that may involve allocations of additional funds. Ecotourism could be a systematic statewide method of raising funds to manage the national park estate properly. Although I praise the Government for increasing the size of the area preserved in this State as national park land, I point out that the Government has obligations beyond merely increasing the area of the national park estate.

Reverend the Hon. FRED NILE [10.01 p.m.]: The Christian Democratic Party supports, in principle, the National Park Estate (Reservations) Bill because we share concerns that have been expressed by the Opposition and reflected in its amendment, which may provide some small degree of comfort for leaseholders who virtually will be kicked off their land. The amendment foreshadowed by the Opposition seeks a continuation of existing grazing interests to ensure that an existing grazing interest "is not to be terminated or revoked before 1 January 2005, unless the NPW Minister is of the opinion that the holder of the existing grazing interest has contravened any condition of the existing grazing interest or any obligation with respect to the existing grazing interest arising under any Act". The Christian Democratic Party's support for the bill is qualified because leasehold land has been held by families for generations and in some cases for more than 100 years. Pioneer leaseholders moved onto untamed land and had to begin from scratch: they had to build their own homes and their own fences. This bill, in common with similar legislation that is currently in force, shows leaseholders very little consideration and forces them from land that they have been leasing for grazing purposes.

This background highlights the approach adopted by the Christian Democratic Party—an approach that is balanced on legislation that affects the environment as well as the agricultural and timber industries. We have tried to find the middle ground wherever possible, and that has not always been easy. It is often the case that two extreme positions are involved, namely, the extreme environmentalists' position and the position of the ruthless exploiters. Perhaps the extreme environmentalists could be labelled as the Greens, but I think that there are environmentalists who are even more extreme than the Greens.

The Hon. Ian Cohen: What is your interpretation of "extreme"? People might regard your attitudes as rather extreme.

Reverend the Hon. FRED NILE: I will explain it to the Hon. Ian Cohen right now. Extreme environmentalists have a romantic view of the environment. They are trying to turn back the clock to recreate the Garden of Eden, and that is impossible. It cannot be done. Judging by what these people say and their proposals, that is what I think they are trying to do, but it is impossible. Extreme environmentalists also take no account of the impact on humanity of their policies—the impact on farmers and timber workers, et cetera. Sadly, over the years the Labor Government has tried to compromise, negotiate and reach agreement with these groups, but has discovered that, far from agreement having been reached, a new set of demands had been made. Subsequently the Government has found itself on the back foot, and again threats are made. Although originally agreement may have been based on a promise by the extreme environmentalists to stop protesting and blocking forestry roads, the environmentalists renege and make greater demands that are reinforced by a resumption of protests. It seems to be very difficult to satisfy some of the extreme environmentalists, and the tactics I have described define the term "extreme environmentalists".

I do not believe that God created planet Earth to simply be an empty, green planet, without human beings who become farmers and have families. God created Earth for mankind to enjoy it, to develop it, to protect it and to be good stewards of it. Because some honourable members have explained their philosophy, I will point out a couple of creation principles that are followed by the majority of people in the world, including Christians, Jews and Muslims. Those principles are expressed in *The Bible* in Genesis 1:9:

And God said, "Let the water under the sky be gathered to one place, and let dry ground appear." And it was so. God called the dry ground "land," and the gathered waters he called "seas." And God saw that it was good.

That is why I often say that God was the first greenie. *The Bible* continues:

Then God said, "Let the land produce vegetation: seed-bearing plants and trees on the land that bear fruit with seed in it, according to their various kinds." And it was so. The land produced vegetation: plants bearing seed according to their kinds and trees bearing fruit with seed in it according to their kinds. And God saw that it was good.

Later, in Genesis 1:24, *The Bible* states:

And God said, "Let the land produce living creatures according to their kinds: livestock, creatures that move along the ground, and wild animals, each according to its kind." And it was so. God made the wild animals according to their kinds, the livestock according to their kinds, and all the creatures that move along the ground according to their kinds. And God saw that it was good.

And later in Genesis 1:26-31:

Then God said, "Let us make man in our image, in our likeness, and let them rule over the fish of the sea and the birds of the air, over the livestock, over all the earth, and over all the creatures that move along the ground."

So God created man in his own image, in the image of God he created him; male and female he created them.

God blessed them and said to them, "Be fruitful and increase in number; fill the earth and subdue it. Rule over the fish of the sea and the birds of the air and over every living creature that moves on the ground.

Then God said, "I give you every seed-bearing plant on the face of the whole earth and every tree that has fruit with seed in it. They will be yours for food. And to all the beasts of the earth and all the birds of the air and all the creatures that move on the ground—everything that has the breath of life in it—I give every green plant for food." And it was so.

God saw all that he had made, and it was very good.

That is the basic philosophy of creation. We are never to worship the creation; we are to worship the Creator who created the creation. The battle that we have to fight is one of balancing the extreme environmentalists' views with the actions of ruthless exploiters who often use large impersonal corporations and whose main concern is profit, not long-term conservation. I do not believe that farmers are in the latter category. Farmers are the ham in the sandwich; they are being squeezed and crushed. They endure increasing pressure on their farmlands from legislation that prevents more and more farmland from being used for agricultural purposes.

The Federal Government has adopted a great policy that there should be compensation for farmers, but it will not provide the compensation; the State governments should provide it. That policy will not take us very far if the State governments will not provide compensation. So there is a deadlock. Again the farmers are the ham in the sandwich. Everybody says that they should have compensation but no-one is prepared to give it to them. They get only a slap in the face. The Christian Democratic Party seeks to be a voice for farmers, especially those with family farms. We believe the family farm is the backbone of our nation.

We do not consider just the value of their agricultural produce; we see them as providing far more than that. That was my personal observation before I came to Parliament in the work that I was doing in Christian ministry but it has been my view especially in the 21 years I have been in Parliament. I visit an average of 85 country communities a year. I see first-hand that they are providing not just the valuable agricultural produce as an asset to our nation; they are providing solid Christian and family values, which makes them truly the backbone of the family. If I were the Government I would have policies that give a lot more consideration to these farmers, wives and children to enable our State to move ahead and to be positive and strong with a strong foundation.

I can see no compensation provided in the bill. It does not even give farmers the time of day to reorganise their lives when they have to move off their grazing leases. The Opposition amendment proposing a date of 2006 is a reasonable compromise. As one of the leaders of the National Party said to me, it should really be for as long as they wish but we have to be realistic at this time. The bill has a number of positive aspects. It is clear that it will bring the total area of new parks and reserves created by the Government through its regional forest assessment process alone to more than one million hectares. State Forests land considered in the assessment was confined to forest management zones 1, 2 and 3a. Logging is already not permitted in those zones.

The Christian Democratic Party has to take the Government's word that timber volumes will not be affected, the timber industry will not be affected, and no more timber towns will die. Families are distraught when they see that they no longer have a future and they cannot sell their homes because no-one wants to move into the area. The bill will also immediately provide a reservation of 145,000 hectares including 121,000 hectares in the northern region and 24,000 hectares in the southern and Eden region. This is very pleasing. I and the Christian Democratic Party have had a great deal of association with the Aboriginal communities in the Eden area with Pastor Ossie Cruse and other leaders of the community.

We are very pleased that the bill will include revocation of certain State forests in the Sydney and Eden regions for declaration as nature reserves and the transfer of an area in the Eden region to the local Aboriginal land council. We congratulate the Government on that initiative. From our past association we believe that the Aboriginal community will act responsibly in its care and stewardship of the land. We will hold the Government to the promise it made in the second reading speech of the Deputy Premier, Dr Refshauge when he said that the National Park Estate (Reservations) Bill:

... achieves all this without any impact on the timber industry and without any impact on the forest agreements which this Government has forged to give certainty to industry and to ensure the ecologically sustainable management of our forests.

Even though this is not a large bill it is complex and deals with a large part of New South Wales. We have to take the Government's assurances on face value. We certainly have not been lobbied by the timber industry expressing concern so we assume that the promise is genuine. We thank the Government for it. It has taken a lot of consultation and debate to reach those agreements and achieve the aim of providing at least a 20-year guarantee of timber supply to the forest industry. In the second reading speech in the other place the Government restated that "it has resulted in a 20-year security for the timber industry". We do not want to see that 20-year security suddenly disappear. We are pleased to support the bill. We have noted our concern about the treatment of the people with existing grazing interests. We will support the Opposition amendment.

The Hon. Dr PETER WONG [10.06 p.m.]: I congratulate the Hon. Rick Colless on his insightful speech so eloquently delivered. In recent years I have visited many country towns. I share his sentiment that many country people care for the environment as much as we city people do. I support the importance of conservation and the need to protect the environment. Indeed, we should make every effort to repair the damage that we have done to our environment over the years. I believe it is a view shared by many that some time and somehow we have to make some sacrifice, either personally or as a nation, to rectify the harm we have caused. But who will pay for the conservation, be it of rivers or land? Unfortunately, it has become a never-ending battle in which everyone wants to be a winner without losing something.

No-one so far has been able to offer an adequate answer to this conflict. Federal and State governments all want to show that they are pro-environment without committing adequate funding for rehabilitation or compensation. In the meantime so-called environmentalists and farmers are often taking totally opposite views, both believing it is for the good of the people of Australia. Recently rice growers from the Riverina visited me. They too expressed concern about the health of our rivers and suggested that governments should buy back farms for reafforestation. But, of course, no government would be interested in this expensive way of conservation. They want it done, but preferably without paying for it. In reality, however, Australia is in relatively good shape compared with our neighbours. I accept that a lot more can be done. But what we need is a partnership rather than to work as enemies. I acknowledge that this bill is not perfect. It will result in an improvement to the present situation and I support it in principle.

The Hon. MELINDA PAVEY [10.20 p.m.]: The Coalition condemns the Government for the lack of consultation on this bill. Many stakeholders had no forewarning that this bill was going to be introduced. Some people's voices need to be heard tonight. David and Andrew Scott state:

Our family operates a grazing enterprise north west of Grafton, we have our freehold land and we also lease as an Occupation Permit (OP) a large parcel of land on an annual basis from State Forest. The OP lies between the two parcels of freehold.

On Thursday the 21st of November the State Government passed a Bill through the Lower House to add parts of our Occupation Permit to National Parks, this will destroy our ability to manage our land in a sustainable manner and we will find it impossible to remain viable.

To fence the extensive area of intended National Parks is just not a viable proposition as we do not have security of tenure over the residue of the OP, therefore we could lose the remainder say next year, the only option we have is to vacate the whole OP.

Our father logged this Occupation Permit area 50 years ago and it has been logged on many occasions since and as recent as 12 months ago, yet it is now classified as "old growth" and has to be reserved.

The recent bushfires burnt 98% of our freehold and OP area, fires from Guy Fawkes and Gibraltar National Parks swept through our place and we are now faced with a lot of hungry cattle, no feed and burnt fences. We lost between 75 and 100 kilometres of fencing and at a minimum rate of \$3,500.00 per kilometre... who will pay? This latest move by the State Government will be the last straw for not only us but many farming families.

No one from government has talked to us about how this will impact on us, they make these decisions and just walk away.

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.22 p.m.], in reply: I thank honourable members for their very thoughtful and detailed contributions. This has been one of the more interesting debates that I have heard in some time. All of the positions have incredible merits. It is a very difficult issue to match up, in many ways. The Hon. Patricia Forsythe raised the 150 occupational grazing permits that will be affected by this bill. That is not so. That is the number that were affected on State forests under the 1998 decision, supported by the Opposition.

It is correct that about 35 occupational permits will be affected by this bill, and many of those are within the 150 following the 1998 decision. The honourable member makes it sound as if these grazing

occupational permits will stop immediately. The Government has written to NSW Farmers and given a clear undertaking that all occupational permits will continue for a minimum of 18 months, or until the official listing of the drought declaration. Additionally, each case will be considered individually for a further extension to allow for transition from the drought.

Payment for fencing adjacent to new reserves has also been raised. I am informed that the National Parks and Wildlife Service has a policy whereby the costs of such fencing are shared. I am also told that over the last five years the National Parks and Wildlife Service has shared in the funding of hundreds of kilometres of fencing on the North Coast. I commend the bill to the House. I will deal with some of the issues that have been raised in the course of the debate in Committee.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 10 agreed to.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.24 p.m.], by leave: I move amendments Nos 1 to 3 in globo:

No. 1 Page 6, clause 11, line 2. Omit "3,".

No. 2 Page 6, clause 11, line 15. Omit ", or".

No. 3 Page 6, clause 11, lines 16 and 17. Omit all words on those lines.

These three amendments remove from clause 11 a reference to schedule 3, which allows adjustment of the land description, thereby preventing the boundaries of special management zones from being altered. The boundaries of the special management zones have already been finalised in detail under the north-east forest agreement and the associated integrated forest operations approval. Thus the new special management zones referred to in schedule 3 do not need to be further altered. If the boundaries of the special management zones are able to be altered it will leave the way open for State Forests to change the boundaries in a way that may exclude from protection important conservation areas such as rainforests. I commend the amendments to the Committee.

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.26 p.m.]: The Government opposes the Democrats amendments. The subclause in the bill is required because the land is described in schedule 3 by reference to a map as time did not permit detailed preparation of property descriptions. These property descriptions will be prepared to ensure accurate boundaries. This subclause is needed to allow this process to take place.

Amendments negatived.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.27 p.m.]: I move my amendment No. 4:

No. 4 Page 6, clause 11, line 36. Omit "31 December". Insert instead "30 June".

This amendment ensures that the boundaries of the new national parks are finalised within six months, rather than one year. The National Park Estate (Southern Region Reservations) Act 2000, which created the new national parks in the southern region on 1 January 2001, contained a similar provision to vary the park boundaries—section 10—but allowed only three months to finalise the boundaries. To provide certainty to park neighbours, forestry management and park visitors, the park boundaries must be finalised within as short a time as possible. I propose that six months is more than enough time to fine-tune the park boundaries with more detailed boundary descriptions, especially as the Government did it in three months last time.

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.27 p.m.]: The Government opposes this amendment. While work will commence immediately to identify any necessary boundary adjustments, it cannot be guaranteed that the work involved will be completed by 30 June 2003. Sufficient time is needed to identify and prepare all adjustments. It is therefore appropriate that the relevant date remain as 31 December 2003.

The Hon. PATRICIA FORSYTHE [10.28 p.m.]: The Opposition also opposes this amendment. It seems that when the impact of bushfires in the region has been described in letters from some of the adjoining landowners or those with occupational permits, and when we have already expressed concern that National Parks does not have enough resources to manage the parks during the bushfires, we are now assuming that it will be able to direct all of its resources into getting the boundaries right in six months. That would not make sense, given the logic of some of the statements the Hon. Dr Arthur Chesterfield-Evans made about the resources in park management.

Amendment negatived.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.28 p.m.]: I move my amendment No. 5:

No. 5 Page 7, clause 11, line 1. Omit "2007". Insert instead "2003".

Similarly, this amendment limits the time that the Government must take to finalise a new national parks boundary adjacent to a road by reducing the period from five years to one year. I agree that park boundaries close to roads may take more time to confirm to ensure that the boundary properly aligns with any existing roads, but five years is too long. It would create a long period of uncertainty. The Government needs to finalise the boundary issues in a short period, and one year should be reasonable.

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.29 p.m.]: The Government opposes the amendment. The bill currently requires these adjustments to be completed by 31 December 2007, which is four years later than the proposal. Additional time is needed because the relevant land requires a detailed process of investigation to ensure that all boundaries adjoining public roads are correct and that boundaries for existing interests, such as easements, in land held by the Minister are accurately identified.

Amendment negatived.

Clause 11 agreed to.

Clauses 12 to 15 agreed to.

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.30 p.m.], by leave: I move Government amendments Nos 1 to 78 on sheet C-129 in globo:

No.1 Page 10, schedule 1, line 14. Omit "840". Insert instead "836".

No. 2 Page 10, schedule 1, line 19. Insert "(3rd edition)" before "in".

No. 3 Page 10, schedule 1, line 22. Omit "174". Insert instead "172".

No. 4 Page 10, schedule 1, line 26. Insert "(3rd edition)" before "in".

No. 5 Page 10, schedule 1, line 30. Omit "370". Insert instead "369".

No. 6 Page 10, schedule 1, line 33. Insert "(3rd edition)" before "in".

No. 7 Page 12, schedule 1, line 11. Omit "1409". Insert instead "1404".

No. 8 Page 12, schedule 1, line 16. Insert "(3rd edition)" before "and".

No. 9 Page 12, schedule 1, line 21. Omit "717". Insert instead "688".

No. 10 Page 12, schedule 1, line 26. Insert "(3rd edition)" before "in".

No. 11 Page 13, schedule 1, line 18. Omit "1154". Insert instead "1150".

No. 12 Page 13, schedule 1, line 23. Insert "(3rd edition)" before "in".

No. 13 Page 15, schedule 1, line 10. Omit "3811". Insert instead "3790".

No. 14 Page 15, schedule 1, line 18. Omit "Misc. R 00152, Misc. R 00154 and Misc. R 00155". Insert instead "Misc. R 00152 (3rd edition), Misc. R 00154 (3rd edition) and Misc. R 00155 (3rd edition)".

No. 15 Page 17, schedule 1, line 17. Omit "348". Insert instead "347".

No. 16 Page 17, schedule 1, line 21. Insert "(3rd edition)" before "in".

- No. 17 Page 17, schedule 1, line 26. Omit "14". Insert instead "9".
- No. 18 Page 17, schedule 1, line 29. Insert "(3rd edition)" before "in".
- No. 19 Page 18, schedule 1, line 3. Omit "248". Insert instead "247".
- No. 20 Page 18, schedule 1, line 7. Insert "(3rd edition)" before "in".
- No. 21 Page 18, schedule 1, line 12. Omit "75". Insert instead "74".
- No. 22 Page 18, schedule 1, line 15. Insert "(3rd edition)" before "in".
- No. 23 Page 18, schedule 1, line 27. Omit "65". Insert instead "57".
- No. 24 Page 18, schedule 1, line 30. Insert "(3rd edition)" before "in".
- No. 25 Page 19, schedule 1, line 2. Omit "1583". Insert instead "1475".
- No. 26 Page 19, schedule 1, line 7. Insert "(3rd edition)" before "in".
- No. 27 Page 19, schedule 1, line 11. Omit "212". Insert instead "195".
- No. 28 Page 19, schedule 1, line 16. Insert "(3rd edition)" before "in".
- No. 29 Page 19, schedule 1, line 21. Omit "397". Insert instead "363".
- No. 30 Page 19, schedule 1, line 26. Insert "(3rd edition)" before "in".
- No. 31 Page 19, schedule 1, line 30. Omit "390". Insert instead "383".
- No. 32 Page 19, schedule 1, line 34. Insert "(3rd edition)" before "in".
- No. 33 Page 20, schedule 1, line 2. Omit "6". Insert instead "3".
- No. 34 Page 20, schedule 1, line 5. Insert "(3rd edition)" before "in".
- No. 35 Page 21, schedule 1, line 3. Omit "1162". Insert instead "1161".
- No. 36 Page 21, schedule 1, line 8. Insert "(3rd edition)" before "in".
- No. 37 Page 21, schedule 1, line 31. Omit "8". Insert instead "5".
- No. 38 Page 21, schedule 1, line 34. Insert "(3rd edition)" before "in".
- No. 39 Page 22, schedule 1, line 10. Omit "2949". Insert instead "2944".
- No. 40 Page 22, schedule 1, line 14. Insert "(3rd edition)" before "in".
- No. 41 Page 23, schedule 1, line 3. Omit "140". Insert instead "136".
- No. 42 Page 23, schedule 1, line 6. Insert "(3rd edition)" before "in".
- No. 43 Page 23, schedule 1, line 11. Omit "4713". Insert instead "4708".
- No. 44 Page 23, schedule 1, line 16. Insert "(3rd edition)" before "in".
- No. 45 Page 24, schedule 1, line 3. Omit "1310". Insert instead "1309".
- No. 46 Page 24, schedule 1, line 7. Insert "(3rd edition)" before "in".
- No. 47 Page 24, schedule 1, line 11. Omit "512". Insert instead "495".
- No. 48 Page 24, schedule 1, line 15. Insert "(3rd edition)" before "in".
- No. 49 Page 24, schedule 1, line 20. Omit "1479". Insert instead "1478".
- No. 50 Page 24, schedule 1, line 24. Insert "(3rd edition)" before "in".
- No. 51 Page 25, schedule 1, line 12. Omit "437". Insert instead "434".
- No. 52 Page 25, schedule 1, line 17. Insert "(3rd edition)" before "in".
- No. 53 Page 25, schedule 1, line 27. Omit "75". Insert instead "71".
- No. 54 Page 25, schedule 1, line 30. Insert "(3rd edition)" before "in".

- No. 55 Page 26, schedule 1, line 19. Omit "1505". Insert instead "1327".
- No. 56 Page 26, schedule 1, line 22. Insert "(3rd edition)" before "in".
- No. 57 Page 27, schedule 1, line 2. Omit "980". Insert instead "979".
- No. 58 Page 27, schedule 1, line 6. Insert "(3rd edition)" before "in".
- No. 59 Page 27, schedule 1, line 19. Omit "515". Insert instead "510".
- No. 60 Page 27, schedule 1, line 23. Insert "(3rd edition)" before "in".
- No. 61 Page 28, schedule 1, line 3. Omit "81". Insert instead "71".
- No. 62 Page 28, schedule 1, line 6. Insert "(3rd edition)" before "in".
- No. 63 Page 28, schedule 1, line 11. Omit "63". Insert instead "61".
- No. 64 Page 28, schedule 1, line 15. Insert "(3rd edition)" before "in".
- No. 65 Page 28, schedule 1, line 34. Omit "884". Insert instead "883".
- No. 66 Page 29, schedule 1, line 1. Insert "(3rd edition)" before "in".
- No. 67 Page 29, schedule 1, line 19. Omit "663". Insert instead "661".
- No. 68 Page 29, schedule 1, line 24. Insert "(3rd edition)" before "in".
- No. 69 Page 31, schedule 1, line 3. Omit "2949". Insert instead "2948".
- No. 70 Page 31, schedule 1, line 8. Insert "(3rd edition)" before "in".
- No. 71 Page 31, schedule 1, line 13. Omit "529". Insert instead "528".
- No. 72 Page 31, schedule 1, line 16. Insert "(3rd edition)" before "in".
- No. 73 Page 31, schedule 1, line 28. Omit "1773". Insert instead "1772".
- No. 74 Page 31, schedule 1, line 31. Insert "(3rd edition)" before "in".
- No. 75 Page 32, schedule 1, line 22. Omit "2745". Insert instead "2735".
- No. 76 Page 32, schedule 1, line 27. Omit "Misc. R 00118 and Misc. R 00119". Insert instead "Misc. R 00118 (3rd edition) and Misc. R 00119 (3rd edition)".
- No. 77 Page 33, schedule 1, line 6. Omit "248". Insert instead "246".
- No. 78 Page 33, schedule 1, line 11. Insert "(3rd edition)" before "in".

Some smaller areas of forest management zones [FMZ] 3B and 4 within State Forests were included in the bill in advance of the transfer to FMZ 2 or 3A. Logging is permitted in these zones. These areas have been agreed between State Forests and the National Parks and Wildlife Service for transfer to FMZ 2 or 3A, but this had not occurred before the bill was introduced. The transfer was agreed to because, on close inspection, it was found that there was no commercially viable timber and in order to provide rational boundaries for management. Some of FMZ 3B and 4 had been under consideration as a result of the Government's 1998 forestry decisions, which included land earmarked for further consideration—often called FURCONS—and land set aside pending decisions on wilderness boundaries. These decisions are documented in the New South Wales forest agreements and the integrated forestry operations approvals. The Government has made it clear that the bill will not impact on timber supplies, and it will not.

To emphasise this and to deliver what we have said, the Government will remove these small areas of FMZ 3B and 4 even though they have been found not to contain commercially viable timber. Areas to be removed total about 500 hectares in a bill that adds approximately 145,000 hectares to reserves under the National Parks and Wildlife Act, and gives additional statutory protection of special management zone to more than 300,000 hectares of State Forests. These areas represent about only one-tenth of 1 per cent of the total area of FMZ 3B and 4 in the upper and lower north-east regions. The amendment removes these smaller areas of FMZ 3B and 4 from the bill to honour the commitment that no areas of State forest in which logging is permitted are transferred by the bill. It is the Government's intention that at some future time these areas will be transferred to the reserve system when the transfers to FMZ 2 and 3A have been completed.

The Hon. RICK COLLESS [10.32 p.m.]: My colleague the shadow Minister has advised me that we will not oppose the amendments. The Government has moved 78 amendments based on areas. How much work was done before the bill was drafted? The Government did not even know what areas were covered. An area of about 140 hectares will be amended to an area of 136 hectares. It is not good enough to introduce such an ill-prepared bill that the Government has to move 78 amendments to correct the areas that were not properly surveyed prior to the drafting of the bill. One can only wonder at the dedication of the Government when it gets the numbers wrong. The bill was introduced to satisfy some misguided, ideological pursuit.

Amendments agreed to.

Schedule 1 as amended agreed to.

Schedule 2 agreed to.

The Hon. IAN COHEN [10.34 p.m.], by leave: I move Greens amendments Nos 1 to 5 in globo:

No. 1 Page 40, schedule 3, lines 5 to 14. Omit all words on those lines. Insert instead:

Part 1 Special Management Zones

The whole or the parts of the State forests designated as "existing FMZ 2" and "existing FMZ 3A" and shown by blue and red tint respectively on the Special Management Zones Map.

Part 2 Definitions

In this Schedule, *Special Management Zones Map* means the map marked "Additional Areas (Special Management Zones) 2002" and presented to the President of the Legislative Council (by or on behalf of the Hon Ian Cohen, MLC) during consideration by the Legislative Council of the Bill for this Act.

No. 2 Page 55, schedule 9.1 [2], lines 8 and 9. Omit all words on those lines.

No. 3 Page 55, schedule 9.1 [3], lines 10 and 11. Omit all words on those lines.

No. 4 Page 55, schedule 9.1 [6], lines 19 to 22. Omit all words on those lines.

No. 5 Page 55, schedule 9.1 [7], proposed section 21A (1A), line 25. Omit "sections 16A and 19B". Insert instead "section 16A".

Amendment No. 1 replaces the Forestry Commission [FC] map of special management zones with the map the Greens tabled during the second reading debate. The only difference between the FC map and the Greens map is that we have included the FMZ 2 and 3A areas on the three map sheets that have been deleted from the Forestry Commission map. The Greens map, "Additional Areas Special Management Zones 2002", is the agreed Government data set for FMZ 2 and 3A areas for north-east New South Wales. It is only additional in the sense that it is those areas that the Government has arbitrarily deleted. It includes no areas of FMZ 4, which is the general harvest zone.

Greens amendments Nos 2, 3, 4 and 5 ensure that the boundaries of FMZs cannot be changed without an Act of Parliament. This is consistent with the legislation with respect to national park boundaries. Under the bill introduced by the Government it is possible for FMZ boundaries to be changed, areas to be swapped and even areas of up to 20 hectares to be cleared for special works. I commend Greens amendments Nos 1, 2, 3, 4 and 5 to the Committee.

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.36 p.m.]: The Government opposes the amendments. In relation to amendment No. 1, the bill already adds 300,000 hectares of land to the special management zone. The Government has deferred two blocks of FMZ 2 and 3A totalling about 24,600 hectares to allow investigation of claims that the mapping could be usefully refined. I can give a commitment that the resultant FMZ 2 and 3A will be added later to the special management zone. Amendments Nos 2 and 3 would make the treatment of special management zones inconsistent with the balance of State forests, including for reserves and national forests. An Act of Parliament would be necessary to revoke an area of special management zones to give effect to a land swap arranged under section 16A of the Forestry Act. In relation to amendments Nos 4 and 5, it is reasonable and desirable to allow for small parts of State forests to be revoked to allow for important public works such as roads and other infrastructure.

Amendments negated.

Schedule 3 agreed to.

Schedules 4 to 7 agreed to.

The Hon. PATRICIA FORSYTHE [10.37 p.m.]: I move Opposition amendment No. 1:

No. 1 Page 50, schedule 8. Insert after line 17:

4 Continuation of existing grazing interests

- (1) In this clause, *existing grazing interest* means any authority, authorisation, permit, lease, licence or occupancy that:
 - (a) is in force immediately before the commencement of this Act, and
 - (b) authorises the use or occupation of land reserved by this Act under the *National Parks and Wildlife Act 1974* for the purpose of grazing.
- (2) An existing grazing interest is not to be terminated or revoked before 1 January 2006, unless the NPW Minister is of the opinion that the holder of the existing grazing interest has contravened any condition of the existing grazing interest or any obligation with respect to the existing grazing interest arising under any Act.

The amendment would make it unlawful to terminate or revoke an occupational permit before 1 January 2006. I welcome the commitment from the Government tonight that it will do nothing for a period of at least 18 months or until the drought has lifted, but it is quite possible that the drought will continue in these areas for at least that length of time. Three years will barely be enough time for people to deal with it. It is not just the ending of the drought: many of these people do not have an income at this time because of the drought.

Three years is at least a starting point and a time during which they can start to work out their future with the Government. The Government has talked about addressing matters on a case-by-case basis. The Opposition believes that that process should be under way well before 1 January 2006. This amendment will provide a time frame that recognises the real problems that these farmers are facing. Those problems have been highlighted by many members reading onto the record letters from the people affected. We are not dealing with lines on a map; we are dealing with people in everyday circumstances and trying to work out how they will cope with the impact of this legislation.

Reverend the Hon. FRED NILE [10.41 p.m.]: I foreshadowed during the second reading debate the support of the Christian Democratic Party for this amendment. I understand that the Government is offering an 18-month minimum time frame, perhaps even more if it starts after the drought breaks—and no-one knows when that will be. The Government is offering these grazing rights until 2004-05. This amendment changes that date to 1 January 2006. It is a minor extension of time, but it may be important to families on the land. I ask the Government to show some compassion in this matter.

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.42 p.m.]: The Government is very compassionate in this matter. As I said and made it clear, these permanent occupation permits will remain in force until at least the end of the drought or for 18 months. However, as I pointed, if the drought continues, the Government will allow the permits to continue on a case-by-case basis. The Government will not throw people out of these areas while the drought continues.

The Hon. Malcolm Jones: You are not saying that.

The Hon. IAN MACDONALD: The Hon. Malcolm Jones has no idea. He should read the bill. The Government has given a written commitment to New South Wales farmers that all permanent occupation permits and licences for grazing current at the time of transfer will continue until the official lifting of the drought declaration or for 18 months, whichever is the longer. In addition, the permanent occupation permit task force will consider further extensions of time on a case-by-case basis to allow transition from the drought. The Government is sensitive to the concerns of farmers, especially in these difficult times, and believes these measures are adequate to address those concerns and to cover the 35 leaseholders in question.

The Hon. PATRICIA FORSYTHE [10.43 p.m.]: The Parliamentary Secretary has been a farmer and he knows that the end of the drought will not see the end of the farmers' problems. There is a shortage of food across the State. Although he has talked about transition, that will take a long time for many farmers. The least we can do is to provide some certainty about working through the process.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.43 p.m.]: The letters I have received from some leaseholders have been very moving. They have been on the land for a long time. As has been pointed out, the proposed extension is not long. The Australian Democrats support the amendment and hope that the

Government sees fit to do the same. I urge the Government to deal compassionately with these people. Often if they lose some of their leasehold land the rest of their farm is no longer viable. That is another serious issue being exacerbated by the drought. It is not a long period in which to plan such a move.

The Hon. Dr PETER WONG [10.44 p.m.]: I also support the amendment. I concur with the Hon. Dr Arthur Chesterfield-Evans. The difference between the date in the bill and 2006 is not much. The Government should show compassion for country people.

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.44 p.m.]: The Opposition is locking this into 2006 regardless of the drought.

The Hon. Patricia Forsythe: No, we are not.

The Hon. IAN MACDONALD: That is precisely what you are doing.

The Hon. RICHARD JONES [10.45 p.m.]: It is absurd to say that the Government has no compassion for the farmers. Of course it has. That is why it is allowing them to use the land until after the drought has broken. If we make the date 2006, there could be another drought, another good time and another drought in the meantime.

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.46 p.m.]: I want to make this clear. The amendment states:

- (2) An existing grazing interest is not to be terminated or revoked before 1 January 2006, unless the NPW Minister is of the opinion that the holder of the existing grazing interest has contravened any condition of the existing grazing interest or any obligation with respect to the existing grazing interest arising under any Act.

This sets it in motion. While the drought continues, the leaseholders will not lose their licences. The drought could end next year, and this locks the leaseholders in so that they cannot be put aside under the provisions of the legislation until at least 1 January 2006. This amendment locks them in regardless of whether there is a drought. The Government believes that is unreasonable.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [10.47 p.m.]: I wish I could quote the Country Labor member's words and convey the tone of his voice. He was angry that the Opposition, with the support of the crossbench members, was tying this in to 2006.

The Hon. Ian Macdonald: Regardless of the drought.

The Hon. DUNCAN GAY: That is true. If I had my way I would tie it up longer than that. We are taking it beyond the drought because farmers need time to recover from a drought. There will not be instant feed and good times at the end of the drought and the farmers will need time to regroup. That is why we have moved this amendment to make the date 2006. If I thought there was one iota of a chance that the Committee would support an amendment removing the date altogether, I would move it. The Opposition has moved an amendment which will help these people and which has a chance of attracting broad-based support in this Chamber. That is why the amendment refers to 2006. That period will give farmers a chance to regroup. The convenor of Country Labor is in the Chamber tonight but he has not spoken out against what the Parliamentary Secretary has said. The Government is trying to have these farmers evicted immediately after the drought breaks.

The Hon. Richard Jones: He didn't say that.

The Hon. DUNCAN GAY: He did say that. In fact, he said it in his speech and again to emphasise that the Opposition's amendment was designed to take it beyond the drought.

The Hon. Ian Macdonald: You are an absolute liar!

The Hon. DUNCAN GAY: The Parliamentary Secretary called me a liar. I ask anyone who is listening to check *Hansard* to establish who is telling the truth.

The Hon. IAN COHEN [10.49 p.m.]: I am concerned about the frenzy that is developing. The Opposition, particularly the National Party, is using some of the crossbench members. It does not want to see any end to grazing in these protected zones. It is pushing the boundaries as far as possible to reach its goal, which is unsustainable.

The Hon. Rick Colless: It isn't.

The Hon. IAN COHEN: That is the honourable member's opinion. It is not supported by science. We have been relying on the fact that members opposite have said in the past that their forebears made mistakes by clearing and grazing these areas. They are now trotting out an example in Africa of hard-hoofed animals somehow improving the land and they think it translates to Australia. Unsustainable agricultural processes are being used in areas that are under stress because of the drought. We know what members of the National Party want. They talk about being green, but they want to continue grazing in these areas despite the fact that it is unsustainable. They want to kill native animals coming out of national parks and to graze cattle into areas that cannot sustain them. They will not allow the reasoned position, which I am also not happy about. The Government is referring to the time it takes after the drought breaks for the grass to grow enough to accommodate grazing cattle. The Hon. Rick Colless knows that areas are purposely burnt so that the green pick that comes up straightaway can be grabbed. He should be honest about it: he does not give a damn about the environment!

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

The Committee divided.

Ayes, 14

Dr Chesterfield-Evans	Mr M. I. Jones	Mrs Pavey
Mrs Forsythe	Mr Lynn	Dr Wong
Mr Gallacher	Reverend Dr Moyes	<i>Tellers,</i>
Miss Gardiner	Reverend Nile	Mr Colless
Mr Gay	Mr Oldfield	Mr Pearce

Noes, 15

Mr Breen	Mr R. S. L. Jones	Mr West
Dr Burgmann	Mr Macdonald	
Ms Burnswoods	Ms Rhiannon	
Mr Cohen	Ms Saffin	<i>Tellers,</i>
Mr Costa	Mrs Sham-Ho	Ms Fazio
Mr Della Bosca	Mr Tsang	Mr Primrose

Pairs

Mr Harwin	Mr Dyer
Mr Jobling	Mr Egan
Dr Pezzutti	Mr Hatzistergos
Mr Ryan	Mr Obeid
Mr Samios	Ms Tebbutt

Question resolved in the negative.

Amendment negatived.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.56 p.m.], by leave: I move Australian Democrats amendments Nos 6 to 9 in globo:

No. 6 Page 51, schedule 8, lines 28 to 33. Omit all words on those lines. Insert instead:

- "(b) roads used, immediately before the commencement of this Act, for access by vehicles to private land holdings within those lands,
- (c) roads used for access by vehicles through those lands to State forests or private land holdings that adjoin or are in the vicinity of the lands."

No. 7 Page 52, schedule 8, line 12. Omit "must". Insert instead "may".

No. 8 Page 52, schedule 8, line 20. Omit "2007". Insert instead "2003".

No. 9 Page 53, schedule 8, lines 8 to 10. Omit all words on those lines. Insert instead:

- "(9) While a private land holding is in private ownership, nothing in this clause authorises the NPW Minister to close any access road that:
- (a) comprises the only practical means of access by vehicles to the land holding, and
 - (b) immediately before the commencement of this Act was used for access by vehicles to the land holding."

Amendments Nos 6 to 9 refer to access roads in the new national parks as provided in clause 7 of schedule 8 to the bill. Amendment No. 6 restricts the definition of access to access used by vehicles. As it stands, the bill provides that if any form of access to any future national parks is used prior to the commencement of the bill, that access route will automatically be excluded from the new national park. That is extraordinary. It means that if someone was going for a walk along a bush track through one of the State forests this week, that route would be left out of the new national park. The exclusion would be impossible to map and would create all sorts of enforcement and legal issues, because each new national park would be riddled with all the excluded roads and tracks that nobody could easily define.

I am aware that that provision is similar to those in previous bills over the past five years that created new national parks. However, the Government provided little opportunity for those bills to be amended. That provision must be improved now. I am sure that the intention of the Government is for those exclusions to apply only to roads being used by cars and trucks, not those used by any form of access whatsoever. For example, the bill as it stands would exclude horse bridle paths from the new national parks, limiting the ability of the National Parks and Wildlife Service to restrict that type of access and to control impacts such as introduced weeds. The amendment specifies that the only means of access must be by motorised vehicles.

Amendment No. 7 makes discretionary the granting of a right of way to a land-holder that already existed under the Forestry Act. The bill as it stands requires that the granting of the right of way in a new national park is mandatory. That gives the Minister some discretion in granting access to private land-holdings through national parks. There may be cases in which historical access is no longer appropriate. Amendment No. 8 shortens the time in which a notice is to be published confirming which access roads will become parts of national parks from five years to one year. As with amendments Nos. 1 to 4, the Government should resolve the uncertainty about the final national park boundaries, and whether roads of access should be in the new national park, or are to remain vested with the Minister for the Environment. Similar Acts that created new national parks gave less time to finalise the status of access roads. The bill should have a much shorter time than five years to resolve these issues: one year is reasonable.

Amendment No. 9 restricts the means of vehicle access referred to in clause 7 (9) of schedule 8 and ensures that the access was already in existence. The amendment ensures that a reference to access is access by vehicles only, similar to amendment No. 6. Paragraph (b) of the amendment is to make sure that the access was used for access before the commencement of the Act. Without this amendment a land-holder adjacent to or within one of the new national parks can create a new access road through the national park without any permission being required by the National Parks and Wildlife Service. If there is presently no formed access to the inholding, that land-holder should not be granted any new access rights. That is entirely consistent with the normal practice when national parks are created. There are provisions in the National Parks and Wildlife Act that allow for the formalisation of access to inholdings, subject to specific criteria. I commend the amendments to the Committee.

The Hon. IAN MACDONALD (Parliamentary Secretary) [11.00 p.m.]: The Government opposes the amendments. The Government is committed to trying to minimise the impact of access routes on the values of national parks and other reserves. It would be unfair to restrict the protection of access to situations where the access was previously used by vehicles just before the commencement of the bill, or where it was used for other means of access such as walking or cycling.

Amendments negatived.

Schedule 8 agreed to.

The Hon. IAN COHEN [11.02 p.m.], by leave: I move Greens amendments Nos 6, 7 and 9 in globo:

No. 6 Page 55, schedule 9.1 [7]. Insert after line 27:

- (1B) Despite subsection (1A), the Governor may, by notice published in the Gazette, revoke the declaration of any land as or as part of a special management zone and by that notice set apart the land as or as part of a flora reserve.

(1C) Despite subsection (1A), the Governor may, by a notice under Division 1 of Part 4 of the *National Parks and Wildlife Act 1974* that reserves land under that Act:

- (a) revoke the declaration of the land, or any part of the land, as a special management zone, and
- (b) revoke the dedication of the land, or any part of the land, to which the declaration as a special management zone applies, as a State forest.

No. 7 Page 55, schedule 9.1. Insert before line 28:

[8] Section 21A (2A)

Insert after section 21A (2):

- (2A) The carrying out of general purpose logging is prohibited in a special management zone.

No. 9 Page 55, schedule 9.1. Insert before line 28:

[10] Section 21A (4) and (5)

Omit "the Minister" wherever occurring. Insert instead "or".

Greens amendment No. 6 allows the Government to upgrade the level of protection of a forest management zone [FMZ] 2 or FMZ 3A to FMZ 1 or flora reserve without requiring an Act of Parliament. Currently FMZ 2 allows mineral exploration and FMZ 3 also allows grazing. An upgrade would be possible only where mineral interests or grazing leases no longer existed. Greens amendments Nos 7 and 9 exclude general purpose logging from special management zones. That will not preclude the removal and use of any trees that may be felled as a result of road construction, but makes it clear that these are conservation zones that are not to be logged. I commend the amendments to the Committee.

The Hon. IAN MACDONALD (Parliamentary Secretary) [11.03 p.m.]: The Government accepts Greens amendments Nos 6, 7 and 9. I refer first to amendment No. 6. Given that the Government has announced that it intends to upgrade some forest management zones 2 and 3A, which are also to be made flora reserves, it is reasonable to allow that to occur without the need for legislation to revoke special management zones. With regard to amendment No. 7, whilst it is clear government policy for general purpose logging not to occur in special management zones, there are minor exceptions. The Government believes that amendment No. 9 is acceptable within the framework of the proposed changes.

The Hon. MALCOLM JONES [11.04 p.m.]: If Greens amendments Nos 6, 7 and 9 were to be considered collectively rather than individually, it may be possible to declare an area a special management zone by regulation. In turn, that may prevent logging in that area without adequate discussion; it would simply be controlled by regulation. As the Parliamentary Secretary explained to me earlier, whilst it may appear that these may be minor amendments if considered individually, they are not minor amendments if considered collectively. We should be wary of this practice when amendments are placed before the House. I oppose the amendments.

The Hon. PATRICIA FORSYTHE [11.05 p.m.]: I seek the Government's clarification as to whether it is intended that these areas would be changed by regulation and not legislation.

The Hon. IAN MACDONALD (Parliamentary Secretary) [11.05 p.m.]: The answer is yes.

Amendments agreed to.

The Hon. IAN COHEN [11.06 p.m.]: I move Greens amendment No. 8:

No. 8 Page 55, schedule 9.1. Insert before line 28:

[9] Section 21A (3A)

Insert after section 21A (3):

- (3A) A special management zone is to be managed in accordance with the following principles:
 - (a) the conservation of biodiversity, the maintenance of ecosystem function, the protection of geological and geomorphological features and natural phenomena and the maintenance of natural landscapes,
 - (b) the conservation of places, objects, features and landscapes of cultural value,

- (c) the undertaking of mining, mineral or petroleum exploration in the special management zone, to the extent permitted by other provisions of this Act and having regard to the conservation of its natural and cultural values,
- (d) the undertaking of grazing or bee-farming in the special management zone, to the extent compatible with the conservation of its natural and cultural values,
- (d) the promotion of public appreciation and understanding of the special management zone's natural and cultural values, to the extent compatible with the conservation of those natural and cultural values,
- (e) the sustainable visitor use and enjoyment of the special management zone, to the extent compatible with the conservation of its natural and cultural values,
- (f) the undertaking of research and monitoring, to the extent compatible with the conservation of its natural and cultural values.

The purpose of this amendment is to make explicit the current Government policy. Special management zones should be managed in a manner that is compatible with the conservation of their natural and cultural values. I commend the amendment to the Committee.

The Hon. IAN MACDONALD (Parliamentary Secretary) [11.06 p.m.]: The Government opposes Greens amendment No. 8. The Government accepts the intent of the amendment, and it is consistent with Government policy. However, there is some concern about elements of detail. In particular, the principle relating to mining and mineral exploration would require careful consideration, given that some forest management zones 2 and 3A were specifically assigned to these particular categories of reserve because of agreements and decisions about retaining access to mineral reserves and the potential to explore for minerals.

Amendment negated.

Schedule 9 as amended agreed to.

Title agreed to.

Bill reported from Committee with amendments and report adopted.

Third Reading

The Hon. IAN MACDONALD (Parliamentary Secretary) [11.07 p.m.]: I move:

That this bill be now read a third time.

The House divided.

Ayes, 19

Mr Breen	Mr Macdonald	Mr Tsang
Ms Burnswoods	Reverend Dr Moyes	Mr West
Dr Chesterfield-Evans	Reverend Nile	Dr Wong
Mr Cohen	Mr Obeid	
Mr Della Bosca	Ms Rhiannon	<i>Tellers,</i>
Mr R. S. L. Jones	Ms Saffin	Ms Fazio
Mr Kelly	Mrs Sham-Ho	Mr Primrose

Noes, 10

Mrs Forsythe	Mr M. I. Jones	
Mr Gallacher	Mr Lynn	<i>Tellers,</i>
Miss Gardiner	Mr Oldfield	Mr Colless
Mr Gay	Mrs Pavey	Mr Pearce

Pairs

Mr Egan	Mr Harwin
Mr Costa	Mr Jobling
Mr Dyer	Dr Pezzutti
Mr Hatzistergos	Mr Ryan
Ms Tebbutt	Mr Samios

Question resolved in the affirmative.

Motion agreed to.

Bill read a third time.

WORKERS COMPENSATION ENTITLEMENTS LEGISLATION

Ministerial Statement

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [11.16 p.m.]: I give notice of my intention to bring forward legislation next session to remove an anomaly in workers compensation entitlements that has arisen as a result of the decision in a recent Supreme Court case. In the case of *Pender v Powercoal* the New South Wales Supreme Court held that the claimant was injured in a colliery due to the "use or operation" of a motor vehicle and thus, pursuant to section 151E of the Workers Compensation Act 1987, he had to pursue his common law claim in accordance with the procedures as provided under the Motor Accidents Compensation Act 1999 rather than in accordance with workers compensation legislation.

In *Pender* the accident occurred while workers in an underground coalmine, in attempting to unwind a reinforced water hose wound around a 750-kilogram metal drum, attached one end of the hose to a PJB and used a forklift to pull the drum backwards, thus unwinding the hose. The drum fell off the forklift and hit the plaintiff standing nearby. Both the PJB and the forklift come within the definition of a "motor vehicle". This accident did not involve any vehicle with compulsory third party [CTP] insurance; nor did it occur on a public road or a road-related area. Thus it was not essentially a compulsory third party claim under the New South Wales Motor Accidents Scheme. Part 5, division 3, of the Workers Compensation Act deals with modified common law damages. This division would generally not apply to motor accidents under the CTP legislation when there is a CTP insurer on risk. In such cases—for example, journey-to-work accidents—the claim may be managed by the compensation insurer but that insurer may then recover from the CTP insurer. The *Pender* decision has defined a broad scope for the type of motor vehicles, and consequently the accidents, that now come within the Motor Accidents Compensation Act, with the consequence that a motor accident can now involve unique pieces of equipment used only in particular workplaces.

The judge in *Pender* acknowledged that it was "debatable" that the legislature had directed its attention to whether cases involving equipment such as that found in *Pender* and its manner of use should be determined under the Motor Accidents Compensation Act. The judge further suggested that "close consideration" should be made of whether certain types of equipment, such as the coalmining equipment used in *Pender*, should come within the operation of the Motor Accidents Compensation Act. The decision in *Pender* has led to the importing of the New South Wales Motor Accidents Scheme's procedures and method of assessing damages into the determination of a common law claim against the workers compensation insurer when any motorised vehicle is involved, regardless of whether there is a CTP insurer on risk.

Although the decision involved an accident in an underground coalmine, *Pender* has implications for many categories of worker. It means that any worker injured at work by the use or operation of any motorised vehicle could have their common law entitlement determined in accordance with the Motor Accidents Compensation Act rather than the Workers Compensation Act. The *Pender* case highlights how inappropriate it is for the Motor Accidents Compensation Act to cover such accidents. As the decision stands, the effect is to remove a large number of claims out of the workers compensation jurisdiction and requires them to be determined in accordance with the procedure and assessment requirements of the Motor Accidents Compensation Act. The differential treatment of workers in the determination of compensation arising from the decision in *Pender* raises important financial management and industrial issues of concern to the industry that need to be addressed. So as to remove any uncertainty for injured coalminers and workers who have been injured by motorised vehicles and their employers, I propose that legislation to address the effect of the decision in *Pender* be backdated to commence from the date of this ministerial statement.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [11.20 p.m.]: I give a commitment to the House that next year the Coalition will give this legislation priority to ensure that it rectifies the situation. The Minister struck a chord with me and with many members on this side of the Chamber when he referred to the different treatment of workers. Without detracting from what the Minister put on the record in relation to this serious matter, there is a difference in the way workers are treated in this State. It is interesting that the *Pender* case relates to coalminers, as the Opposition has continually referred to the way coalminers are treated under a different scheme in terms of workers compensation than other workers in New South Wales. If that is compounded by a motor vehicle accident, there are potentially three differentiations.

This issue needs to be addressed as a matter of urgency to ensure that 100 per cent of workers in this State are treated equally under the law. In relation to workers compensation, if the Government intends to

pursue different treatment for coalminers because of the dangerous work they perform, the Opposition believes that other workers who face high risks, and their families, also need to be protected. I am sure the Minister will recall my views in relation to emergency service workers. I remind the Minister that this is extremely important not only for coalminers but, particularly at this time, for firefighters who risk their lives and livelihoods protecting the community. We need to ensure that the workers compensation system recognises the contributions and the dangerous nature of work performed by ambulance officers, fire brigade officers and police officers. The Government views coalminers in the same way the Opposition views emergency service workers.

DISORDERLY HOUSES AMENDMENT (COMMERCIAL SUPPLY OF PROHIBITED DRUGS) BILL

Second Reading

Debate resumed from 23 November.

The Hon. GREG PEARCE [11.24 p.m.]: I lead for the Coalition on this bill, which is heading in the right direction to address these problems. The bill changes the current title of the Restricted Premises Act. It also allows senior police to apply for declaration notices to the District Court and the Supreme Court to facilitate the closure of premises that are presently being used as cannabis cafes—as they are colloquially described—and premises that are used by intermediaries to facilitate criminal and fraudulent activities. In 2001 a review of the Disorderly Houses Act resulted in drug use laws enabling police to have sufficient powers to close down private residences being used for the sale of drugs. New South Wales police have also advised of the need for similar powers to tackle the illegal sale of drugs from business premises. It seems that employees in those business premises are used to disperse the drugs or to commit the crimes. It is difficult for the police to crack down on those sorts of crimes.

The bill will overhaul the disorderly houses notices and declarations provisions, and adopt provisions similar to those contained in the Liquor Act, which allow for temporary closure of business premises being used in the illegal sale of drugs. The use of intermediaries to mask criminal or fraudulent activities is, unfortunately, not confined to one or two premises. Perhaps the most notorious case involved Al Constantinides funnelling \$US5 million to former Prime Minister Paul Keating for his piggery interests. It was a secret payment which was never denied and never accounted for to the tax man. This, of course, is just the tip of a network of frontmen in New South Wales. One only has to look at Mr Constantinides and his fellow director—I will call him Mr Calamari. I am grateful to the Federal member for Fowler, who described Mr Calamari as someone whose dealings were scam after scam—

The Hon. Ian Macdonald: Point of order: I have listened to the Hon. Greg Pearce with a little bit of interest and he is straying from the bill. The Hon. Dr Brian Pezzutti normally strays in debate, but the Hon. Greg Pearce is straying in a monumental way. He should be stopped.

The Hon. GREG PEARCE: To the point of order: I am not straying from the bill. This bill deals with the problem of employees or middlemen being used to facilitate criminal or fraudulent activities. I have been citing examples of similar types of activity to explain why I support the bill. In relation to Mr Calamari, it is appropriate to describe to the House how the use of these sorts of intermediaries leads the Opposition to support the bill. I am speaking to the bill.

The PRESIDENT: Order! Although I have stated in the past that it is a convention in this House for the contributions of members to be fairly wide-ranging, I remind the member that the bill to which he is referring is the Disorderly Houses Amendment (Commercial Supply of Prohibited Drugs) Bill.

The Hon. GREG PEARCE: If the Parliamentary Secretary is unhappy with my talking about Mr Calamari, I will proceed to discuss the bill. I was talking about middlemen being used to facilitate criminal and fraudulent activities. I will no longer refer to him as Mr Calamari, but he guaranteed Mr Constantinides' loan of \$1.5 million. What did he get for that and where did the money go?

The Hon. Ian Macdonald: Point of order—

The PRESIDENT: Order! I remind the Hon. Greg Pearce that when a member rises to take a point of order the member who is speaking must yield.

The Hon. Ian Macdonald: Again, the Hon. Greg Pearce is completely flouting the conventions of the House. If he is allowed to get away with that, in my reply I might as well start talking about payments from PricewaterhouseCoopers and other issues. The honourable member's remarks have nothing to do with this bill, which is quite specific. If the honourable member wants to do that, let us have a free-for-all. In my reply I will be happy to talk about John Brogden and anyone else in the place. As it is late we should deal with the bill. If the honourable member wants to deal with this item, Opposition members should allow him to make a speech on the adjournment next Tuesday. In a debate on drugs and disorderly houses the honourable member should not raise these issues and attack the Labor Party. He should stick to the point of order and deal with this bill. Every time he starts to raise other matters I will take a point of order, and we will be here until 6 o'clock.

The Hon. GREG PEARCE: To the point of order: I draw to your attention the Minister's second reading speech in which he gave the example of, and went on at length about, cannabis cafes. He referred to Cafe Karma. I could go on at length about the other examples to which he referred. I am entitled to present to the House the examples I am relying on to express my views about this bill, just as the Minister did in his speech. He spoke about Cafe Karma and cafe this and cafe that. I am entitled to refer to the examples to which I want to refer.

The PRESIDENT: Order! Earlier I reminded the Hon. Greg Pearce of the title of the bill. The member is coming close to flouting that ruling. Standing Order 81 states quite clearly that no member shall digress from the subject matter of any question under discussion.

The Hon. GREG PEARCE: Most recently I have become aware of the operation of two seafood restaurants at Broadway which a certain gentleman—

The Hon. Amanda Fazio: Point of order: My point relates to relevance. As the Parliamentary Secretary said, we are debating the Disorderly Houses Amendment (Commercial Supply of Prohibited Drugs) Bill, which is commonly referred to as the "drug houses bill". It has nothing to do with seafood restaurants. The Hon. Greg Pearce should debate the subject matter of the bill. If he fails to do so he should be thrown out, because I do not think he is in a fit state to make a coherent contribution to the debate.

The Hon. GREG PEARCE: The Hon. Amanda Fazio just made an imputation against me, and I ask her to withdraw it.

The Hon. Amanda Fazio: Further to the point of order—

The Hon. GREG PEARCE: Madam President, I have asked the honourable member to withdraw the imputation against me.

The Hon. Amanda Fazio: The Hon. Greg Pearce is the last person in this Chamber who should ever ask for imputations to be withdrawn, because he is the worst mud-slinger I have encountered in my parliamentary life. He should be ashamed to come into this Chamber and ask that I withdraw imputations against him. How dare he! What a hypocrite! I have said nothing against him that is not apparent to anyone who is awake.

The Hon. GREG PEARCE: Madam President, I ask you to ask the member to withdraw her initial imputation and the imputation she has just made.

The PRESIDENT: Order! Could the member repeat the actual imputations and what he felt they imputed?

The Hon. John Ryan: To the point of order—

The Hon. Jan Burnswoods: The Hon. John Ryan has interrupted your clear direction to the Hon. Greg Pearce that he explain to you why he believes anyone imputed anything against him. I ask you to draw his attention to the fact that you have issued him with a direction.

The Hon. GREG PEARCE: Madam President, I find it quite unusual that you are not prepared to follow the usual procedure of the House when a member indicates that he feels he has been impugned. I am concerned that the Hon. Amanda Fazio implied that I was in some way unfit to be making my speech. She then described me as a mud-slinger. I think she said a bad mud-slinger but I suspect she meant a good mud-slinger. In accordance with usual procedures, I would like those two imputations withdrawn.

The Hon. John Ryan: I refer to the original point of order. In all fairness, I do not think that my colleague said much more than a phrase or two before he was interrupted by a point of order—I am not sure whether the member opposite was present. I am unable to work out exactly what point my colleague was about to make, so I am not sure whether it was fair to take a point of order. In any event, a clear imputation was made against the member. I think the intent of the remark was obvious to honourable members present so I will not repeat it. In any event, under the rules of fair play, I think the Hon. Greg Pearce is entitled to take offence at a remark that was made about him during a subsequent point of order.

The PRESIDENT: Order! Certainly in the past, imputations that a member is not sober have been regarded as unparliamentary. If the Hon. Amanda Fazio was making an imputation that the Hon. Greg Pearce is affected by alcohol, I ask her to withdraw the imputation. However, I do not regard the term "mud-slinger" to be unparliamentary.

The Hon. Amanda Fazio: In response to your request, my comments about the Hon. Greg Pearce were more to do with his state of mind than intoxication. They were more to do with the fact that he has an unnatural obsession with attacking Government members. I was not accusing him of being drunk; I was accusing him not of being deranged or of being of unsound mind but of exhibiting unnatural obsessive behaviour. That is a relevant observation. The honourable member should not take offence at that because it is something that is patently obvious to everyone.

The PRESIDENT: Order! I will rule on the original point of order. In doing so I remind the Hon. Greg Pearce of my previous ruling relating to the title of the bill before the House and that Standing Order 81 clearly provides that members should not digress from the question under discussion. I uphold the point of order and rule that the member was being disorderly. The Hon. Greg Pearce may continue.

The Hon. GREG PEARCE: I was not going to allege that there was drug trading at the two seafood restaurants at Broadway, although I have been informed that last month at Liverpool Local Court two young Lebanese men pleaded guilty to drug offences.

The Hon. Jan Burnswoods: Point of order: You just reminded the Hon. Greg Pearce of your previous ruling relating to the title of the bill and you indicated its content. Government members have taken many points of order about the fact that the Hon. Greg Pearce has no interest in the bill. He is deliberately flouting your ruling. I ask you again to remind him that what he is talking about bears no relationship to the bill. I think it is fair to say that the man is either of unsound mind or he is not sober.

The Hon. GREG PEARCE: To the point of order: Madam President, you specifically ruled that if I wanted to refer to restaurants I should do so in the context of the bill and explain to the House, in relation to drug dealing, why I was referring to those restaurants. That is what I began to do. I ask you to ask the Hon. Jan Burnswoods to withdraw the quite clear and absolute imputation that she made in contravention of your ruling.

The Hon. Peter Primrose: To the point of order: The Hon. Greg Pearce is relying on the good graces, the standing and sessional orders, and the traditions of this House by asking you to request a member to withdraw something. However, at the same time, he is prepared to continue to flout those same standing orders and good graces to make a political point on a matter that has nothing to do with the bill. The honourable member must be consistent. Either he totally disregards standing and sessional orders and he becomes a rogue member, or he recognises that he, like the rest of us, is protected and, in accordance with your direction, he should speak to the bill. If the honourable member has nothing to say about the bill he should sit down.

The Hon. Duncan Gay: To the point of order: The Hon. Jan Burnswoods, who took a point of order, impugned the character of the honourable member by implying that he was drunk.

The Hon. Jan Burnswoods: I did not!

The Hon. Duncan Gay: She did. She did more than imply that the honourable member was drunk; she said that he was drunk. That is an easy statement for people to make. Fifty per cent of people who read *Hansard* might think that she was right. However, honourable members in this House know that she is wrong. She made that statement as a debating point—and a very unfortunate debating point at that. Madam President, earlier you asked honourable members to withdraw imputations that they had made against the honourable member. I ask you to ask the honourable member to withdraw those imputations.

The Hon. Jan Burnswoods: Further to the point of order: As usual, the Deputy Leader of the Opposition is quite wrong. I said that I was prepared to state openly and categorically that the Hon. Greg Pearce was either of unsound mind or drunk.

The Hon. GREG PEARCE: Further to the point of order: When I spoke earlier I specifically addressed the issues that you directed me to address. The Hon. Jan Burnswoods then took a point of order and again flouted a ruling that you made less than 10 minutes ago. She should withdraw the imputation against me.

The PRESIDENT: Order! I ask the Hon. Jan Burnswoods to withdraw her comment that the Hon. Greg Pearce was not sober. I ask the Hon. Greg Pearce not to flout my ruling and to speak very specifically to the bill before the House.

The Hon. Jan Burnswoods: I withdraw that portion of my comments that referred to the fact that the honourable member was not sober.

The Hon. Duncan Gay: And the unsound mind bit.

The Hon. GREG PEARCE: Point of order: I also require the Hon. Jan Burnswoods to withdraw the allegation that I am of unsound mind.

The PRESIDENT: Order! I do not regard an allegation that a member is of unsound mind to be unparliamentary.

The Hon. Duncan Gay: You are kidding!

The PRESIDENT: Order! That comment is made frequently.

The Hon. Duncan Gay: Why don't you throw me out? I would be proud to be thrown out. That is a poor decision.

The PRESIDENT: Order! According to precedent, it is unparliamentary for a member to suggest that another member is not sober. I asked the Hon. Jan Burnswoods to withdraw that imputation, and she has. The Hon. Greg Pearce will speak to the bill.

The Hon. GREG PEARCE: I was about to conclude my remarks. As I said earlier, the Coalition is happy that this legislation is going in the right direction. It is a great pity that parliamentary tradition does not now allow us to refer to other examples that show that the Government might act in a similar way. The Opposition does not oppose the bill.

Ms LEE RHIANNON [11.44 p.m.]: This bill, which is another lame law and order stunt from the Labor Government, will do nothing to make New South Wales a safer place or reduce the incidence of drug use in the State. The war on drugs has been an expensive failure—the evidence is all around us—and it can only continue to be a failure. We all agree on the need to reduce drug-related crime and to reduce the health problems flowing from substance abuse. This bill will do neither. Prohibition and draconian policing methods have seen drug-related crime flourish and substance abuse continue unabated. The only way to achieve the twin goals of reducing drug-related crime and reducing substance abuse is to adopt a harm minimisation approach and treat drug use as a health issue, not a criminal issue. It is impossible to eradicate, or even reduce, illegal drug use by prohibition and aggressive policing. The only sensible way forward is to accept this fact and to look at doing what we can to reduce the harm that flows from it. It is the only responsible course. If we do not address that problem we will continue to see deaths on our streets, in our homes and in our parks because of the terrible drug laws that are enacted by this Parliament.

The bill seeks to give police extra powers to close premises from which drugs are being sold and to prosecute offenders. It is a futile exercise. It might grab headlines but it will not save a life. No matter how hard the police try, and no matter what powers they are given, they will never be able to stop the sale of illegal drugs. The war on drugs has failed over decades. Prohibition has been so widely discredited it is extraordinary that the Government hangs onto it. The involvement of organised crime—which can only occur when a drug is prohibited—will ensure that the supply is never seriously disrupted. Honourable members must be aware that passing these types of law and order bills, which impact on the State's drug laws, actually assist organised crime. It is time—indeed, it is long overdue—that governments in this country put an end to prohibition.

If the Government regulated supply, organised crime would be removed from the equation. Providing prescription drugs and rehabilitation services to addicts could drastically reduce drug-related crime. Addicts would no longer have to steal to support their habit. Imagine how much crime would be eradicated if we moved in that sensible direction.

The Hon. Peter Breen: We would have to close the gaols.

Ms LEE RHIANNON: Yes. I acknowledge the Hon. Peter Breen's comments. It would mean cutting back on the gaols that the Government plans to build.

Reverend the Hon. Fred Nile: And have thousands of young people on drugs.

Ms LEE RHIANNON: These are the policies of Reverend the Hon. Fred Nile. Is he not prepared to acknowledge that when many of these young people end up in gaol they are exposed to much more drug taking? Many of them are raped because of his policies, which is an absolute tragedy. Our streets and communities could be safer places. By providing educational material, rehabilitation services and counselling in a controlled environment, away from the criminal justice system, the incidence of substance abuse could be reduced. When honourable members think of that in the cold light of day it should be obvious to them that that is the way to go to reduce the use of drugs in society.

Reverend the Hon. Fred Nile: According to the Greens.

Ms LEE RHIANNON: This is not according to the Greens. It is according to the reality in the community. Arresting people for drug taking does not work; it does not reduce the number of people using drugs. With education, rehabilitation and counselling, the number of addicts would decrease and the health of remaining addicts would improve. Lives would be saved. Reverend the Hon. Fred Nile could save lives if he thought more about human beings and not himself. What is more, millions of dollars spent on futile law enforcement would be saved. It is an ongoing tragedy that this Government's pathetic attempts to look tough on crime and criminals results in responsible and practical reforms being ignored.

This bill cannot and will not reduce crime. It will not make our community safer. The link that the Government tries to make between this bill and its law and order policy is that this is all about trying to make communities safer. The irresponsible attitude being taken to drug use in our society is no way to make our community safer. As long as drugs are outlawed—as they are presently—we will have a recipe for petty and major crime, and that is causing division and insecurity in our community. Only progressive law reform can achieve the goal of a safer community.

The Hon. Dr PETER WONG [11.51 p.m.]: Unity supports the Government's Disorderly Houses Amendment (Commercial Supply of Prohibited Drugs) Bill. It has long been suspected that many illegal drugs can contribute to significant negative impacts on health. Now this danger has been confirmed for at least one drug. The findings of a seven-year-long study of 1,600 teenagers confirm that the effects of cannabis are more detrimental than previously thought. The project leader, Professor Patton, concluded that the significant risk of predisposition towards later depression warrants abstinence. The use of this soft drug has also been implicated in long-term psychiatric problems, including paranoia and schizophrenia. The advent of this new evidence adds pressure to solving the problem of illegal drug trade in this State. This bill represents a step forward in this endeavour. The procedure for declaring and closing suspected premises has been updated to reflect current policing and judicial conditions. The greater relevant incorporated into this framework could enhance the expediency of this process.

Increased penalties are also introduced in this bill, particularly for the owner or occupier of suspected premises, if the conditions prompting the declaration are permitted to persist after the declaration is made. The same level of penalties also applies to obstructing police in their exercise of the powers conferred under the Act. This is a rise from 0.5 to 50 penalty units and up to six months imprisonment. Cabramatta, for example, has undoubtedly improved, according to the community, since the introduction by the Government of recent reforms, along with increased policing in that suburb. I therefore support the bill in its current form. I have no doubt that the people of suburbs such as Cabramatta will welcome this bill as well.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.54 p.m.]: This bill will close yet another loophole in the dragnet strategy of making drugs illegal—a strategy that has been shown to be an expensive failure. This bill will amend the Disorderly Houses Act 1943—"disorderly houses" being a euphemism for brothels. Therefore we have a bill to amend the curiously named Restricted Premises Act. I do not understand why that is. No wonder people complain that we have too many laws and that they are too complex.

The bill proposes a number of amendments, all of which are designed to make it easier to catch people selling drugs. The whole philosophy of trying to catch those who sell drugs, rather than adopting a harm minimisation approach to the use of drugs in our society, is wrong. So is the arbitrary classification of drugs with certain pharmacological properties as illegal and the users of those drugs being thrown into gaol, while providing huge subsidies for drugs dispensed by the pharmaceutical industry. Harm minimisation and examining what effect drugs have on people in our society, rather than structuring a silly, moral framework, would put the drug itself rather than its effects in context.

Once again we are considering a number of measures designed to try to catch people. These measures are that a sergeant, rather than a superintendent or inspector, can apply for a declaration of a house as disorderly—in other words, widening the net; that police no longer have to publish a notice of a declaration in local newspapers—just to make law enforcement easier; that the District Court can issue a declaration, rather than the Supreme Court as at present—again to make law enforcement easier; and removal of the offence of being found in a disorderly house—because far more people are in such premises because the premises are nightclubs and places where drugs are sold, generally for recreational purposes.

The two amendments that need closer scrutiny concern the increase in penalties for owner-occupiers of premises and the addition of a temporary closure order, which makes things more difficult for the owner-occupier when a guest is selling or supplying drugs. Premises that might well be targeted are the Oxford Street dance clubs, where sniffer dogs have been used. Of course, that is just making it harder for people to have a night out. The bill allows premises to be shut down for 72 hours, rather than shut down by a declaration that stays in place until a successful application is made to a court to have the restriction lifted. That, in a sense, is a somewhat better provision in that it does save court time.

The move to increase penalties marks the usual law and order push as the election approaches. That the closure order will operate for 72 hours, rather than until a court lifts it, may be somewhat of an improvement on existing law. But, in general, this bill is yet another instance of the nitpicking approach being taken to law and order and drug use. It is not successful, it is taking up far too much time, it is far too expensive and it is filling our gaols.

The Hon. MALCOLM JONES [11.56 p.m.]: I preface my remarks by saying thank God I have never in my life had the need to take heavy narcotics. The most successful agency in the world in assisting drug addicts, Narcotics Anonymous, neither supports nor opposes any causes. That is one of its traditions. I know a lot about drug addicts. I know many hundreds of drug addicts. None of the drug addicts who move into recovery and have been clean for any significant time want a reduction in drug laws. They want drug laws to remain. They want society to condemn the use of drugs. They have first-hand experiences of the dreadful nightmare of drug addiction.

I challenge those who generally sit in the corner of this Chamber—whom I refer to as the drug lobby—to share with us their experiences of assisting people who are recovering from drug addiction. I look forward to the next session of Parliament, because then I will not have to listen to the hypocrisy of the Hon. Richard Jones in continuing to berate tobacco use while condoning the use of the world's greatest gateway drug, marijuana. I support the bill, not because I am experienced in the deterrence of the criminal aspects of drug taking, but simply because of my experience with people who have gone through the horrors of cold turkey and rehabilitation to recover from their drug addiction. They are learning to live their lives drug free with the constant threat of picking up the addiction again always on their shoulder. Seek the comments of such people and you will find no lobby for soft drug laws.

Reverend the Hon. FRED NILE [11.59 p.m.]: The Christian Democratic Party strongly supports the Disorderly Houses Amendment (Commercial Supply of Prohibited Drugs) Bill, which could be called "the Christian Democratic Party Bill" because I have continuously asked questions in the House about two notorious pot cafes in King's Cross known as Café Amsterdam and Café Karma. I am pleased that at last the Government has brought forward the bill, albeit belatedly, because everyone knows that there are problems in enforcing drug prohibition legislation. I am nervous about speaking to this bill because of a report published in today's *Sydney Morning Herald*. Apparently over the past four years, out of 300 references to "sex", I made 80 of them. I do not recall actually mentioning "sex" itself, but I probably mentioned it in the context of whether a person was male or female. Out of 716 references to drugs by all members of this House over the same period I referred to drugs 156 times, and out of 65 references to pornography in this House I received the high score of 21 references. I should really ask whether there is any evidence of prostitution, which involves sex, or pornography in these drug cafes. I ask the Minister to provide that information.

The Hon. Ian Cohen: You are just trying to get your statistics up, you naughty man.

Reverend the Hon. FRED NILE: The Hon. Ian Cohen can tell the *Sydney Morning Herald* that I just scored three hits in one paragraph! I wanted to ask that question during question time today, but my nerve did not hold. Because NSW Police have advised that under current laws it is not possible to have effective policing of illegal supplies of cannabis, which is better known as marijuana, and other drugs from commercial premises, namely, Café Amsterdam and Café Karma—evil places that I have inspected from the outside, and certainly not by going inside or buying any products. I note that the original purpose of the Disorderly Houses Act 1943 was to close down premises used for the illegal supply of alcohol. Later the Act was amended to cover brothels, and it is now being amended to cover drugs in coffee shops. Changing the subject of legislation is probably not the correct course to take.

Over the years that is why the police have complained. They say that the way legislation is passed by Parliament makes it almost unworkable. I sometimes wonder whether there are some people in the system who ensure that legislation is unworkable so that honest police officers cannot succeed in prosecutions to close down illegal brothels. I am pleased that the Government has introduced this bill. If a manager is selling illegal drugs without the knowledge of the owner of the premises, the notice given to the owner by virtue of this legislation provides the owner with grounds for action to change management practices and/or commence eviction proceedings. That has become necessary because the owners of properties sometimes say that they did not agree to the premises being used for the sale of marijuana.

This bill will give police powers to temporarily close down the pot cafes and other businesses that are being used as a cover for the sale of prohibited drugs and will enable police to stop the possibly emerging trend of using staff to sell drugs. If that does occur, the staff will bear the brunt of police action, not the people who are organising the sale. The Christian Democratic Party is pleased that the Government has brought this legislation forward. I note the remarks made by the Greens, who jumped on the usual bandwagon and said that all drug problems will disappear if we just make marijuana, heroin and other illegal drugs available, and supply heroin to all the addicts.

The Hon. Ian Cohen: What a simplistic interpretation!

Reverend the Hon. FRED NILE: The Greens want to decriminalise it, and that means that they want to repeal the law so that the products become legal.

The Hon. Ian Cohen: We are not saying that at all.

Reverend the Hon. FRED NILE: If the law is repealed, the interpretation of that by the Christian Democratic Party is that, in the end, illicit drug taking becomes legal. The comments made by the Greens show that they are not honest enough to follow through their policies to their logical conclusion. I believe that the war against drugs is being sabotaged by proposals and activities from the individuals and groups who keep attacking it. The majority of the society and the majority of members of Parliament want the war against drugs, but those groups keep up their attacks, to undermine and defeat the war. I believe that the community and members of Parliament are being divided instead of being united in a sincere and genuine war against drugs. The comments made by some Independent and crossbench members make it obvious that that is what is happening. The only problem we have is that we cannot agree or acknowledge that marijuana is more dangerous than ordinary nicotine cigarettes.

The Hon. Richard Jones: No, it is not.

Reverend the Hon. FRED NILE: Yes, it is.

The Hon. Richard Jones: That is rubbish.

Reverend the Hon. FRED NILE: All the evidence is consistent. Even the *Sydney Morning Herald*, which is generally very soft on drugs, stated in its editorial on 23 November:

Cannabis [marijuana] has long been associated with psychological symptoms such as short-term memory problems, paranoia—

And sometimes members of this House see evidence of that right here in this Chamber, do we not?

The Hon. Ian Cohen: Point of order: The honourable member made a comment about paranoia, and he was looking across to the Government side of the Chamber, where I was sitting. I would like to know to whom he was actually referring because I find the remarks really offensive.

The Hon. Charlie Lynn: He was not looking at you.

The Hon. Ian Cohen: How does the Hon. Charlie Lynn know that? Reverend the Hon. Fred Nile was looking across to the Government side of the Chamber. It is very easy to make generalised accusations.

The Hon. Duncan Gay: To the point of order: On the basis of the ruling given earlier this evening, there is obviously not a point of order.

Reverend the Hon. FRED NILE: To the point of order. Madam President, it would be obvious to you and other honourable members that I am looking in the direction of the Government side of the Chamber while making my speech. Some Independent and crossbench members are sitting in that part of the Chamber. I am sorry if anyone has a sense of paranoia over the remarks I am making, but I am simply quoting the editorial.

The PRESIDENT: Order! I am not quite sure what I am to ask Reverend the Hon. Fred Nile to withdraw. Is it his look, or his words?

The Hon. Ian Cohen: Madam President, it is his imputation that somehow the paranoia of some members opposite him is drug induced.

The Hon. Greg Pearce: To the point of order: Madam President, earlier when the Hon. Amanda Fazio, who is of unsound mind, alleged that another member is of unsound mind, you ruled that that was not unparliamentary and was not required to be withdrawn. Surely the reference to paranoia is nowhere near as bad as the allegation by the Hon. Amanda Fazio, who is of unsound mind.

The Hon. Duncan Gay: No, it was the Hon. Jan Burnswoods.

The Hon. Greg Pearce: The Hon. Jan Burnswoods is of unsound mind also.

The PRESIDENT: Order! Earlier I asked a member to withdraw an imputation that another member was not sober—if that is in fact what was being imputed. If Reverend the Hon. Fred Nile is implying that other members are not sober in all ways, I believe he too should withdraw the imputation.

Reverend the Hon. FRED NILE: I certainly never made any imputation like that. It had nothing to do with anyone being sober. I was reading a quotation from the *Sydney Morning Herald* which referred to paranoia.

The Hon. Duncan Gay: Further to the point of order: It had nothing to do with sobriety. It referred to paranoia, a state of mind. Madam President, earlier this evening you ruled that matters to do with state of mind were not unparliamentary.

The PRESIDENT: Order! No. The imputation was that people had been taking drugs, and the word sobriety refers to drugs as well as alcohol. It was not about paranoia.

Reverend the Hon. FRED NILE: No. I would never suggest that any of the members were taking drugs.

The *Sydney Morning Herald* article stated:

Cannabis [or marijuana] has long been associated with psychological symptoms such as short-term memory problems, paranoia, depression, lethargy, lack of motivation and vagueness. It has been identified as a potential trigger for schizophrenia and psychosis. And it has been increasingly linked with depression.

It continued:

But it does show that the risk of becoming a sufferer [of schizophrenia] is so much higher among cannabis users that abstention could be regarded as prevention.

In other words, it is encouraging people to abstain from using drugs, and that is a policy we support. We believe that this bill, by cracking down on these pot cafes, Cafe Karma and Cafe Amsterdam, and any other like premises, will be effective in the war against drugs.

The Hon. RICHARD JONES [12.11 a.m.]: I am certainly not paranoid about my drug use. I have used marijuana for 38 years now and I love it. I have had a wonderful time on it. Other members of the House have as well, and I know who they are. Unfortunately, some members have never had any, and that is a pity for them. It is a real shame that they have missed out on one of the best pleasures of this life. To get stoned on a Sunday afternoon is a fantastic experience—it is a wonderful experience. It is much, much better than using alcohol, although I occasionally use alcohol as well. Of course, I never get stoned when I am working because it befuddles one's thinking. Other members would be aware of this—and I would not want to look at any particular member when I say that. I am certainly not paranoid about it. For well over half my life I have used marijuana. I know hundreds of other people who have used it, and I do not know a single one of them who is paranoid. I do not know of a single dope smoker who is depressed, except when they run out of the drug and think: Oh, God, I have to go out and find some more. I know of only a couple who are addicted. Most people are just recreational users; they use it now and then and they have a good time on it.

The Hon. Rick Colless: You have been smoking it for 38 years and you are not addicted to it?

The Hon. RICHARD JONES: No, not at all. Sometimes I use it and sometimes I do not. I am no more addicted to it than I am to anything else. I do not think I am addicted to anything. I am certainly not addicted to this place. I am about to leave it with some pleasure, and also with some sorrow. The Hon. Malcolm Jones said that he is glad that I will not be here. At least I did not rort my way into the House as he did with fake parties, and I am not currently being investigated by the Independent Commission Against Corruption either. So I can at least hold my head up in this place.

The Hon. Malcolm Jones: No, you just ratted on the people who put you where you are.

The Hon. RICHARD JONES: It is the witching hour. I do not have any particular time for the owner of Café Karma, Mark Fitzhenry. I have met the guy and I have no particular time for him at all. The way he was doing business was clearly illegal. That will be made much clearer now with this bill. I have seen but not been into, nor used marijuana in, the cafes of Amsterdam. I was in Amsterdam a year ago. It is a very peaceful place. The average age of marijuana users is getting older and older because young people there think that it is an old person's drug. It is cheap. You can get a variety of different drugs. When I was in Kathmandu 30 years ago there were hash cafes everywhere. It was not a problem for anyone. People throughout Nepal then sat in cafes smoking dope. It was not a problem at all. I do think, however, that tobacco is a significant problem in our society and that coffee is more of a problem than marijuana. I had to give up coffee 6½ years ago, because it was making me dizzy. I was getting dizzy in this Chamber and the Hon. Dr Brian Pezzutti said, "Go to see the dizzy doctor." So I went and had all the various tests. He wanted me to do a magnetic resonance imaging test to see what was in my system. I worked out that it was actually coffee. So I gave up coffee and I stopped being dizzy. And I have not been dizzy since. Coffee was causing me far more problems than marijuana has. I never drink coffee now because it is a far more dangerous drug than marijuana. Tobacco kills 50 per cent of those who use it. Marijuana does not kill anybody, as far as I know.

The Hon. JOHN RYAN [12.15 a.m.]: Before the debate becomes too wildly erratic, between two extremes, I would like to make three points. No less an organisation than the Bureau of Crime Statistics and Research recently published a paper stating that there is some usefulness in there being a level of decriminalisation of a drug like marijuana. So it is not entirely unreasonable and without some academic merit to suggest that the drug should remain illegal. So if such an organisation makes that comment, I think all of us should make some sense of that.

Reverend the Hon. Fred Nile: They are not experts on the harmful effects of marijuana.

The Hon. JOHN RYAN: I do not know why you are interjecting, Mr Nile. I am actually agreeing with you for a moment. I have suggested that the Bureau of Crime Statistics and Research has said that there is some utility in leaving a drug such as marijuana illegal. Do you disagree?

Reverend the Hon. Fred Nile: No, you said decriminalisation.

The Hon. JOHN RYAN: I am sorry, I am not going to respond any further to the interjections. As I said, I am agreeing with you, Mr Nile. The second point is that I listened carefully to the speech given by Ms Lee Rhiannon in which she referred to the difficulties in a decriminalisation regime. I simply say to members that there may be some merits in a decriminalisation regime for individual users but there is one area where it clearly has no merit and that is the area to which this bill is directed: people who operate premises such as Café

Amsterdam and Cafe Karma—people who have no interest in the people they are serving. Let us get it straight. They are exploiting a regime of illegality to make a commercial profit, and they know it. So I have no objection to a bill designed to put them out of business. And any suggestion that we should not be doing that is misplaced sympathy indeed.

I have sympathy for addicts, but that type of sympathy is misplaced by miles by people who suggest that there is something wrong with this bill. The bill is entirely in order. Even if we have sympathy for people who are addicted to marijuana—and I have that sympathy for them—we should have no sympathy for people who will exploit that addiction for the purpose of commercial profit. So the bill is clearly headed in the right direction in that regard. As I said earlier, the Bureau of Crime Statistics and Research suggests that there is some utility in a regime in which marijuana is illegal. Let us leave aside for a moment in this debate the criminality of people who use drugs and concentrate on where the bill is focused. It is focused specifically on a group of people who commercially exploit others—in my view for an evil purpose—and I have no objection whatever to making it easier for the police to put such people out of business.

The only other point I would make about the bill is that in order for those people to be put out of business the bill establishes only a \$5,000 fine for people who refuse to take the instructions of the police. I do not know that that is a tough enough penalty to make these people give over. The bill also provides for a penalty of six months imprisonment. I think it is time to think about whether we should have such penalties. I would not mind a person who persists in marketing this drug to others spending more time in gaol than six months. These are not people who are the sorts of citizens I want to support in the community. They are miles away from people I would want to support. I commend the bill to the House for those reasons.

The Hon. IAN MACDONALD (Parliamentary Secretary) [12.18 a.m.], in reply: I thank honourable members for their comments on the bill to amend and rename the Disorderly Houses Act 1943. The new Restricted Premises Act will overhaul the outmoded provisions of the Disorderly Houses Act in two main ways: firstly, by increasing the accessibility of applications for a notice that the premises is restricted by making applications to the District Court and not the Supreme Court; and, secondly, by adopting the temporary closure order provisions of up to 72 hours that exist in the Liquor Act and applying them to commercial premises. These two key measures will provide police with the tools they need to beat criminals who run a business as a cover for the sale of illegal drugs. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

DRUG MISUSE AND TRAFFICKING AMENDMENT (DANGEROUS EXHIBITS) BILL

Second Reading

The Hon. IAN MACDONALD (Parliamentary Secretary) [12.20 a.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 Government is pleased to introduce the *Drug Misuse And Trafficking Amendment (Dangerous Exhibits) Bill 2002*.

The Bill addresses the health and safety concerns of handling dangerous exhibits seized from illicit drug manufacture operations.

Police are dismantling record numbers of clandestine laboratories which contain chemicals and equipment contaminated with dangerous and unstable chemical combinations.

The exhibits from these laboratories pose serious environmental and health and safety risks. The dangers were highlighted recently when a police officer in full safety equipment received chemical burns to the eye while taking photographs of the exhibits.

The amendment is designed to enable the prompt destruction of dangerous exhibits where there are clear safety reasons for doing so. It reflects legislation in other jurisdictions and complies with the requirements of the Australia New Zealand Standard for the Storage and Destruction of Drugs.

The disposal of these exhibits will not prejudice court proceedings, which already allow for the tendering of analyst certificates, samples and photographic evidence in the place of these exhibits.

I commend the bill to the House.

The Hon. IAN COHEN [12.20 a.m.]: The Greens support what is apparently a straightforward bill which provides for the destruction or other disposal of exhibits that have been seized in connection with proceedings for drug-related offences if the exhibits are a threat to health or safety. The related Drug Misuse and Trafficking Act allows orders to be obtained by a magistrate to dispose of exhibits. This bill will provide for police officers of or above the rank of superintendent to make orders for the destruction or other disposal of exhibits when analysts certify this to be the proper course of action.

I am advised that such action is taken in relation primarily to chemicals that can be dangerous to store, chemicals that become old, and chemicals that may be a danger to authorities who have to deal with them. For example, there have been instances of damage being caused to the eyes of those responsible for the storage of such substances. In addition, these materials stored in a less than regulated manner can explode at times. I understand the bill to be directed at chemicals such as Ecstasy and Speed—amphetamine-type chemicals that are produced in backyard chemistry or workshop situations. When exhibits are clearly assessed they can be adequately disposed of. The Greens support this bill as a basic safety measure, particularly for those who have to handle such chemicals after arrests have been made. The bill provides a straightforward and effective way of safely disposing of chemicals that are the product of illicit drug making.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [12.23 a.m.]: The Opposition is pleased to support the bill.

Reverend the Hon. FRED NILE [12.23 a.m.]: The Christian Democratic Party supports the Drug Misuse and Trafficking Amendment (Dangerous Exhibits) Bill. Obviously the police are finding more and more clandestine laboratories that contain chemicals and equipment used to produce many of the tablets and drugs, such as Ecstasy, that are sold at rave parties and so on. In that regard chemists and other shops have been issued with warnings to ensure the security of some of the common health tablets that may be purchased over the counter. Apparently, Sudafed and other tablets are broken down to produce the chemicals that can be used to aid the production of illegal drugs. It would be a sad occurrence indeed if police were to be injured whilst handling such chemicals. We support the bill.

The Hon. IAN MACDONALD (Parliamentary Secretary) [12.24 a.m.], in reply: I thank honourable members for their contributions to this debate. The bill will allow the prompt destruction or disposal of dangerous exhibits where there are clear environmental and safety health reasons for doing so. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

ELECTRICITY SUPPLY (GREENHOUSE GAS EMISSION REDUCTION) AMENDMENT BILL

Second Reading

The Hon. IAN MACDONALD (Parliamentary Secretary) [12.25 a.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 Carr Government is proud of its efforts on greenhouse, and I am extremely proud to be introducing this bill. We have recognised that we need to play our part in protecting the Earth for our children, and generations to come. However, in protecting the environment we recognise that we need to work with business to deliver environmentally sustainable industry in an innovative and cost-effective way. That is precisely what the Electricity Supply (Greenhouse Gas Emission Reduction) Amendment Bill is all about. It is an important part of the Carr Government's suite of greenhouse abatement initiatives—initiatives that fill the vacuum left by the Howard Government.

Greenhouse is a global issue, and yet the Prime Minister refuses to join the global response to this global problem—namely, the Kyoto protocol. Last year the Intergovernmental Panel on Climate Change released its third five-yearly assessment of the science of climate change. It found increasing evidence that human activity is already altering the global climate system and projected that the rate of warming over the next hundred years is "very likely to be without precedent during at least the last ten thousand years".

The New South Wales Government recognises that something needs to be done. But we also recognise that whatever is done needs to be done in co-operation with industry as well as the community. What we have here is one of the first non-voluntary greenhouse trading schemes. For five years we went down the voluntary route. It did not work. We did not achieve our target of a 5 per cent reduction in per capita emissions on 1989-90 levels. What was achieved was a 10 per cent increase in per capita emissions.

However, this scheme is outcome focused—it will achieve the target. What we have set out to do is develop a scheme that does not rely on just taxing people. Instead what we want to do is encourage people to behave in an environmentally responsible way. We have argued for several years that the most equitable and economically efficient means of addressing greenhouse gas emissions is through a national emissions trading scheme—a scheme that sees uniformity in rules, and sees all Australian emitters taking responsibility for their emissions. So rather than just sit back and complain about the lack of leadership at the national level, the New South Wales Government has moved forward with this scheme for the electricity industry.

Electricity generation is the largest source of Australia's greenhouse gas emissions, accounting for 33 per cent of net emissions in 2000. The emissions are also growing rapidly, and in 2000 were 36 per cent higher than they were in 1990. Clearly, the problem is getting significantly worse. While recognising that electricity is only part of the problem, the Carr Government considers that the electricity sector offers significant opportunities for abatement as it represents both the largest and one of the fastest growing producers of greenhouse gas emissions.

That is where the Electricity Supply (Greenhouse Gas Emission Reduction) Amendment Bill comes in. It is yet another piece of world-leading legislation. In 1999 we introduced what we believe to be the world's first legislation recognising carbon rights. Since then most States, and a number of other countries, have followed our lead with similar legislation. Why have they followed New South Wales? Because we have looked for the opportunities—opportunities that the Howard Government is intent on stifling by not ratifying the Kyoto protocol. This legislation builds on existing initiatives.

This policy focuses on getting greenhouse gas reductions; it is not an industry support policy, as is the Commonwealth schemes. The bill amends the Electricity Supply Act 1995 in order to provide the legislative foundations to encourage the reduction of greenhouse gas emissions, emissions associated with the production and use of electricity, and to encourage participation in activities to offset the production of greenhouse gases. It creates market incentives to encourage more greenhouse friendly generation. Importantly, it allows the market to manage its structure and approach to address the obligations. It provides a challenge to the market which has often said, "Let us manage". Well, here is the challenge.

I now turn to the detail of the bill. The Electricity Supply (Greenhouse Gas Emission Reduction) Amendment Bill amends the Electricity Supply Act 1995 and provides legislative foundations to encourage two important outcomes: firstly, the reduction of greenhouse gas emissions associated with the production and use of electricity; and, secondly, the development and encouragement of activities to offset the production of greenhouse gas emissions. The bill will achieve these key outcomes by four interrelated initiatives. Firstly, we establish a statewide greenhouse gas reduction target. Individual retailers and large consumers in the electricity industry are each allocated a slice of the required abatement task, according to how much they contribute to the problem.

Secondly, we establish a penalty regime to ensure retailers and large customers would prefer to take actions to reduce greenhouse gases rather than incur a fine for not meeting their environmental obligations. Thirdly, we establish a scheme that gives legal ownership of the greenhouse reductions, reductions achieved by various options retailers and customers have invested in. Essentially, this means that the certificates create a form of property right. Fourthly, we allow the owners of these options to trade them so they can earn revenue to cover their costs and earn a reasonable return.

The challenge the Government has set industry is the same one that it has had for the past five years. Industry must reduce greenhouse gas to 7.27 tonnes per capita, which is 5 per cent below the level in 1989-90. We have re-set the timetable so that this target must be achieved by 2007. To ensure the Government sees continual progress towards this end target, we have also set progressively tighter targets year-on-year leading to the final 2007 level. Thereafter, industry will have to maintain the 7.27 tonne level until at least 2012. If, however, the Kyoto protocol is implemented the New South Wales scheme will need to be reviewed.

There will also need to be a review of any schemes introduced in other States to ensure that there is not duplication. The Government wants all New South Wales customers, big and small, to contribute to improving the environment. That is why the bill ensures all electricity customers in New South Wales will be part of the scheme. Ninety-eight per cent of customers, which includes all householders and most small to medium size businesses, are already paying about \$1.50 per megawatt hour to their retailer as part of their contribution to reducing greenhouse gases. This means that the electricity bills of the vast majority of customers will not go up following the introduction of this initiative.

The Government will also ensure that where customers have already chosen to pay a premium for Green Power, this will be over and above the benchmark. This means that Green Power customers will not be subsidising their retailer to meet their slice of the benchmark. The scheme will also not allow efficiency gains from coal generators that come about from January 2003, through funding from the Commonwealth's G-GAP initiative to be counted. The Government recognises that large customers, who currently are not part of the existing arrangements, will be affected by the new scheme.

To reduce the impact of this scheme on large electricity customers, the Government has developed a complementary set of arrangements for those customers. Essentially, this allows large customers to choose between purchasing abatement from the electricity sector or reducing greenhouse gas emissions from their own processors and their own plant. Allowing large users to create these non-electricity certificates not only ensures real greenhouse gas abatement occurs, it also helps them reduce the costs of doing their fair share of abatement.

Large users will be able to split their target so that they are able to create these large user abatement certificates for part of their electricity use, while leaving the remainder with their electricity supplier to manage in the normal way. However, the bill does not allow large users to trade the abatement achieved from their own plant. These large user certificates can only be created by

facilities located within New South Wales—that is, those sites subject to the legislation. This is all about keeping the costs down while achieving real emission reductions.

The scheme has been carefully designed to encourage the development of a vibrant environmental services market in New South Wales. The very fact that participants will now face a penalty for not taking action to reduce greenhouse gases will stimulate an unprecedented demand for new and innovative environmental options to reduce greenhouse gases. This scheme is unique in that it embraces a wide range of environmental options and the focus is on the environmental outcomes. This is not about picking winners. We let the market pick its own winners.

A key change to the existing arrangement is the recognition of interstate generators. This approach keeps costs down for two reasons. Firstly, it maximizes the available supply of options and, secondly, it provides access to numerous sources of existing and underutilised plant. Another key part of the scheme is the ability to count carbon offsets such as sequestration in forests. These will be limited to forests located within New South Wales. We have also spent a considerable amount of time looking at efficient administration of the scheme. A range of administrative functions need to be carried out to facilitate compliance and the proper functioning of the scheme. These functions can be categorised as either regulatory functions or administrative functions.

The regulatory functions are to be carried out by the Independent Pricing and Regulatory Tribunal, with the more day-to-day administrative functions carried out by a scheme administrator. Initially, the tribunal will be the scheme administrator, but the bill provides for other people to take on this role at any time. The Government is keen to see this role carried out in the most efficient and effective way. Efficiency will be promoted by the operation of a liquid trading market, for which we will depend on the private sector. The tribunal determines whether participants have complied with their slice of the benchmark, and imposes penalties on those who do not. The tribunal has been given strong powers to audit compliance with the scheme and it must regularly report to the Minister.

The tribunal also has a crucial role in establishing the abatement task and how this will be split between each participant. It can also recommend that the Minister amend regulations to improve the scheme. The scheme administrator has the more mechanical functions, involving accrediting certificate creators, registering certificates, monitoring and verifying the validity of the certificates. In this regard the Government has left the development of trading schemes to the private sector, which is well placed to develop effective, low-cost trading platforms. The Government also encourages the private sector to develop a wide array of financial trading products around the abatement certificates.

The bill contains a number of other initiatives to keep the costs low. For example, the scheme includes provisions for banking and borrowing of certificates. Banking occurs when a participant has overcomplied early in the life of the scheme. In this case overachievers are rewarded by allowing them to bank any surplus certificates so that they can be redeemed at a later stage. Banking is good for the environment because it does not discourage people from early reduction in greenhouse gases. It also promotes low-cost abatement because people can take advantage of the economies of larger scale schemes.

The bill does not place a limit on how long surplus certificates can be banked. Borrowing, on the other hand, occurs when retailers fail to fully meet their target in a particular year. In this case retailers are allowed a shortfall of up to 10 per cent of their target for that year. This shortfall must then be made up in the following year. There are no shortfalls allowed in 2007, so the final target must be met. The borrowing provision is designed to provide flexibility in the scheme and explicitly recognises that the environmental outcomes of new technologies may be uncertain. In this regard the borrowing provisions encourage people to explore more innovative abatement options, which, in turn, will ultimately lower the cost of reducing greenhouse gases.

The New South Wales Government has always been keen to encourage responsible use of electricity. Reducing electricity demand is obviously an effective way of reducing greenhouse gases. To date it has been difficult to encourage retailers, who make money out of selling electricity, to offer their customers ways of using electricity more wisely. This scheme changes this incentive. We believe that one of the cheapest ways of reducing greenhouse gases is to encourage customers to reduce their electricity demand. But one of the difficulties faced by retailers in such a scheme is the administrative cost associated with dealing with a large number of small, individual sources of abatement.

In an attempt to overcome this problem the Government intends to make provision for several years worth of abatement created by demand side activities to be counted upfront. These provisions will be made in the rules and regulations. For example, if an investment is made in energy-efficient lighting in a building, this could result in reduced electricity consumption for the next five years. All five years worth of abatement could be claimed upfront. This approach has several advantages. For example, this initiative would reduce the administrative costs associated with claiming small amounts of abatement in every year, making demand management options more attractive.

Ultimately this will encourage retailers to do what they have not done—get their customers to reduce electricity demand. The Government is not keen to have participants paying penalties. We would prefer to have the achievement of our greenhouse gas reduction target. The key will be the level of the penalty in relation to the costs of greenhouse gas abatement. The bill includes a penalty of \$10.50 per tonne. It is important to index this to maintain this level in real terms, otherwise there is a risk that, over time, participants would prefer to pay the penalty rather than reduce greenhouse gases. Although the penalty will not be tax deductible, the cost of buying abatement certificates will be. This has been taken into account in setting the level of the penalty. With the given penalty, participants could afford to spend up to \$15 in real terms on an abatement certificate and still be better off than they would be if they paid the penalty.

The Government's main aim is to ensure that there is a real reduction in greenhouse gas emissions. This is why it is extremely important to ensure that we know that any abatement claimed really occurred. To do this, the bill includes strong powers for the tribunal and scheme administrator to audit the legitimacy of the certificates created, and whether benchmark participants have purchased enough of them. If, after carrying out these audits, it is found that certificates have been created without any real abatement occurring, large penalties will apply. There is also a make-good provision, which means that the party that created the bad certificate will be required to surrender an equivalent number of certificates. If 100 bad certificates were created, the creator is forced to take 100 certificates back out of the system.

This liability falls on the creator of the certificate, not the purchaser. If the creator is unable to make good, the bill includes an ability to gain access to financial assurances. This financial assurance is lodged at the time of certificate creation, and will be used to fund the purchase of any certificates to make good any certificates later found to be invalid. The creator's obligation to lodge a financial assurance will cease after the completion of all the audits, assuming no problems are discovered. Many details are to be finalised in the rules and regulations supporting the bill. These are being developed through a very detailed and comprehensive consultation exercise with stakeholders, including industry. Drafts of many of these rules and regulations have already been circulated and consulted on. I commend the bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [12.25 a.m.]: The Opposition will not oppose this bill. As the honourable member for Lismore in the other place said, we recognise the importance of reducing greenhouse gas emissions. However, the Coalition is concerned that implementing a scheme such as that proposed in this bill could have some major consequences for business and investment in New South Wales. The Minister for Energy has changed his tune on this legislation over the past 18 months. In April last year, through a spokesman to the *Sydney Morning Herald*, the Minister stated:

We are looking forward to establishing a long-term sensible and practical program that delivers results. A purely punitive regime that sets higher fines if you don't meet the targets does not encourage industry to meet targets.

I am intrigued by the quote attributed to the Minister through his spokesman. If the Minister really believes that that is the case, why are we now debating a piece of legislation, brought into Parliament by him, that does exactly what he said he was opposed to? In effect, the bill is doing exactly what the Minister did not want 18 months ago—it will establish a punitive regime with fines for non-compliance. It is almost as if the Minister for Energy has been handed the legislation and been told to get it through the Parliament.

This bill has had a long gestation period. The Premier took a proposal for a mandatory reduction scheme to the Council of Australian Governments [COAG] meeting in June last year seeking national approval for his plans. The COAG did not endorse the proposal; in fact not even Premier Carr's own Labor colleagues from the other States supported his grand plan, leaving Captain Wacky alone in New South Wales to carry on the issue. Let me make it clear, the Coalition is supportive of a national—and I emphasise the word "national"—scheme to reduce greenhouse gas emissions, but we are sceptical, and I believe quite rightly sceptical, about the likely success of, and the implications arising from, a state-based scheme. The bill amends the Electricity Supply Act 1995 to put in place a framework for mandating greenhouse gas emission reduction targets. It also sets down a penalty for non-compliance with the mandated reduction targets of \$10.50 per tonne of CO₂ equivalent above the benchmark reduction target.

The bill establishes a statewide greenhouse gas reduction target, with greenhouse gas benchmarks set down for the years 1 January 2003 to 31 December 2012. The benchmarks range from 8.65 tonnes of CO₂ equivalent greenhouse gas emissions per head of State population to 7.27 tonnes by 2012. Each participant in the benchmark scheme will be allocated a benchmark reduction target, depending on how much each one contributes to the greenhouse gas problem. The bill defines benchmark participants as retail suppliers of electricity, electricity generators or other persons who supply electricity on a retail basis. Benchmark participants also include larger users of electricity, or owners and operators of projects designated as State significant by the Minister for Planning.

The inclusion of projects of State significance raises some questions. Why, for the purpose of the scheme, do these participants get a dispensation that is not offered to each and every business consumer? During consultation on the bill my staff and I spoke with a wide range of stakeholders. One of the major industry groups, which I will not name, stated that the bill could not be worse for its industry because it would add significantly to the cost of production and would not encourage investors to establish operations in New South Wales. Instead, they would choose to establish expanded or additional operations in other States.

The punitive regime of the bill—a regime the Minister for Energy did not want, according to his statement—sets down the penalty for non-compliance with a benchmark target of \$10.50 per tonne of CO₂ equivalent of greenhouse shortfall for the relevant year. Earlier this year the Electricity Supply Association of Australia [ESAA], in a paper titled "Impact of a carbon cost on Australia's electricity generation", considered the impact of a similar penalty on Australian electricity generation. The ESAA paper has a similar framework to what is proposed in the bill. Its findings are based on a penalty of \$10 per tonne of CO₂ with a time frame ending in 2009-10. The finding of the ESAA report reads:

For a \$10 per tonne CO₂ impost, electricity prices in the wholesale market will increase by 14%. This will trigger emission reductions of less than 3%.

That is an important figure. The ESAA modelling was done on a national level, but considering that New South Wales is a major contributor to the generation capacity of the national electricity market it could be said that the

conclusion of the ESAA may well be applicable in New South Wales. That is a major pass through to electricity consumers for a somewhat small emission reduction. I would be interested to hear the Government's response to the scenario put forward by the ESAA. Under the proposal the penalty amount may be adjusted according to movements in the consumer price index. It is interesting to note that the penalty is recoverable as debt due to the Crown, which concerns the Opposition.

The Government is imposing a penalty on benchmark participants that will go straight to consolidated revenue. This appears to be little more than a revenue-raising strategy for State Treasury. It is similar to what the Environment Protection Authority [EPA] does with load-based licensing. I can see the Treasurer during debate on the bill rubbing his hands as he envisages yet more money coming to him from the electricity industry and the private sector. If the Government were serious about this initiative, penalty payments would be directed to a specific purpose fund designed to encourage greenhouse gas reduction. Similarly, if the EPA were fair dinkum about cleaning up the water, the money it collected from load-based licensing would go straight back to fix up the tertiary treatment of sewage, but instead it goes into consolidated revenue.

The Independent Pricing and Regulatory Tribunal, in a recent report into demand management measures, recommended the establishment of a demand management fund to promote energy efficiency. The Opposition calls on the Minister to commit penalty payments under this scheme to be directed into such a fund structure instead of being directed to consolidated revenue as a debt recoverable to the Crown. In the absence of the Government making any attempt to deliver the penalties to anywhere apart from Treasury, the Opposition will formally propose, by way of amendment, that any penalties collected under the legislation be hypothecated to energy efficiency schemes or alternative energy schemes. Penalty money should go back into offering practical energy efficiency measures to businesses and householders with the end aim of reducing greenhouse gas emissions.

It is through the development and enhancement of such projects that greenhouse gas abatement targets can be delivered—not through the payment of penalty money to consolidated revenue. Under the legislation providers may create abatement certificates to be traded. Certificates are created in recognition of activities that are undertaken to reduce greenhouse gas emissions. Under the legislation accredited providers may be involved in activities including demand management, generation activities resulting in greenhouse gas reductions and any other activities that reduce greenhouse gas emissions.

Accreditation may be extended also to parties involved in carbon sequestration activities. I understand that this will not extend to interstate carbon sinks because of the practical difficulties involved in determining the existence or compliance of afforestation activities in other States. This refusal to accredit interstate carbon sinks highlights another shortcoming of a State-based regime. Why cannot businesses operating outside New South Wales be allowed to count their abatement activities in other States when they are creating certificates in New South Wales? Is this not a disincentive to investment? Why does the Government seem intent on putting up a virtual barrier between New South Wales and other States?

The Opposition will move an amendment at the Committee stage to allow interstate carbon sequestration activities to be counted towards meeting abatement targets. The honourable member for Cessnock in the other place claimed that this would be disadvantageous to New South Wales. Once again, he is wrong. Once again, he has failed to comprehend the importance of this matter. What we propose is simple: an incentive to attract abatement measures to New South Wales. The bill provides for the creation of two types of certificates, transferable and non-transferable, in respect of greenhouse gas abatement measures. Transferable certificates can be traded and transferred to any person, while non-transferable abatement certificates cannot be traded openly. They can be created and lodged only with the scheme administrator.

The Opposition amendment will propose that any abatement or mitigation work undertaken by an active participant in New South Wales should be able to be fully accredited with certificates, and that these certificates be fully transferable. If the abatement or mitigation is undertaken outside New South Wales the certificates would remain non-transferable. This provides an option to encourage abatement projects to be undertaken in New South Wales rather than elsewhere. So we provide the incentive for them to put their forests and plantations in New South Wales. By limiting those certificates gained from abatement projects interstate for the non-transferable type, the certificates generated by New South Wales abatement activity are differentiated and rewarded. The Coalition wants to encourage investment and job creation in regional areas, and in particular in New South Wales. That is why it is attempting to offset some of the negative aspects of this legislation.

Several major concerns have been put to the Coalition about this legislation. Current consumption of electricity in New South Wales is about 63,000 gigawatts a year, 70 per cent of which is used by business. It has

been estimated that almost 70 per cent of the cost of this program will fall on business, adding yet another impediment to development of employment in New South Wales. A concern has also been raised by Australian Business Ltd [ABL] by way of a letter to the Minister dated 2 December relating to the baseline issue outlined in one of the methodology papers. ABL strongly advocates the baseline remaining at the January 1997 level to lower the impact of the scheme on New South Wales business competitiveness. ABL believes that moving the baseline to January 2002 will add to the cost of the scheme rather than result in any savings. I am interested to hear the Government's response to that very important issue.

In addition to that concern, we are now just three weeks away from the implementation of the scheme on 1 January 2003. However, the detailed rules and methodologies to accompany this legislation are only now being completed. We are effectively being asked to make a decision on the framework for a scheme without all the details being available. For example, the Ministry of Energy and Utilities Internet site currently lists a demand site abatement methodology paper for download. The foreword to that paper, which was released late last month, invited submissions to be made until 1 November. That was after the Minister introduced the bill in the other place. One of the key reasons we are debating this bill now rather than earlier is that another methodology paper has been released and comments are sought while the bill is being debated. In effect, the nuts and bolts of this scheme are still being worked out even as we debate the legislation. I understand that several other papers are still to be completed. When will they be completed?

Given that we are now in the first week of December, will there be enough time to circulate the rules and methodologies to participants in the scheme before 1 January? I would appreciate assurances from the Government on this important issue. Will a scheme begin on 1 January—in a little more than three weeks—that is only half or three-quarters ready? That is an important question. I also understand that some industry and financial institutions are concerned about the status of the abatement certificates created under this legislation and how they can be traded. Is the Government in a position to clarify those concerns, or will this remain as yet another grey area of the bill still to be worked out?

Further, can the Government clarify the situation with regard to the large users who have direct supply contracts with electricity generators? Does the penalty fall to the generator or to the customer? I understand that at least one State-owned generator could be faced with the possibility of paying penalties under this legislation. I am sure the Government and its advisers are aware of that generator in the aluminium area. I ask the Government to give an indication of the potential pass-through cost to end users of electricity. I also seek an assurance from the Government on a major issue facing BHP Billiton. The Government is aware of this issue and I would be very surprised if the Minister did not have an answer. The issue relates to BHP's waste coalmine methane generator at the Appin tower site.

The bill and the associated methodologies could see the electricity retailer—in this case Integral Energy—rewarded under this scheme, while the prime investor in the generator, BHP's Illawarra Coal division, could be unrewarded or even penalised because of the deeming provisions. The company that has invested will be the loser. Can the Government give an assurance that an unintended consequence of this legislation will not be that Illawarra Coal will be disadvantaged at the expense of Integral Energy? If no guarantee can be given, what measures will be available to Illawarra Coal to deal with the problems that this bill and the methodologies will create for what is widely acknowledged within the industry as a successful greenhouse gas abatement project? The big Australian has done the right thing before the bill has been enacted and it appears that the methodologies upon which it is based will disadvantage it. That is silly if we are trying to encourage business to invest and the methodologies reward someone else. As I said at the outset, the Coalition supports measures designed to reduce greenhouse gas emissions, provided they are implemented on a consistent basis. There is no need for the Carr Labor Government to grandstand and go it alone on this issue. A media release issued by the Australian Chamber of Commerce and Industry on 16 September states:

Comments today by New South Wales Premier, Bob Carr, that the NSW Government will unilaterally pursue climate change policies are not in Australia's best interest.

Australian industry is committed to reaching the 108% target as agreed to by Australia at Kyoto in 1997. However, in meeting this target, industry needs a nationally consistent policy approach to climate change. We do not need States and Territories going it alone.

The decision of the NSW Government to pursue a climate change policy that is not within a strategic, long-term nationally consistent framework places industry in an unacceptable position. Industry needs certainty and consistency in order to stay competitive and to attract investment, and different climate change policies across jurisdictions will simply not provide this.

That is a very clear statement of concern from industry. In conclusion, the Coalition will not oppose the bill in this place. We recognise the importance of reducing greenhouse gas emissions and congratulate the Federal

Government on its current initiatives, which are aimed at reducing emissions. Under the leadership of the current Federal Government, Australia is well on the way towards meeting its Kyoto obligations. I look forward to the Government addressing the concerns I have raised, because the Minister for Energy did not even attend the debate on this bill when it concluded in the lower House and was, therefore, unable to provide answers to our concerns in that place.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [12.50 a.m.]: The New South Wales Democrats offer lukewarm support for the Electricity Supply Amendment (Greenhouse Gas Emission Reduction) Bill. The Government is taking action on reducing greenhouse emissions. This should be a Federal issue, but the lack of leadership from the Federal Government is very depressing. Having said that, the bill in its current form is far from ideal, and it is certainly unfortunate that this is State and not Federal legislation. The greenhouse effect is a reality and Australia's action to reduce emissions is long overdue. The European Union's green paper on greenhouse gas emission trading states:

The Earth's average surface temperature rose by around 0.6°C during the 20th century.

Many scientists conclude that the evidence is getting stronger that most of the warming over the last 50 years is attributable to human activities such as burning fossil fuels and deforestation, which cause emissions of carbon dioxide [CO₂] and other greenhouse gases. The groundbreaking CSIRO report commissioned by the Department of Immigration and Multicultural and Indigenous Affairs entitled "Future Dilemmas" shows that we are consuming energy at unsustainable levels. It is widely acknowledged that electricity generation accounts for a large chunk of Australia's greenhouse gas emissions at 33 per cent of total output, 96 per cent of our energy comes from coal and only 4 per cent from other sources, including renewable sources. The main purpose of the bill includes the establishment of a statewide compulsory greenhouse reduction scheme of 7.27 tonnes per capita to be achieved by 2007. A penalty regime applying to retailers and large customers for not meeting greenhouse gas reduction obligations will establish a carbon credits scheme enabling suppliers to offset carbon.

On previous occasions the Treasurer has had some difficulty in understanding my speeches on Transgrid and the Electricity Supply Amendment Bill 2000. That is ironic: the Treasurer is the main force behind this bill and is implementing the national electricity market reforms in New South Wales. The Democrats moved amendments to the Electricity Supply Amendment Bill 2000 to impose a greenhouse penalty of \$10 a tonne of CO₂ on retailers that fail to meet their greenhouse gas reduction strategy requirements under the 1995 Electricity Supply Act. Even two years ago the Democrats recognised that most retailers failed to comply with their licensing conditions with respect to greenhouse gas reduction strategy requirements.

Currently, the only available penalty has been the revocation of their licence. The Government has finally recognised this and is taking action to implement a mandatory penalty regime. The Government should be congratulated on following the policy initiatives of the Democrats. On previous occasions I have tried to introduce this penalty, and both the Government and the Opposition opposed my amendments. However, in the lead-up to the next State election the Premier wants to establish his environmental credentials. Call me a cynic, but if the Government were serious about greenhouse gas reduction it would have supported my earlier amendments. On 3 September I gave an adjournment speech on the 1999-2000 Performance Audit Report of the Environment Protection Authority, entitled "Effectiveness of electricity retailers' strategies for reducing greenhouse gas emissions", which was released in February.

The audit report found that New South Wales electricity retailers have not complied with greenhouse gas emission targets. However, as I said previously, on two occasions amendments were proposed to the Electricity Supply Act to provide for a financial penalty of \$10 a tonne of CO₂ to be imposed on energy retailers who did not meet the targets. The Premier claimed that he was Australia's greenest Premier, which is ironic because twice he refrained from introducing those penalties. Since then the result has been far from desirable. Compliance by retailers has been very poor. The Environment Protection Authority [EPA] report states:

The sufficiency of information of the rest of the retailers varied considerably between IVRs and was generally considered inadequate. Particular issues existed in relation to: the definition by the independent verifiers of the grading methodologies applied. It was not always clear what criteria were being applied by the independent verifiers to retailer data. Poor documentation in the IVR of the documentary evidence referred to preparation of the IVR a low level of independent verification of claims for Electricity Sales Forgone ...

The EPA is of the opinion that that New South Wales electricity retailers' demand-side strategies for reducing greenhouse gas emissions achieved a low level of effectiveness; that is, less than 35 per cent of the forecast, in 1999-2000. The EPA also said that that New South Wales electricity retailers' combined supply-side and demand-side strategies achieved a medium level of effectiveness in reducing greenhouse gas emissions during

1999-2000, having achieved a total emission reduction of 56 per cent against the forecast. For the 1999-2000 period only two retailers, Integral Energy and Origin Energy Electricity Ltd, performed better than their benchmark, having reduced greenhouse gas emission levels below the benchmarks. In that period eight retailers exceeded the benchmarks by up to 10 per cent, and six retailers exceeded their benchmarks by up to 15 per cent. This is not a very good result.

In plain language that means that most retailers did not meet the targets that were set. In other words, they did not comply and their compliance claims were a bit rubbery. The Government is introducing regulations that must dovetail with the Federal scheme. However, that is difficult because if the registers are not clear on what greenhouse compliance certificates exist there could be a double counting of Federal and State credits for energy. Another problem between Federal and State schemes is whether the measurement should be in megawatts or tonnes of CO₂ produced. There seems to be some difference between State and Federal measurements. It has been suggested that there should be three types of credit: green generation, or renewable generation; electricity supply forgone; and biomass. Of course, theoretically they would all be regarded as equivalent.

However, there has been concern that electricity supply forgone—that is, the authority could say that it would have generated more electricity but decided not to because of this policy—could be easily fiddled, whereas renewable energy, or green generation, is fairly clearly measurable. Biomass or energy sequestration has to be monitored for the long term. That concern was raised in a briefing paper on the bill prepared by the Electricity Restructuring Group of the University of New South Wales, which was released in November. The Electricity Restructuring Group found that the proposed scheme lacks precision of definition, and is open to various forms of double counting due to the nature of the tradable instrument chosen for implementation—a baseline and credit approach—with the intrinsic problems of baseline definition that is implied. It is important that each credit given—and generally green generation is preferable—is traceable and numbered so that it can be audited.

In other words, for each credit given there should be a specifically traceable certificate so that any shoddy practice in generation of that certificate can be reflected in the value of the certificate in the market. Some months ago I put that to the Minister. However, I note that it is not included in the bill, and that is very disappointing. The Democrats believe that greenhouse credits have to be independently traded, as with shares on a register, and be totally transparent. If it is claimed that someone has saved a certain amount of energy, effectively reducing greenhouse gas, that will be audited so that the claim is traceable. If it is not credible, the credit will be taken from the organisation or drop in value. If the credit relates to a certain incident which is claimed to save the release of tonnes of CO₂ into the atmosphere, that has to be proved. The buyer of the credit will be held responsible for the veracity of the claim. In this way, a market mechanism would be established so that any crooked credits would be lowered in value, people would be reluctant to buy them, and the credits would not gain legitimacy by going onto a register where they are indistinguishable from genuine credits.

One can foresee crooked accountants coming up with electricity supplies forgone, saying, "I was going to expand my business but I did not; therefore I have forgone electricity supply. Please give me some credits." The Government wants the Independent Pricing and Regulatory Tribunal [IPART] to audit the credits. However, the New South Wales Democrats believe it is important that the Environment Protection Authority be given a central role because the authority has been far more critical in its approach to auditing the veracity of certificates generated. The concern is that the EPA will be excluded from the bill because of the nature of a previous report. In other words, because the authority has done a good job of auditing, it is somewhat of an embarrassment and it has been excluded from the bill. That is a major flaw in the bill. This aspect was also raised by the University of New South Wales Electricity Restructuring Group.

A further concern for the Democrats is the Government's obsession with secrecy. Under proposed section 97HD, Cabinet documents and Cabinet subcommittees are exempted from providing statements or any information to the tribunal or scheme administrator. I do not understand why this should be so secretive. The Democrats believe that transparency is the answer to these sorts of problems. Under proposed section 97K, the Minister may approve rules regarding greenhouse benchmarking. The clause was inserted at the time of the previous amendment bill in 2000. I intend to move amendments in Committee that will ensure these rules are made by regulation.

It is important that the Government gets the legislation right, because if it does not Australia will continue to exceed its greenhouse gas emissions. New South Wales, which plays a huge part in the Australian economy, can do so, even if the Federal Government does not. However, the bill is seriously flawed and I believe it must be improved. For that reason I have suggested an amendment that will ensure a compulsory review of the bill, as suggested by the Electricity Restructuring Group.

The latest Federal report recommends that a national scheme be implemented after a period of three years in the belief that this will give more certainty to industry. Given the involvement of Minister Warwick Parer and his well-known links to the coal industry, this sounds like a delaying tactic rather than a serious attempt to implement a national scheme. The implementation of a State scheme is at least a starting point, but we are disappointed that it is so flawed in its execution. This bill could be the basis of a national scheme, but there is a lack of audits interstate and the New South Wales audits are being conducted by the IPART without input from the EPA, which is disappointing. The lack of ability to trade credits interstate, as suggested by a National Party amendment, is one way of addressing this, but it is of concern that there is no way of auditing interstate credits.

The Hon. Duncan Gay: Yes, there is—by IPART.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The IPART does not have jurisdiction in other States, however.

The Hon. Duncan Gay: It checks that they are there, on a user-pays basis. It is required to come back to New South Wales.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I believe that under the current practices it is difficult to enforce even in New South Wales, and I think it would be worse interstate. It would also mean that interstate investment would go interstate, which is perhaps a parochial way of looking at the matter. Certainly, this bill is progress at a national level, in a country that is not doing very well. However, we believe the bill has serious flaws, which we will attempt to address in our amendments. I am disappointed that the Government does not wish to accept them.

The Hon. Dr PETER WONG [1.04 a.m.]: Lowering greenhouse gas emissions is a prominent international issue that is highly ranked on the Australian agenda. I support the bill in principle because its objectives hold obvious long-term and far-reaching advantages, particularly for the environment but also in the burgeoning industry of sustainable energy. This is positive news in light of the preceding failures in voluntary greenhouse gas emission programs, particularly in association with the use of electricity generators in New South Wales. Attitudes are slowly evolving from economic alarm at the loss of jobs and increased business costs, to the realisation of new opportunities.

The Partnership for Climate Action, an initiative of seven major international energy and commodity firms, promoted the potential of using carbon trading principles to reduce greenhouse gas emissions without sacrificing business viability or cost efficiency. I simply wonder whether the Government's strong stance on State isolation in the matter of forest carbon sequestration is based on a State-by-State approach envisaged as the national norm for the long term.

If New South Wales is the first State to introduce this type of bill, the Government's initiative must be commended. However, I seek more information on the incentives the Government intends to use to encourage greater participation in the scheme. The Government should also provide an impact statement of the effect that this isolationist approach will have on national and international companies wishing to invest in our State, knowing that their abatement activities will earn no, or conditional, tradable credits. Does our State already possess the tradable credits and tangible assets to justify this isolationist stance, particularly if the long-term outcome is advancing towards a Commonwealth scheme? If the eventuality is to be a Commonwealth scheme for tradable carbon sequestration rights, we need to ensure that legislation is protecting our long-term and immediate interests.

The Hon. IAN COHEN [1.06 a.m.]: The Greens are pleased to strongly support the intent and content of the Electricity Supply Amendment (Greenhouse Gas Emission Reduction) Bill.

The Hon. Eddie Obeid: You never support anything.

The Hon. IAN COHEN: The Minister complains that we never support any legislation. When we do support legislation, the Minister chooses not to listen. The bill introduces, for the first time, an enforceable greenhouse emissions benchmark for New South Wales participants in the electricity sector. Honourable members will recall my private member's bill, the Electricity Supply Amendment (Greenhouse Targets) Bill 1998, which proposed such an enforceable benchmark.

The Hon. Duncan Gay: It was probably the silliest bill you introduced, because it would have done the opposite to what you wanted it to do.

The Hon. IAN COHEN: I will not argue with you, given that it was so long ago. However, the Government has now introduced a bill that is along the same lines and ensures that this important issue is addressed. After four years of charging New South Wales consumers a \$1.50 additional charge that went into the Electricity Tariff Equalisation Fund to assist New South Wales retailers to meet their benchmark, and auditing the fact that only one will retailer was meeting its benchmark, the New South Wales Government has finally accepted that a voluntary benchmark was not working in the electricity sector.

I commend the Minister, the Hon. Kim Yeadon, for introducing a bill that moves towards compulsory benchmarks. I believe that if the Labor Government were to introduce similar legislation in other areas, it would receive the fulsome and continued support of the Greens. The Minister and I have had many differences of opinion, particularly on forestry issues. However, the Minister's efforts on this bill are worthy of support, and I congratulate him. I am pleased that legislation on such an important issue is moving forward in a manner that may have real benefit with regard to greenhouse gases emissions. New South Wales is the industrial powerhouse of the nation, emitting more greenhouse gas than any other State in Australia. The Greens note that in the first two years of the scheme the emissions are higher than the per capita emissions target.

The Hon. Duncan Gay: There's a bit comes out of the brown coal in Victoria but they are not in the scheme.

The Hon. IAN COHEN: Let us hope that the Victorians follow suit and introduce legislation such as this as there are opportunities in that area. This bill sets out an emissions benchmark glide path that encourages participants to achieve the target while allowing sufficient flexibility in the early years of the scheme for participants to invest in renewable energy outcomes that have a longer lead time in terms of producing New South Wales greenhouse abatement certificates. This will encourage renewable energy investment while ensuring that the per capita emissions target of 5 per cent below 1989-90 levels is met by 2007.

The scheme will transform the energy market in New South Wales, it will attract investment in more greenhouse-efficient energy solutions and encourage investment in demand management and renewable energy. This is a vital plank of the New South Wales Greens' vision of a sustainable electricity sector in this State. If New South Wales is to compete effectively in a Kyoto-compliant world market we will require additional incentives to create both demand management and renewable investment outcomes. Despite the doom and gloom scenarios emitting from the greenhouse policy vacuum in the Federal Government, investment in renewables and demand management will create jobs and profits for New South Wales, and much of that benefit will flow to regional areas.

Clive Hamilton, Director of the Australian Institute, has reviewed the regional opportunities that will result from a higher mandatory emissions benchmark. For New South Wales it means more jobs in regional areas, such as the western slopes of the Great Dividing Range where the State's wind energy potential is highest, more jobs in the Murray-Darling Basin as a result of investment in reforestation and plantation establishment and the biomass opportunities that flow from this investment, and more jobs for the Western Division and for towns such as Deniliquin and Broken Hill, where solar energy potential is highest. More than 80 renewable energy projects are under way in regional Australia. That amounts to an investment of between \$3 billion and \$4 billion. That is occurring in an economic and political climate that does not actively encourage investment, with those investors having a view of Australia's energy future. Former President of the United States of America Bill Clinton, when tackling fossil fuel industry lobbyists, noted:

... the largest obstacle to meeting the challenge of climate change is not the huge array of wealthy vested interests and the tens of thousands of ordinary people around the world who work in the oil and coal industries, the burning of which produce these greenhouse gases. The largest obstacle is the continued clinging of people in wealthy countries and developing countries to a big idea that is no longer true—the idea that the only way a country can become wealthy and remain wealthy is to have the patterns of energy use that brought us the industrial age. In other words, if you're not burning more oil and coal this year than you were last year, you're not getting richer; you're not creating more jobs; you're not lifting more children out of poverty. That is no longer true.

Bill Clinton saw through the vested interests who were all about entrenching their domination of the traditional energy market, and fortunately the New South Wales Government has resisted the best efforts of similar vested interests in this State.

The New South Wales Greens note that the potential for enormous windfall gains to coal and gas generators, particularly interstate generators, has been reined in by ensuring that the baseline stays at 1 January 2002. I note that the Hon. Richard Jones proposes to move an amendment that will make that commitment explicit in the bill. The New South Wales Greens also acknowledge the commitment by the Minister for Energy, Mr Yeadon, in his second reading speech to remove from the scheme carbon sequestration from other States. The Greens believe this will limit the potential damage that this form of carbon certificate could wreak on the credibility of the scheme.

An example of the excesses of this arrangement is the Mitsubishi group, which piggybacks carbon sequestration on top of its huge demand for wood pulp by clearing native forests in Tasmania and putting in their place short-term plantations with the express purpose of cutting them down in as few years as will deliver the fibre it requires for paper and cardboard products. The products of that activity are soon burned or decomposed in landfill and return to the atmosphere after only a few years. Yet carbon certificates are granted to Mitsubishi's subsidiary, the Tokyo Electric Power Company, for this activity.

We now know that all the world's temperate forests are absorbing approximately 10 per cent of global carbon emissions. While that is important, it is obviously only a small part of the solution. The idea that manipulations of the forests can somehow increase absorption is uncertain at best. I was pleased to see the recent release of the New South Wales wind atlas—

The Hon. Duncan Gay: It was about a week ago.

The Hon. IAN COHEN: I have a copy of the atlas in my papers but it does not rise easily to the surface. It is an excellent guide that presents an exhilarating opportunity. I pay credit to the Minister for Energy for that initiative, which could lead to the creation of enormously beneficial alternative energy schemes, particularly on the western slopes. The Greens wholeheartedly support that idea. The atlas shows the windiest places in New South Wales. While the windiest place, the top of Mount Kosciusko, is obviously unsuitable for a wind farm, many other places in New South Wales are suitable. The next three windiest locations are Lake Bathurst, where wind speeds average more than eight metres per second; Bourke, where winds speeds average more than seven metres per second; and Scone, where wind speeds average up to seven metres per second. The Greens hope that the Government will consult with local communities north of Goulburn, west of the Blue Mountains and north of Armidale, which the atlas pinpoints as being highly suitable for wind farms.

The Hon. Duncan Gay: Lake Bathurst is south of Goulburn.

The Hon. IAN COHEN: Thank you, I stand corrected. There are already wind farms in that area. Is the Deputy Leader of the Opposition satisfied with them? Are they doing the job? Is there a spin-off for local employment in the form of maintenance jobs?

The Hon. Duncan Gay: There is a double spin-off for tourism.

The Hon. IAN COHEN: What more could we want in a country area?

The Hon. Duncan Gay: The only unfortunate side-effect is that the Hon. Michael Egan has visited twice.

The Hon. IAN COHEN: There is always a downside, but there are benefits from tourism and job opportunities in maintenance and support. I wonder whether the equipment was constructed in New South Wales. If it was, that is fantastic; if it was not, there is no reason why the equipment for future wind farms cannot be manufactured entirely in this State. That is the kind of initiative that can bring real benefits to regional communities. Wind farms can not only be a highly sustainable form of agistment; they lower regional energy prices and encourage energy-use awareness by their presence. But perhaps more importantly, once wind farms get up and running industry will develop to manufacture the components. That will make the industry more competitive and deliver real employment opportunities in New South Wales. It is not unforeseeable that, with the kind of support the Government gives the coal and biomass industries through grants, rebates and subsidies, the wind energy industry could in a few short years be a shining example of economic growth. That is an example that the Greens would support.

The changes that humans have already made by increasing carbon dioxide levels in the atmosphere are thought to be causing a greater release of carbon through the breakdown of leaf litter and more frequent forest

fires. Only a slight increase in those factors could wipe out the supposed benefits of carbon sequestration. Other countries, notably Japan and the United States, are already using Australia as their carbon dump. It is highly doubtful whether these activities will result in a net benefit to the global community. The release of carbon stored in native vegetation and soil as a consequence of establishing plantations and industrial farming practices is occurring in New South Wales right now. While we welcome the proposition that the accounting of this novel market in carbon should be managed by the Independent Pricing and Regulatory Tribunal [IPART], we are asked to trust as yet undefined rules and methods of controlling this activity, which as it stands may be little more than an escape hatch for the electricity generators.

It has been shown that a newly planted forest must stand undisturbed for 120 years before it has accumulated the amount of carbon released in the initial clearance of the pre-existing forest. That is much longer than the lifetime of the plantations which take their place. Under this proposal there is no accounting for the massive amounts of carbon released by the clearance of native forests. Recently the *New Scientist* magazine has reported that the soil contains up to six times more stored carbon than the forest standing above it. Much of that is lost when the ground is ripped up to prepare for a new plantation, and more is lost when herbicides are used to control competition from undesirable grasses and shrubs. There is no credible accounting system for the full carbon cycle, which comprises much more than the plantations allowable under this bill.

The present state of carbon trading does little to guarantee that carbon credits are granted for physical carbon that is drawn from the atmosphere, trapped in plant matter, and kept there with some certainty for a period of time sufficient to make a difference to the climate. Unless and until the many loose ends of the carbon trading game are clearly spelled out, the New South Wales Greens are not comfortable relying on this mechanism to stabilise the climate on which we are all so dependent. It would be much better if we in New South Wales set the standard at home by implementing firm controls on further activities which would release the wealth of carbon already stored above and below the land. The IPART will be bold indeed to set up a credible system of carbon accounting when the world's scientists are only beginning to come to grips with the magnitude of the problem. We strongly agree with the Minister that demand management is a good way of reducing the consequences of electricity generation, and that means using less of it.

Presently a strong disincentive to do so exists, in that those who use the most electricity pay the least for it. The modest demand management provision of this bill—to allow the claim for abatements in advance—goes some way, but is hardly bold enough given the dire situation we face. The scope of the solution required has been clearly spelled out by Amory Lovins of the Rocky Mountain Institute in his coining of the term "negawatts". Those negative watts are the watts of electricity that are freed up by not wasting them. They are the least expensive form of reducing carbon emissions, the most certain form yet, and a good way of enabling more communities and businesses to enjoy the benefits without the costs of building new power stations and the emissions which inevitably arise from them.

The far-sighted Victorian Labor Government of Joan Kirner engaged the Rocky Mountain Institute to conduct an audit of the Victorian energy system. The audit made recommendations to remove the perverse incentive of cheaper energy prices for those consumers who use more of it. Another of the recommendations was to provide a means by which those energy customers keen to have new, more efficient appliances fitted could have that done by the supply authority, which would fund the new work as it would a major infrastructure project, and the customers would pay progressively through their regular bills. Both of those mechanisms required public investment, whereas business left to itself will tend to favour least-cost, sub-optimal outcomes. The State funds major infrastructure at more favourable rates than private business can access, and those demand reduction mechanisms are deserving of such funding.

The Victorian initiatives suffered an untimely interruption with the rise of Jeff Kennett. The good example of a previous Labor government stands awaiting for another with the courage to implement this program. On the environmental front, this bill is just a small step towards addressing the world's carbon addiction, which is threatening global ecosystems. The Intergovernmental Panel on Climate Change [IPCC] has concluded that the balance of evidence suggests a discernible human influence on global climate. How much? The IPCC reported that the present atmospheric concentration of CO² has not been exceeded during the past 420,000 years, and it is likely not to have been exceeded during the past 20 million years. We are carrying on a huge experiment with the planet's ecosystems without an eye to the future.

In Australia, the effects of the global climate change include damage to World Heritage areas such as Kakadu, the wet tropics, the Great Barrier Reef and, closer to home, the Blue Mountains; huge reductions in water availability, such as a 30 per cent reduction in the mean flows of the Murray-Darling rivers; the loss of

unique alpine environments such as that protected in Kosciuszko, the home of the mountain pygmy possums; and increases in the intensity and frequency of extreme weather events such as wild storms and droughts. In New South Wales, the CSIRO has shown that New South Wales can expect to become 0.5 degrees to 2.7 degrees Celsius warmer by 2050. There will be an associated drop in rainfall with that projected temperature increase. Basher and Pittock of the CSIRO stated in their 1998 report "The Regional Impacts of Climate Change: An Assessment of Vulnerability"—

The Hon. Henry Tsang: Point of order: The Hon. David Oldfield is reading a magazine.

The Hon. David Oldfield: To the point of order: It is my understanding that former President Johnno Johnson, ruled that the *Jesuit Social Services* or Jesuit papers did not constitute newspapers and that it was perfectly all right to read such material in the Chamber.

The Hon. Henry Tsang: I withdraw my point of order.

The Hon. IAN COHEN: It is good to hear such relevant points being taken from the benches of the Australian Labor Party. It is amazing that I cannot get members on that side of the Chamber to concentrate when I agree with them. I wonder sometimes what is the point. The report of Basher and Pittock stated:

Australia's relatively low latitude makes it particularly vulnerable through impacts on its scarce water resources and on crops presently growing near or above their optimum temperatures.

Detailed studies on the impact of projected climate change on dry land wheat show that the maximum wheat yield line will move approximately 300 kilometres closer to the coast, from between Brewarrina and Walgett to between Walgett and Narrabri. With that overall increase in temperature, the climatic variability of New South Wales will increase dramatically. Droughts and flood are projected to occur twice as frequently.

The Hon. Duncan Gay: Do you know what you just said? You moved 300 kilometres closer to the coast but only from one side of Walgett to the other.

The Hon. IAN COHEN: The Deputy Leader of the Opposition may be right. I will delete the reference to 300 kilometres but the sentiment and the relevance behind the statement still stands.

The Hon. David Oldfield: It proves people are listening.

The Hon. IAN COHEN: It does. I am thoroughly impressed that at 1.30 a.m. I can elicit such intelligent interjections from the Opposition, and it is appreciated. In any addition to the wisdom of such an article I am open to any support from the National Party. As honourable members in this House who represent rural areas know, that finding will result in a decrease in arable land in New South Wales and contribute significantly to the financial uncertainty of regional economies. The coastal areas of the State are also vulnerable. More frequent storm events will increase storm surges and contribute to coastal erosion and inundation. Dairy cows are also particularly susceptible to heat stress, reducing milk yields by an average of 4 per cent by 2030. In short, climate change and the costs of adapting to climate change are huge unknowns, both in terms of ecosystem impacts and economic impacts. The relatively small cost of the New South Wales enforceable benchmarks scheme is an investment in the future. The New South Wales Greens support the intent of the bill, but foreshadow several amendments to strengthen the legislative scheme.

I appreciate the role of the Minister for Energy, who has taken significant steps in a positive direction on an acknowledged problem that is close to the heart of the Greens and their many supporters throughout the nation, and the world for that matter. I appreciate that the Government has acknowledged the issue, and that the Opposition is taking the issue seriously. Hopefully, there can be a unanimity of purpose on this issue, because the spin-offs are that we need to look after the land, take greater care in using our resources and change our attitude in relation to energy consumption. By demanding management and wisdom on the part both of authorities and the general population, we can make a significant difference. The Greens believe that greenhouse gas emissions and their impacts on the environment and the economies in Australia and throughout the world are a major issue. I am pleased that Minister Yeadon and the Government have taken these steps.

The Hon. MALCOLM JONES [1.30 a.m.]: The Electricity Supply Amendment (Greenhouse Gas Emission Reduction) Bill will reduce emissions from power stations over the next decade. Whether this is necessary, I will return to later. The bill also introduces a whole new language with which we must become familiar. I do not know whether I commend the Government for introducing this legislation. However, it

effectively creates a new industry, being the market for carbon credits. Whether the Government will allow the market to get started will be determined by it taking a pragmatic business approach to getting on with the job, or political interference will ruin things. However, assuming that the rest of the world follows these initiatives, New South Wales can be well placed to enhance trade with this new industry. This would appear to be applaudable. However, the effects on industry within our electricity grid system, our competitiveness and the effects on employment remain to be seen and assessed.

Given that our power stations are based in the country—upper Hunter, Wallerawang, Mount Piper, Minnamurra, Lake Macquarie, and elsewhere—and the urban power stations at Balmain, Pyrmont and the like are long gone, I do not think that localised pollution is an issue. Having been involved in the M5 East inquiry for a few years now, and having examined ambient air temperatures and so on, I think motor vehicles and particularly bushfires are infinitely more polluting than power stations. We have the toughest air regulations in the country, and our power stations must operate within those tough regulations. The Kyoto agreement is all about cutting greenhouse gas emissions. I cannot accept that the Carr Labor Government is serious about greenhouse gases. In the past 12 months we have seen so much greenhouse gas and carbon gas released into the atmosphere. If Carr and his Ministers had been serious about greenhouse gases they would have attended to hazard reduction adequately—they were told often enough.

The pollution of the past month from bushfires makes a joke of greenhouse gas considerations. The Government was told often enough and regularly enough. Anyone who refutes this can check *Hansard* for my questions both in question time and in successive estimates hearings. One main problem with the bill is the containing of sources to New South Wales. If sourcing is contained to New South Wales, I believe that the project will fail. I will not waste the time of the House by reiterating the benefits of carbon credit trading. This has already been widely canvassed. However, I alert the House to potential industrial drawbacks, which perhaps explain the reluctance of Prime Minister Howard and President Bush to embrace Kyoto. A 5 per cent reduction in gases out of power stations, which are all government owned, does not require legislation. It requires a board meeting at which the directors are told by shareholders to cut gases.

This complex bill and setting up of an industry are a sham because if the source is limited to New South Wales the power stations in New South Wales will require 10 million tonnes of carbon credits by 2007 and will have access to only 600,000 tonnes in New South Wales. The worst case scenario—600,000 tonnes of carbon credits at its maximum of \$15—is \$9 million, with the same penalties imposed if no cuts are made. The electricity industry, which is the Government, will simply draw a cheque for \$9 million from one pocket and pay it to the Government and put it in another pocket—which creates a nonsense—unless there is a secret agenda running here. That is not uncommon with this Government. The National Parks and Wildlife Service and the Carr Government taught me all about secret agendas in my fight with them both inside and outside this place. If the Government were to privatise energy, it all starts to make sense. An election is coming. Surprise, surprise! It then becomes confusing.

If the Government wants to sell off energy, why would anyone in their right mind think to put such a ball and chain, such a disincentive, around the neck of a buyer as this bill does? It would help if these questions were addressed appropriately. However, legislation has also been passed which cannot yet be enacted due to the lack of a carbon credit industry framework in places such as Massachusetts, New Hampton, Oregon and California. They have the legislation in place but there is no market for it. Hopefully, this bill will go a long way to creating such a framework. There appears to be confusion regarding the ability of this industry to function until and if Australia becomes a party to the Kyoto agreement. I seek clarification of this point by the Minister.

I turn now to sourcing. I refer to division 6, section 97DA. I seek advice from the Minister as to where in the bill Minister Yeadon gets his authority to say, "These large user certificates can only be created by facilities located within New South Wales—that is, those sites subject to the legislation." The Minister said that in the second reading speech in the other place, but it is not mentioned in the bill. The Minister's statement creates a problem, which is that the quality of the timber has an effect on the unit price of the carbon credits. Section 97DA does not mention limiting the planting of forests for accreditation. However, I believe that amendments will be moved in Committee to provide for eligibility for accredited areas limited to New South Wales. The larger the timber catchment area, the better the marketable price of the carbon credit.

For example, currently New South Wales is in drought, and prolonged drought has the potential to reduce prices due to somewhat inferior timber, whereas if user certificates could be for an area, perhaps Australia-wide, then the timber production areas of Tasmania and Western Australia, which are not subject to drought, will nullify any discounting of timber values. During drought, sequestration of the timber may

diminish. I appreciate that no reference is made to this issue in the bill. However, I seek either clarification or denial as this is to the detriment of the legislation. I believe that amendments may be proposed to address this issue, so I assume the matter will be dealt with in Committee. If Sydney is to become the carbon credit trading centre of the western Pacific, and perhaps the world, this limiting comment by Minister Yeadon regarding limitation of user certificates only to facilities in New South Wales must be withdrawn. Otherwise, we will not be able to compete properly and it could cost Sydney the opportunity to operate such an exchange. Furthermore, the limitation of sources for sequestration will add substantially to the cost of compliance.

New South Wales power stations will be in the market to purchase 10 million tonnes of carbon credits by 2007, while New South Wales will perhaps be able to provide only 600,000 tonnes of credit carbon per annum. So the market will become functional very quickly. The limitations imposed by any proposed amendments to restrict sourcing only to New South Wales are unnecessary and potentially very costly. If we need to have a new power station commissioned, the demand will go off the scale and the New South Wales limitations will be a major financial problem. In my experience, the wealthier nations around the planet are the cleanest. Sadly, the poorer nations are the most polluted. The creation of wealth in western society is the best way to combat pollution. Wealth is created through industry and limitations on industry can have an effect on the lifestyle of the population and on the environment in which we live.

Reverend the Hon. FRED NILE [1.40 a.m.]: The Christian Democratic Party supports in principle the Electricity Supply Amendment (Greenhouse Gas Emission Reduction) Bill, but we believe it needs the amendments that have been proposed by the Opposition, which, it seems, will improve the scheme. The main purpose of the bill is to change what has been a voluntary or self-regulation system into a coercive or regulated scheme with penalties. That approach is receiving strong opposition from the industry. Existing benchmarks required electricity retailers to reduce emissions by 5 per cent on a per capita basis by 2000-01 as compared to 1989-90 emission levels. According to the Government's calculations, retailers are currently not meeting those benchmarks, with emissions now at 10 per cent above the 1989-90 levels on a per capita basis, rather than 5 per cent below.

The Electricity Supply Act is being amended by this bill so that the existing 5 per cent reduction on the 1989-90 emission levels will be extended to 2007, and they will remain at that level for at least the following five years, to 2012. This scheme will commence on 1 January 2003. Abatement certificates will be able to be created through a number of procedures such as running existing low-emission generators, demand side management, investment in new low-emission generators and sequestration in forestry. Counting towards the benchmark low-emission generation located outside New South Wales is important to ensure that the benchmark can be met in the least-cost way. The amendments foreshadowed by the Opposition will overcome a problem with the bill, which currently restricts carbon sequestration activities to New South Wales. The Opposition proposes to reintroduce interstate carbon sequestration activities to the bill as a way of creating abatement certificates to offset emissions and meet benchmark reduction targets. This provision was originally included in the development of the bill, but was removed in the final stages.

We have received a submission from EMC Consulting representing Zurich Capital Markets, which owns the former forestry plantations of Australian Plantation Timber Pty Ltd. The firm is concerned about that aspect of the bill and supports the Opposition's proposed amendments. It indicated in its submission that over the past year Zurich Capital Markets and Hancock Natural Resource Group have invested in the development of a market in carbon sequestration based in Sydney. They are not alone, as many Australian and overseas companies have invested several millions of dollars in New South Wales on business development, legal and accounting firms, and salaries and fees associated with this new forestry carbon business. For instance, Zurich Capital Markets owns, and Hancock Natural Resource Group manages, the forestry resources of the former Australian Plantation Timber Company. These plantations are in Western Australia, South Australia and Victoria, and operate under the Australian Forests Fund.

Those firms invested millions of dollars on the basis of the Carr Government's proposed scheme to reduce greenhouse gas emissions through the establishment of mandatory, enforceable emission targets. They believed that the scheme presented a range of opportunities for business to contribute to addressing one of the great environmental challenges, whilst developing a dynamic trading market of great potential in Sydney. They remain committed to the scheme but hope to have it broadened in one significant way—by the Opposition amendment to extend carbon credits to interstate sequestration. In their submission to us they have said that the bill restricts carbon sequestration to sources in New South Wales. This is a recent development, as the scheme had been envisaged to operate nationally until the Minister for Energy said in his second reading speech that carbon sequestration would be confined to New South Wales sources. That has created some major problems in the industry.

The industry claims that restricting carbon sequestration to New South Wales sources will add to the scheme's cost to industry. While in the early years of the scheme New South Wales sources may have had sufficient supply of credits to keep costs down to approximately \$7 per tonne, as predicted by the Government, by 2007 the market for credits will expand dramatically, when the price will likely approach the penalty price of \$15 per tonne. If the market price for abatement certificates approximates the penalty level set by the Government there will be little incentive on benchmark participants to seek alternative cheaper abatement measures. The way the Government is restricting the scheme may undermine what it is seeking to do. There have been major problems with electricity generating prices and, we understand, losses to the New South Wales taxpayer of millions of dollars. If the Government is not careful, changing this bill to establish a new policy may have the same economic effect. The Government should give serious consideration to supporting the Opposition amendments if it wants to stay in the black and not in the red.

The Hon. RICHARD JONES [1.47 a.m.]: As my speech is lengthy, I seek leave to incorporate it in *Hansard*.

Leave granted.

This Government's introduction of compulsory benchmarks for greenhouse gas emission reductions has set an Australian standard, put NSW at the forefront of the burgeoning renewable energy sector and taken a very important step in putting us on the road to an environmentally responsible future.

The benchmarks will significantly reduce Australia's greenhouse gas emissions.

Enforcing the benchmarks is expected to reduce emissions by 52.57 tonnes during the next decade - the equivalent of taking 2.9 million cars off the road - and if the benchmarks were enforced in *all states* then Australia could meet its Kyoto agreement to reduce greenhouse gas emissions to 108% of the 1990 levels by 2010.

If no action is taken on the other hand, then greenhouse emissions are expected to reach 65.97 tonnes by 2011/2012.

We cannot therefore afford not to act. We can also no longer afford to rely on voluntary benchmarks.

NSW introduced voluntary benchmarks back in 1997 and yet after 6 years electricity retailers in this State have still not managed to meet them.

In fact, in the most recent Environment Protection Authority electricity retailers performance audit report almost all retailers performed worse than the previous year and the energy retailers who failed to meet their emissions reduction targets fail on average by over 15%.

Integral Energy and Origin Energy Electricity Ltd were the only industry players that met their responsibilities to the public and actually achieved greenhouse gas emission levels equal to or lower than their targets. The rest of the industry missed the target by miles.

Advance Energy, AGL Electricity Ltd, Australian Inland Energy, Citipower, EnergyAustralia, Ferrier Hodgson Electricity Pty Ltd, United Energy Ltd and TXU Electricity Ltd all exceeded their greenhouse gas emission level targets by up to 10%.

ACTEW Retail Ltd, Ergon Energy, Great Southern Energy, Northpower, Powercorp Australia Ltd and Yallourn Energy Pty Ltd exceeded their greenhouse gas emission level targets by up to 15%.

It is therefore well and truly time that compulsory benchmarks were put in place to ensure that we reduce our emissions and play a real role in putting the brakes on climate change.

Climate change is one of the greatest environmental threats we face this century.

Unless serious action is taken to dramatically reduce greenhouse gas emissions, human activities will continue to increase greenhouse gas concentrations in the atmosphere: doubling pre-industrial levels of CO₂ levels by 2050.

This is expected to bring about an increase in mean annual global surface temperature of 1.4-5.8°C by 2100 and over the next 50 years, will result in:

- a decrease in available water resources;
- a reduction of area of arable land; and
- a reduction in crop and livestock quality/output.

Climate change is of course not just a global scale problem with global scale effects, NSW is, for example, expected to warm by 0.5-2.7°C by 2050.

While this might not seem like much, a relatively small change in temperature (between less than 1°C and 1.7°C) causes a major change in regional climate patterns.

Not only is NSW expected to be 0.5-2.7°C warmer by 2050, frosty nights are expected to decrease by 20-100%, the incidence of spring drought is expected to double across NSW, fire frequency is expected to increase and the frequency of days above 35°C is expected to increase by 10-50%.

And that is not all!

Water is predicted to become scarcer. The flow of major river systems is expected to be reduced, with the Murray Darling, Ovens, Goulbourn and Macquarie River Basin losing up to 10-30% of irrigation water by the year 2030.

As a result, competition for an already over allocated water supplies will increase the price of agricultural production and place further stress on rivers and ground water systems supporting arable lands.

The effects of these predicted changes in temperature and rainfall will have dramatic adverse effects on and presents a great threat to the survival NSW' agricultural based businesses and communities.

Climate change is expected to decrease the area of arable lands currently used for agricultural production in NSW as:

- extreme weather events (drought and flood) are projected to occur twice as frequently throughout NSW causing a loss of arable lands through soil erosion and landslides;
- soil moisture is projected to decrease due to evaporation from higher temperatures;
- the projected mean increases in drainage of 6 to 27mm/year represent a substantial potential change in landscape hydrology which is likely to increase risks of salinisation in areas not yet affected and increase rates of salinisation in areas already affected;
- increased salinisation and alkalisation is projected to occur in semi-arid zones; and
- research in Western NSW predicts a decrease in land area suitable for cropping up to 300,000ha.

Increased temperatures are also expected to alter crop seasons, increase dairy and beef cattle heat stress and introduce new pest and disease occurrences into NSW.

The frequency of heat stress in Australian beef cattle is expected to increase by 138% by about the year 2050 because of climate change.

By 2030, milk cows without shade cover are expected to suffer an average milk loss of 280L/cow/year (4% of annual production) and by 2070 between 250 to 400 L/cow/year milk loss (6% annual production).

Higher temperatures are expected to increase the southward spread of cattle tick and buffalo fly.

Wheat yields are also expected to decrease, either with warming beyond 2°C or rapidly with reduction in rainfall.

In light of the fact that a 20% reduction in rainfall is expected to reduce average yields by 5-53% and result in up to 300,000 ha becoming unsuitable or marginal for cropping, recent climate change scenario suggested rainfall reductions of about 12% will have significant repercussions for the industry.

The predicted increase in carbon dioxide levels is also expected to reduce grain protein (or nitrogen) contents by about 10-12% and significantly downgrade grain quality by 1- 2 quality classes.

Given that the cause of these effects, climate change, is being brought about by our use of and dependence on greenhouse gas producing fossil fuels such as oil, coal and gas to power transportation and industrial processes and generate electricity, the most effective form of action we can take is to reduce our dependence on fossil fuels and develop clean energy alternatives.

The combustion of fossil fuels is after all one of the primary reasons for the increased concentration of carbon dioxide in the atmosphere and increases in carbon dioxide emissions account for about 70% of the enhanced *greenhouse effect* to date.

Energy burned to run cars and trucks, heat homes and businesses and power factories is responsible for about 80% of those emissions and over 90% of our electricity is generated by burning high greenhouse gas producing coal.

Of the 18 tonnes of greenhouse gases that the average Australian household puts out a year, 9 tonnes come from *heating, lighting and refrigeration*.

NSW is a major contributor to these emissions and therefore can play a major role in reducing them.

In 1990, the emission of greenhouse gases from NSW amounted to the equivalent of 175 million tonnes of carbon dioxide equivalent and accounted for approximately 30% of the national greenhouse gas emissions.

All electricity retailers operating in NSW also purchase most of their electricity from coal-fired power stations. In fact, in 1999–2000, only approximately 4% of their purchases fell into categories of low-emission generation, including wind, hydro, biomass/biogas, solar, large cogeneration, coal seam methane and other generation purchased and 'assigned' to the retailer.

It is no surprise then that the majority of NSW carbon dioxide emissions, some 45%, come from the energy sector.

It is also no surprise that the most effective and efficient way that we can reduce our greenhouse gas emissions is to target the energy sector. The way to do that of course is to do as this Bill does and introduce legally enforceable greenhouse gas targets. While critics often argue that consumers cannot afford the cost of meeting enforceable targets, they ignore the 'hidden' costs of current energy policies.

Estimates of damage costs for climate change range from 1 to 2.5% of Gross State Product, for an average global temperature rise of 2.5 to 4°C. While these estimates are from the peer-reviewed literature by the Inter-Governmental Panel on Climate Change, they are based on the *US economy*.

As Australia is more vulnerable to climate change than the US, damage costs are expected to be even higher here.

The best scientific evidence predicts global warming will see extreme weather events increase in frequency and intensity, bringing enormous costs to the community, government and industry. Events of the last few years, such as the Sydney hailstorms, north coast floods and the tragedy of the Christmas bushfires, have already seen many household insurance premiums rise by around 20% - \$100 for a standard \$500 home and contents policy - and increasing numbers of people finding their homes are uninsurable.

On top of this, climate change will threaten many plant and animal species with extinction, devastate agricultural production in many areas of the State, and some insurance companies are beginning to factor climate change into long-term forecasts, suggesting it will stall investment in areas like regional development, agriculture and housing.

On the other hand, as the NSW Premier Bob Carr himself has said enforceable targets "will add little or no extra cost to household power bills."

The predicted average cost of enforceable targets to NSW consumers is a mere \$3.60 a year.

It is also highly likely that retailers are already being overcompensated for meeting greenhouse benchmarks because:

- one third (34%) of the estimated average cost of meeting the revised benchmark is already built into regulated tariffs and being paid by customers;
- in 2000-01, standard retailers were already retaining from the Electricity Tariff Equalisation Fund, on behalf of regulated customers only, \$8.8 million more than is estimated will be needed to meet the benchmark *for all customers* in 2002-03;
- in 2007-08, standard retailers will retain from the Electricity Tariff Equalisation Fund, on behalf of regulated customers only, all except \$2 million of the estimated cost of meeting the benchmark *for all customers* in 2007-08; and
- in 2000-01, retailers were buying 32% of the current benchmark.

Enforceable benchmarks will however not just minimise the negative impacts of climate change and thereby reduce its cost, they will benefit the economy and be good for jobs. They will bring jobs and investment in the fastest growing industry sector in the country - renewable energy.

In the newly competitive market electricity retailers will seize upon every marketing advantage to attract customers, especially environmentally conscious consumers. Operating in a state featuring enforceable emissions reductions will give a distinct advantage to NSW based retailers who will be able to market their environmental credentials to other states.

Around 60,000 customers across Australia have already chosen Green Power products, including 2500 businesses, current Australian investment in renewable and low emissions energy is valued at \$6 billion and over 100 new approved renewable energy projects have been installed in Australia since 1997.

The renewable energy sector is also an increasingly lucrative and marketable. In fact, it is the fastest growing industry in the country and has the potential to generate employment and export growth for the State.

Employment in the renewable energy sector is already rising at a rate of more than 12% per annum, while traditional energy sectors are shedding employees. of enforceable greenhouse gas benchmarks also often claim that reducing greenhouse gas emissions would cause thousands of jobs to be lost in regional and rural Australia.

Very few regions however benefit from traditional energy sources such as coal and industries now developing to replace traditional energy industries will invigorate many regional areas. The benefits from the growth of sustainable energy industries, for example, will be concentrated in regional Australia.

Most existing and planned renewable energy and natural gas electricity facilities are spread across regional Australia.

Cutting greenhouse gas emissions will also mean a shift to natural gas cogeneration, a low emissions source of energy that can be developed to benefit regional Australia.

The development of greenhouse-friendly energy industries is also creating a large number of jobs in regional Australia.

Sustainable energy projects are already helping to revitalise some areas of regional Australia. Throughout the country over \$6 billion of new investment is being made in renewable energy and manufacturing and processing projects powered by gas-fired cogeneration and most of that investment - \$3-4 billion - is in regional Australia.

There are, as a result, over 80 new projects under construction or proposed in regional and rural Australia. Those projects include the southern hemisphere's largest solar farm at Singleton, NSW and wind farms at Crookwell and Blayney in NSW, Codrington, Victoria and Ravenshoe, Queensland.

The more that greenhouse gas emissions are lowered the greater will be the shift of energy production to regional Australia. This will mean more local jobs, and less centralised power generation.

Six regional communities have already benefited from investments in the new sustainable energy industries, providing jobs, training and above all renewed hope for the future. Tumut in southeast NSW, Tweed Shire in Northern NSW, Ravenshoe in North QLD, Rocky Point in Southeast QLD, Codrington in VIC, Albany in Southwest WA and Narrogin in WA have benefited from cogeneration and wind farms projects.

This is only the beginning. With proper planning and government policies much of regional Australia could enter a new era based on sustainable energy.

Given the rapid technological improvements taking place in almost all forms of renewable energy, there are also several new industries likely to emerge as viable new opportunities in the future for regional Australia. Opportunities such as tidal power, solar, mini-hydro, high temperature geothermal ('hot rocks') and ethanol and biodiesel from crops for motor fuel.

There are also huge greenhouse-related opportunities from natural gas for regional Australia. While gas is a fossil fuel using it to generate power efficiently results in greenhouse emissions that are only a fraction on those produced by existing coal-fired power stations.

This will provide opportunities for all those parts of regional Australia that either produce gas or lie along gas pipelines that take gas to larger markets.

The development of these technologies and industries will of course depend on local circumstances and the extent to which governments introduce measures to reduce greenhouse gas emissions.

It should also be noted that the renewable energy industry has indicated that it can expand well beyond the Federal Government's Mandatory Renewable Energy Target, of an additional 9,500GWh of renewable electricity by 2010.

In fact, it can achieve more than twice that amount.

It is little wonder then that the renewable energy sector has joined the conservation movement and consumer advocates in welcoming enforceable greenhouse gas benchmarks.

A spokesman for EnergyAustralia has, for example, said that "We support the state government's greenhouse efforts... we are already working hard to develop new ways to help customers reduce greenhouse gases."

To be effective and deliver real reductions in greenhouse emissions though, enforceable benchmarks need to be matched by stringent compliance guidelines and the penalties for exceeding emissions targets need to be rigorously enforced.

Achieving real greenhouse emission reductions will also rely heavily on reducing overall consumption through demand management, substituting the old, brown and heavy energy sources, such as coal, with new, green and light sources like wind and solar energy and encouraging the use of, and investment in, genuinely renewable energy sources.

Unfortunately though the proposed Greenhouse Gas Emission Benchmark Scheme as provided for in this Bill will not achieve its objectives - a mandated per capita reduction in greenhouse emissions by 2007, limit the cost burden on consumers and obtain demand management industry, renewable energy industry and regional development in NSW.

The Scheme as currently drafted:

- promotes interstate carbon sinks;
- provides a windfall to interstate gas generators built after July 1997;
- introduces double counting where the taxpayer has already funded renewable generation (eg, via Greenhouse Gas Abatement Program funds and Mandatory Renewable Energy Targets);
- lacks essential support for demand management and transparency and clarity around Large User Abatement Certificates (LUACs) and the manner in which they will be granted to major industry; and
- fails to adequately provide for the review and amendment of undefined methodologies for LUACs, sequestration, and electricity sales foregone.

The current settings for per capita reductions in emissions, 7.27 tonnes of carbon dioxide per capita by 2007, bias the arrangements to large central generation plants, through increased use of both gas and more efficient coal plants. As a result, most retailer investment is likely to be in these areas rather than demand management and renewables. It is also likely to result in consumers having higher than necessary energy bills.

As the most effective way to contain costs is through demand management, an additional weighting is needed in the scheme, either by way of a quota or rules for demand management. The legislation should therefore set a quota of at least 15% and could allow for retailers to bring credits from the ensuing years forward, after the first year of operation of the demand management investment.

The legislation should also set a quota for renewable energy of at least 15% and could include solar hot water systems.

Another problem with the Scheme as currently drafted is that the focus on carbon sinks and 'new' generation *anywhere* in NEM will see much of the benefit of NSW investment in the only enforceable benchmarks in Australia go to other states.

It would be far more efficient to limit opportunities to NSW, as NSW would then receive the bulk of regional development funds from the industry. Even more benefits could be derived from setting a limit of 30% and defining 'new' generation as that constructed since January 2003. This would bring about more investment in the renewables industry and in demand management, substantial employment and economic activity gains and reduced network and generation investment.

Expanding the range of activities large users can engage in, in order to generate LUACs, also undermines the integrity of the scheme. As large users are by definition associated with large emissions profiles, this will pervert the effectiveness of the entire NSW Greenhouse benchmarks scheme.

LUACs should therefore be removed from the scheme and large users should be able to self generate Renewable Energy Certificates and acquit to their own benchmarks.

Another concern is the absence of clear methodologies for carbon sequestration, electricity sales foregone and large user abatement.

All methodologies must be in the public domain and individual negotiation, certification of abatement measures, compliance and audit mechanisms must also allow proper public scrutiny of the large user benchmarks.

I and my colleagues on the Crossbench intend therefore to move amendments in Committee that rectify these matters. I urge all Members of this House to support those amendments.

The Hon. IAN MACDONALD (Parliamentary Secretary) [1.47 a.m.], in reply: I thank honourable members for their contributions to this important debate. I shall answer a number of the issues raised by the Deputy Leader of the Opposition. He referred to the timing of the scheme, non-tradable large user certificates, sequestration in New South Wales, the impact on electricity prices, the BHP issue, generators subject of the scheme and the need for a national scheme. In relation to timing, the revised benchmarks scheme will commence on 1 January 2003. The scheme is not being implemented with undue haste. It builds on five years experience with a voluntary scheme. A position paper outlining the key elements of the new arrangements was released in January this year. In May the Government announced its decision to go ahead with the scheme. Intensive consultation with industry and environmental groups took place over several months of the scheme's development. Consultation is still proceeding with respect to the details. By 1 January 2003 industry will be aware of all the details of the scheme. There will be no surprises. For these reasons, the Government sees no reason to delay the start of the scheme.

A further question related to the tradability of large user abatement certificates. Large users will not be able to trade large user abatement certificates. Large user abatement certificates can be created if a large user undertakes abatement on its own site in New South Wales that is not directly related to electricity consumption. Recognition of such abatement was included as a concession to energy-intensive industry in New South Wales. The rest of the scheme is focused on securing greenhouse abatement in the electricity sector itself. This concession is limited—these non-electricity related certificates will not be able to be sold to other benchmark participants, such as retailers. The bill does allow for non-transferable certificates to change hands in connection with the sale of the business, or in other circumstances provided in the regulations.

Another question related to sequestration. Sequestration credits from New South Wales only will be able to be counted under the New South Wales benchmark scheme. Sequestration raises particularly difficult monitoring and verification issues. Allowing sequestration from interstate may raise these costs. Carbon sequestration must be maintained for at least 100 years. This is an onerous obligation. The New South Wales Government has more confidence that it will be able to enforce this obligation on providers within its own jurisdiction. Limiting sequestration to within New South Wales will not cause the cost of the benchmark scheme to rise above the \$1 to \$2 per megawatt-hour previously estimated.

A further question related to prices. The Government is implementing this greenhouse abatement policy in a least-cost and flexible manner to minimise the costs to New South Wales consumers. Setting the penalty at \$10.50 per tonne of carbon dioxide equivalent will cap the cost of the policy at under \$2 per megawatt-hour averaged over the life of the scheme. Around 98 per cent of customers in New South Wales are already paying around \$1.50 per megawatt-hour to their retailer to comply with the existing scheme. The costs of abatement under the new scheme are expected to be less than the price customers are already paying. Therefore the scheme should not result in a price rise for the vast majority of customers.

A question was asked about BHP Billiton, which supplies coalmine methane to the Appin and Tower generators. This contract was negotiated between Integral and BHP and their partners. I presume BHP and their partners signed the contract because they thought it was a good deal. It is important to note that this mandatory scheme was never envisaged at the time this contract was negotiated. And, under the previous voluntary benchmark arrangements, the output of the Appin and Tower plants was deemed to have been assigned to Integral Energy. That is, this has been going on for five years. The Government has been advised by Integral that at no stage in the history of this contract has BHP or its partners challenged the ownership of the credits arising from the operation of the plant.

Given that BHP could not have anticipated this scheme at the time that it negotiated its contract, and therefore could not reasonably claim that its investment was dependent on securing greenhouse credits, and given that BHP appears not to have challenged the deeming provisions under the previous voluntary arrangements for the past five years, it is only logical for the existing arrangements to be grandfathered. This is all the Government has done. Integral will continue to be deemed to have been assigned the greenhouse credits arising from the operation of the plant. BHP and their partners will not be given a windfall at the expense of taxpayers.

The Deputy Leader of the Opposition sought clarification on whether a generator would be subject to the penalty under the scheme. One State-owned generator will be subject to a benchmark. That is Macquarie Generation, with respect to its direct supply agreement to the Tomago aluminium smelter. Macquarie Generation, not Tomago, will have the greenhouse liability for electricity supplied under that contract.

The final matter raised related to the question of a State versus Federal scheme. We agree with the Opposition. The greenhouse problem would be better addressed at a national level, rather than at a State level. However, the New South Wales Government has been forced to act because the Commonwealth has declined to do so. It has refused to ratify the Kyoto protocol. It has failed to show leadership in this area. The New South Wales Government is actively encouraging other States and Territories to follow its lead and adopt the greenhouse benchmark scheme. In this way, a national approach might be achieved even in the absence of Commonwealth action. The New South Wales Government is simply filling the vacuum left by John Howard. With that, 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. IAN COHEN [1.55 a.m.]: I move Green amendment No. 1:

No. 1 Page 3, schedule 1 [2], lines 11-14. Omit all words on those lines. Insert instead:

- (1) The objects of this Part are:
 - (a) to reduce greenhouse gas emissions associated with the production and use of electricity and to encourage participation in activities to offset the production of greenhouse gas emissions, and
 - (b) to do so in accordance with the principles of ecologically sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*, in so far as those principles are capable of applying to the objects set out in paragraph (a).

This amendment would make the bill subject to the principles of ecologically sustainable development as per section 6 (2) of the Protection of the Environment Operations Act. Whilst it could be argued that the very nature of the bill is intended to support ecologically sustainable development, there are matters as to how the greenhouse objectives of the bill are achieved. Much can be lost in the detail of implementation, and the bill needs a clear direction in ensuring that activities that obviously are not in accordance with ecologically sustainable development cannot be counted towards the abatement task—for example, native forest biomass. The Protection of the Environment Operations Act is New South Wales' best legislative expression of that direction and will continue to develop and evolve. It is appropriate that this bill benefits from the continuing guidance of the Protection of the Environment Operations Act. I commend Greens amendment No. 1 to the Committee.

The Hon. IAN MACDONALD (Parliamentary Secretary) [1.56 a.m.]: The Government cannot support the amendment. These principles import wider environmental considerations into what is a greenhouse abatement scheme specifically related to the electricity sector. In any case, these wider considerations are already included in legislation that governs the development of any projects that create certificates. Therefore the amendment is unnecessary and potentially confusing.

Amendment negatived.

The Hon. IAN MACDONALD [1.57 a.m.]: I move Government amendment No. 1:

No. 1 Page 5, schedule 1 [2], lines 1 and 2. Omit "a market customer or".

The definition of "large customer" in the bill currently explicitly excludes "market customers". Market customers are those who purchase their electricity directly from the national electricity pool. The current definition inadvertently prevents customers who are a market participant for some of their load, but a retail

customer—or a customer directly supplied by a generator—for the remainder of their load, from electing to manage their own benchmark. This is not the intention. The proposed amendment would allow large customers who also happen to be market participants to elect to manage their own benchmark for their non-market customer load.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [1.58 a.m.]: The Opposition agrees with the amendment. It is one of process. Had the Government not moved this amendment, the Coalition would have been happy to move it.

Amendment agreed to.

The Hon. IAN COHEN [1.59 a.m.]: I move Greens amendment No. 2:

- No. 2 Page 10, schedule 1 [2], line 21. Insert "and must be at least 25% less than the amount of any greenhouse shortfall last carried forward by the benchmark participant" after "that year".

This amendment requires the shortfall carried forward from the previous year to be 25 per cent less than the original figure in each succeeding year, except the figure for the last year of the scheme which cannot be carried forward. This is a prompt for scheme participants to get cracking. It would be very unwise for participants to allow the shortfall to grow without any action. It creates a severe penalty regime—and the amendment addresses this problem—if the relief of the shortfall becomes too big a job for participants to achieve in later years of the scheme, with inevitable pressure to reschedule debts to a collective climate. Expectation of future earnings is a risky surety to borrow against, especially when the earnings are uncertain. A shipload of highly efficient light bulbs or shower heads is probably a sound investment, but inevitably there will be pressures to apply this to the so-called carbon plantations, with very uncertain results. We believe that the low penalty rate applying may not be sufficient disincentive for the accumulation of debt, thus the need for this amendment. I commend Greens amendment No 2 to the Committee.

The Hon. IAN MACDONALD (Parliamentary Secretary) [2.00 a.m.]: The Government does not support this amendment. The proposed amendments would reduce the size of the shortfall that any participants can carry forward in any particular year. It would add nothing to the total amount of abatement that would be undertaken over the period and would reduce flexibility for no greenhouse gain. It is also likely that such a restriction would cause participants to choose more confidential, proven technologies over newer, more innovative technologies.

Amendment negated.

The Hon. RICHARD JONES [2.02 a.m.], by leave: I move my amendments Nos 1, 3 and 4, in globo:

- No. 1 Page 12, schedule 1 [2], line 20. Omit "\$10.50". Insert instead "\$15".

- No. 3 Page 17, schedule 1 [2]. Insert after line 23:

- (5) The regulations and greenhouse gas benchmark rules may not make provision for accreditation as an abatement certificate provider in respect of the generation of electricity from coal except to the extent that the accreditation relates to improved efficiency of a generating system that uses coal, being a generating system that was in existence before 1 January 2002.
- (6) If the regulations and greenhouse gas benchmark rules make provision for eligibility for accreditation in respect of the generation of electricity outside this State, those provisions must ensure that accreditation as an abatement certificate provider, and any entitlement to create abatement certificates, is limited to generation activities outside this State that give rise to sales of electricity in this State.

- No. 4 Page 20, schedule 1 [2], lines 5-7. Omit all words on those lines. Insert instead:

- (e) if the person is accredited as an abatement certificate provider in respect of carbon sequestration activities, a condition that requires the person to maintain the greenhouse gas abatement secured by the carbon sequestration activities for 100 years,

Amendment No. 1 will change the greenhouse penalty from \$10.50 to \$15, the amount announced by the Government. Amendment No. 3 will ensure that the regulations and the greenhouse benchmark rules allow the generation of electricity from coal as inevitable activity only if it involves improved efficiency from coal generators existing prior to 1 January 2002. It would be embarrassing if the benchmarks set out, say, 1997 and two large Queensland coal-fired power stations became part of the scheme. That would bring the scheme into disrepute. It also again directs New South Wales funds, which have been amassed from payments by New South

Wales consumers, to Queensland. Surely any funds should go to improving the generation capacity and mix in New South Wales first. Amendment No. 4 will ensure that, when there is a carbon sink, it must last for 100 years. This is a matter of ensuring a viable carbon sink process and a level playing field. It would be most unfair if one participant got a valid carbon sink for, say, 50 years, and another had one for 100 years.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [2.03 a.m.]: The Opposition opposes these three amendments. In relation to amendment No. 1, the penalty amount that has been set under this bill is \$10.50 per tonne of CO₂ equivalent. When the bill was originally proposed, the penalty amount was set at \$15 per tonne of CO₂ equivalent. I understand the amount was reduced to \$10.50 because the tax component payable on the penalty amount was \$4.50. The tax component on top of the \$10.50 penalty effectively adds up to the original \$15 penalty. This amendment will replace the \$10.50 amount with \$15, and added to that would be the \$4.50 taxation component. What this amendment would do is in fact impose a penalty of \$19.50. The Opposition opposes the amendment because it is not in the business of making restrictive legislation even more draconian.

The Opposition also opposes amendment No. 3 because it seeks to remove coal-fired electricity generation from the equation. That would be lunacy in New South Wales, considering the amount of electricity that comes from coal-fired sources. That just does not make sense. The Opposition also opposes amendment No. 4 because that amendment seeks to require a person who is engaged in carbon sequestration activities to keep the abatement created by that sequestration for 100 years. The bill as presented to Parliament already essentially has this provision in new section 97DD (3) (c), so there is no need to reinsert it through an amendment.

The Hon. IAN MACDONALD (Parliamentary Secretary) [2.05 a.m.]: The Government opposes these amendments for reasons similar to those expressed by the Opposition.

Amendments negatived.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [2.06 a.m.]: I move Opposition amendment No. 1.

No. 1 Page 12, schedule 1 [2]. Insert after line 33:

- (6) It is the wish of Parliament that any greenhouse penalties payable to the Crown under this Part be used for the promotion of greenhouse gas reduction activities and programs nominated from time to time by the Minister.

Amendment No. 1 relates to new section 97CA, "Greenhouse penalties". New section 97CA (5) states:

A greenhouse penalty imposed under this Part may be recovered in any court of competent jurisdiction as a debt due to the Crown.

The Opposition is concerned about this provision. It effectively directs penalty moneys collected under this scheme to consolidated revenue. The Opposition's amendment will insert a new subsection (6) in section 97CA. The amendment states:

It is the wish of Parliament that any greenhouse penalties payable to the Crown under this Part be used for the promotion of greenhouse gas reduction activities and programs nominated from time to time by the Minister.

The purpose of this amendment is simple: It is to ensure that penalties extracted from participants who failed to meet their greenhouse gas emissions reduction target are spent on appropriate programs and activities, rather than having those funds make their way straight into consolidated revenue. The Coalition believes that the penalties covered under this scheme should be used to achieve the objectives of the scheme, that is, a reduction in greenhouse gas emissions. The amendment that I have moved states that the penalties to be directed to the programs are activities that are nominated from time to time by the Minister. There is a degree of leeway which will allow the Minister to direct the moneys either to a household reduction scheme for pensioners or young families, or to a business reduction program, or even an industrial reduction program.

A range of programs already operates, including subsidies for the installation of solar panels for householders and other measures, and the penalty revenue could be directed to those. In the future, there may be more pressing but currently unknown needs to which the penalty moneys could be applied. That is why the Opposition worded this amendment in a particular way. Frankly, we believe that it is a commonsense amendment. It is the type of provision that should be in the Environmental Planning and Assessment Act for local based licensing.

The Hon. IAN MACDONALD (Parliamentary Secretary) [2.09 a.m.]: The Government supports the amendment. It would create a flexible way in which any penalty revenue raised could be reinvested in abatement projects.

The Hon. IAN COHEN [2.09 a.m.]: The Greens are pleased to support the National Party amendment, which is very well directed. In my second reading speech I suggested that the pool of money from the penalties could allow people to buy energy-efficient appliances and pay for them over time with their electricity bills. This would be a very affordable scheme and could have a double benefit. I commend the Deputy Leader of the Opposition for putting the amendment up.

The Hon. RICHARD JONES [2.10 a.m.]: I also commend the National Party for this excellent amendment.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [2.10 a.m.]: I support this amendment as it is an excellent incentive. It is the exact opposite of the schemes under which electricity suppliers lend people money to buy airconditioning systems.

Amendment agreed to.

The Hon. IAN MACDONALD (Parliamentary Secretary) [2.11 a.m.], by leave: I move Government amendments Nos 2 and 3 in globo:

No. 2 Page 17, schedule 1 [2], lines 7 and 8. Omit all words on those lines.

No. 3 Page 17, schedule 1 [2]. Insert after line 13:

- (4) The regulations and greenhouse gas benchmark rules may make provision for or with respect to eligibility for accreditation in respect of carbon sequestration by the planting of forests or other means, but only if:
 - (a) the activity occurs in this State, or
 - (b) the activity occurs in another jurisdiction in which a mandatory scheme intended to promote the reduction of greenhouse gas emissions, approved by the Minister for the purposes of this subsection, is in operation.
- (5) The Minister may approve a scheme for the purposes of subsection (4) only if the Minister is satisfied that:
 - (a) the reduction of greenhouse gas emissions proposed to be achieved by the scheme is not less than the reduction proposed to be achieved by the scheme established under this Part, and
 - (b) the monitoring and enforcement of compliance with the scheme to be approved is no less stringent than that applicable to the scheme established under this Part.

The amendments provide that accredited sequestration providers must be located in New South Wales. Providers in other jurisdictions can be accredited so long as these jurisdictions adopt an abatement scheme that is at least as effective in reducing greenhouse emissions as the New South Wales benchmark scheme. In addition, monitoring and enforcement arrangements in that scheme must be at least as stringent as those in New South Wales. The Minister must be satisfied of these two criteria before sequestration from other jurisdictions will be admitted.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [2.12 a.m.], by leave: I move Coalition amendments Nos 2, 3, 4 and 5 in globo:

No. 2 Page 17, schedule 1 [2], line 8. Insert "(whether those activities are carried out within or outside this State)" after "means".

No. 3 Page 17, schedule 1 [2], line 12. Insert "or outside this State" after "in this State".

No. 4 Page 25, schedule 1 [2], line 26. Insert ", subject to subsections (3) and (4)" after "certificates".

No. 5 Page 25, schedule 1 [2], lines 27-32. Omit all words on those lines. Insert instead:

- (3) An accredited abatement certificate provider is entitled to create transferable abatement certificates in respect of the following activities, to the extent that those activities give rise to an entitlement to create an abatement certificate:
 - (a) carbon sequestration activities carried out within this State,

- (b) activities of an elective participant, associated with production processes that use electricity in this State, that result in reduced emissions of greenhouse gases.
- (4) An accredited abatement certificate provider is entitled to create non-transferable abatement certificates only in respect of the following activities, to the extent that those activities give rise to an entitlement to create an abatement certificate:
 - (a) carbon sequestration activities carried out outside this State,
 - (b) activities of an elective participant, associated with production processes that use electricity outside this State, that result in reduced emissions of greenhouse gases.

Whilst there is a slight similarity with the Government amendments, Coalition amendment No. 2 returns to the bill a policy of the Government that was apparently removed prior to the tabling of the bill in the other place. I understand that during the extensive industry consultation process that occurred in the development of the bill interstate carbon sequestration activities were always intended for inclusion in the bill as a way of creating abatement certificates to be used in offsetting emissions and meeting benchmark targets. When the bill was tabled that section had been expunged. I have received a letter from a legal firm representing a group of clients seeking to invest in carbon sequestration activities. It reads in part:

The New South Wales Greenhouse Abatement Scheme's September 2002 Options Paper contemplated that the New South Wales scheme could be extended to other jurisdictions and stated that it was "important that impediments to such extensions [to other jurisdictions] are not inadvertently included".

The Government's pre-October 31 2002 policy including carbon sequestration from forests Australia wide is consistent with this general principle.

We suspect this Policy will result in all Australian states gravitating towards a system of registering and trading carbon sequestration rights in a way that is consistent with the New South Wales Scheme.

Coalition amendment No. 3 expands on the philosophy and the reasoning behind Coalition amendment No. 2 and it refers to the elective participant schemes resulting in reduced emissions. Amendment No. 4 is mainly an amendment of a machinery nature. No. 5 is the important one that ties them all together. I referred earlier to the Coalition's desire to allow the inclusion of interstate carbon sequestration and abatement measures in this scheme. The amendment goes one step further and provides an incentive to establish carbon sequestration and abatement activities within New South Wales. The member for Cessnock in the other place claimed in his rather short and lacking in detail speech on the bill that the Coalition, and in particular the National Party, was against the establishment of these initiatives in New South Wales because we want to include interstate sequestration and abatement measures. Once again he is wrong. The Hon. Ian Cohen made similar suggestions in his speech, although he did not go to the same length. The amendment deletes subsection (3) of proposed section 97F, replacing it with new subsections (3) and (4), as outlined in our amendment. The proposal is simple but I believe very good: under the Coalition amendment an accredited abatement certificate provider will be entitled to create transferable abatement certificates for carbon sequestration activities carried out within New South Wales.

Similarly, the activities of elected participants that result in reduced emissions of greenhouse gases, and that are carried out within this State, will count towards the creation of fully transferable abatement certificates. Under this amendment, an accredited abatement certificate provider will be entitled to create non-transferable abatement certificates for carbon sequestration activities outside New South Wales, and we know that activities in New South Wales are much more valuable than those outside New South Wales. So it provides two classes, maintains the ability to invest in New South Wales, encourages that investment, and still allows interstate activities to be used. Activities of an elected participant that result in reduced greenhouse gas emissions and that are conducted outside New South Wales will also count towards the creation of non-transferable abatement certificates. The intent is simple: If abatement sequestration is undertaken in New South Wales the abatement certificates can be traded; if abatement or sequestration is undertaken outside New South Wales the abatement certificates cannot be traded.

The abatement certificates will be able to be created and lodged with the scheme administrator in order to meet a benchmark target, but they will not be able to be traded. This is an active incentive for the establishment of new carbon sinks by way of private forestry operations in New South Wales and it will also encourage the establishment of other abatement measures including private cogeneration and other activities. These New South Wales based sequestration and abatement measures will be a premium because the certificates created in New South Wales will be a tradeable commodity, whereas those created for activities outside New South Wales will be non-tradeable.

Some people have asked how are the certificates outside New South Wales accredited. We believe that the Independent Pricing and Regulatory Tribunal [IPART] would be able to accredit those certificates, on a fee-

for-service basis. Someone who wants to be accredited gains an advantage in being accredited, and therefore would pay IPART to do it. IPART has to be geared up to cover the scheme in New South Wales. As it is, the extra gearing up would be covered on a user-pays basis. As the Democrat indicated earlier, IPART does not have to enforce outside New South Wales, only within this State. Outside New South Wales, IPART only has to sight and verify, which it is able to do quite easily. That is why we are moving these amendments. We believe that the Government's sequestration amendment, whilst it is a slight step along the way we are going, is just a feelgood amendment because it really does not do anything, and it depends on legislation that does not exist in the other States.

The Hon. IAN MACDONALD (Parliamentary Secretary) [2.22 a.m.]: The Government does not support any of these amendments moved by the Deputy Leader of the Opposition. In relation to amendment No. 2, the Government would be willing to contemplate interstate trading in carbon sinks if and when other States commit to participating in a wider national scheme. The Government has proposed an amendment which I have already moved. In relation to amendment No. 3, the Government would not be willing to allow firms operating interstate to create certificates in relation to non-electricity related abatement—large user abatement certificates. The ability to create large user abatement certificates has been added as a special flexibility mechanism and is a special concession to ease the transition for large users who have, in the past, been exempt from the scheme. Broadening these arrangements to interstate industrial facilities substantially widens the scope of the scheme. The main focus of the New South Wales benchmark scheme is to reduce greenhouse gases related to the electricity industry. The scheme is not intended to be a wider environmental policy.

The Government does not support amendment No. 4 for the same reasons that it opposes amendment No. 5. In relation to amendment No. 5 I am very surprised to see the National Party moving this amendment: perhaps they have forgotten that they represent people in rural and regional New South Wales. This amendment will simply see investment diverted from New South Wales regional areas to other States. What Country Labor wants are plantations and the jobs they bring to New South Wales. The Nationals appear to want to stop it.

Furthermore, subsection (3) (a) is already provided for in the legislation. Credits from sinks in New South Wales will be able to be freely traded. Subsection (3) (b) is not supported because this substantially broadens the scope of the scheme to a wider environmental program. The focus of this legislation is to reduce greenhouse gases associated with the electricity industry. The ability to create large user abatement certificates has been added as an additional flexibility mechanism and is a special concession to ease the transition of large users. For these reasons the Government believes that its amendment is the way to go in relation to this New South Wales focused scheme.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [2.25 a.m.]: I move my amendment No. 2:

No. 2 Page 25, schedule 1 [2], lines 27 and 28. Omit "Subject to the regulations and greenhouse gas benchmark rules, an". Insert instead "An".

This amendment ensures that elected participants in a large energy consumer cannot trade to others the abatement certificates that they create. This is the intention of the Government but the current wording is unclear. Trading would create a very complicated system that is not based on energy generation for other industrial processes that will be hard to benchmark and to monitor. We believe in transparency of these certificates.

The Hon. IAN MACDONALD (Parliamentary Secretary) [2.28 a.m.]: The Government does not support this amendment as it would inadvertently prevent large users from being accredited to create transferable certificates in relation to generators, demand-side abatement or sequestration.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [2.28 a.m.]: The Coalition opposes the amendment for pretty much the same reasons as the Government. We wonder why the honourable member is seeking to remove the requirements relating to abatement certificates being subject to regulations and greenhouse gas benchmarks. The support of the Government for its amendment and the criticism of our amendment is flawed. The Government indicated that our amendment was against development in regional New South Wales but, as I indicated in detail, our amendment will provide incentive to push development into regional New South Wales and provide probably the only sensible balance to the amendments. We not only support the push for the development of forests into New South Wales; we totally encourage them in other areas as well.

The Government proposes an amendment based on legislation that does not exist, on the possibility that other States may have legislation on greenhouse gas emissions. Despite the offer of the Premier, the other States have refused studiously to go down that track. The Opposition has put forward something definite that can work

but the Government is relying on pie in the sky, something that may work sometime in the future if other governments pass appropriate legislation. If I had to choose between something that exists and will work and something that may work and probably will never work, I would go for surety.

The Hon. IAN MACDONALD (Parliamentary Secretary) [2.31 a.m.]: Either way, the Opposition amendment means that investment will occur in rural areas outside of New South Wales.

Question—That Opposition amendments Nos 2 to 5 be agreed to—put.

The Committee divided.

Ayes, 14

Mrs Forsythe
Mr Gallacher
Miss Gardiner
Mr Gay
Mr M. I. Jones

Mr Lynn
Reverend Dr Moyes
Reverend Nile
Mr Oldfield
Mr Ryan

Mrs Sham-Ho
Dr Wong
Tellers,
Mr Colless
Mr Pearce

Noes, 15

Mr Breen
Dr Burgmann
Ms Burnswoods
Dr Chesterfield-Evans
Mr Cohen
Mr Della Bosca

Mr R. S. L. Jones
Mr Macdonald
Mr Obeid
Ms Rhiannon
Ms Saffin
Mr Tsang

Mr West

Tellers,
Ms Fazio
Mr Primrose

Question resolved in the negative.

Opposition amendments Nos 2 to 5 negatived.

Government amendments Nos 2 and 3 agreed to.

Australian Democrats amendment No. 2 negatived.

The Hon. IAN COHEN [2.40 a.m.], by leave: I move Greens amendments Nos 3 to 6 in globo:

No. 3 Page 19, schedule 1 [2], line 13. Omit "are examples of the types of conditions that may". Insert instead "conditions must".

No. 4 Page 19, schedule 1 [2], line 33. Insert "if appropriate," before "a condition".

No. 5 Page 20, schedule 1 [2], line 1. Insert "if appropriate," before "a condition".

No. 6 Page 20, schedule 1 [2], line 8. Insert "if appropriate," before "a condition".

Amendment No. 3 makes a list of the types of conditions that may be imposed on the accreditation of a person as an abatement certificate provider. There should be no doubt that the credits generated by this scheme are not falsely tendered; that they are underpinned by sound finances; that they are insured; that the carbon they represent is kept secure for 100 years; that they are attached to the land title; and that the holder will assist the auditors. Hopefully this was a slip up in drafting. These types of conditions are fundamental to the proper operation of the scheme. They should not be discretionary. The amendment creates a level playing field, and that is an important consideration for future participants.

Amendments Nos 4, 5 and 6 ensure that people accredited as abatement certificate providers have to provide financial assurances, take out insurance policies and/or enter into covenants only if it is appropriate to do so. These are mandatory requirements where appropriate; that is, unlike some other conditions, they may not apply in every circumstance. I commend the amendments.

The Hon. IAN MACDONALD (Parliamentary Secretary) [2.42 a.m.]: The Government does not support these amendments. In relation to amendment No. 3, not all of the conditions listed would necessarily

attach to all abatement certificate providers. For example, the requirement relating to maintaining carbon storage for 100 years only applies to sequestration providers and not generators or demand-side abatement providers. The Government does not support amendment No. 4. The presumed intention of this proposed amendment is to undo the effect of amendment No. 3; that is, stating that accreditation conditions must include the following list to ensure that financial assurances must be provided if appropriate. The current wording already achieves this result. The juxtaposition of "must" in amendment No. 3 and "if appropriate" in amendments Nos 4, 5 and 6 is likely to lead to uncertainty about what conditions of accreditation should be imposed.

The intention of amendment No. 5 is to ensure that a condition to procure insurance is applied only if appropriate. The current wording already achieves this outcome. The intention of amendment No. 6 is to ensure that conditions relating to sequestration and land titles are applied only if appropriate. The current wording already achieves this outcome. The Government opposes all amendments.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [2.43 a.m.]: The Opposition also opposes the amendments.

Amendments negatived.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [2.43 a.m.], by leave: I move my amendments Nos 1, 3 and 4 in globo:

No. 1 Page 20, schedule 1 [2]. Insert after line 18:

- (h) a condition that requires a person who is a retail supplier to undertake programs to reduce the consumption of electricity as part of its activities.

No. 3 Page 41, schedule 1 [2]. Insert after line 21:

- (7) Sections 40 and 41 of the *Interpretation Act 1987* apply to a rule in the same way as they apply to a statutory rule within the meaning of that Act.

No. 4 Page 41, Schedule 1 [2]. Insert after line 30:

Division 12 Reviews of Part

97L Review of operation of Part

- (1) In this section:

independent review means a review:

- (a) undertaken by persons who:
 - (i) in the Minister's opinion, possess appropriate qualifications to undertake the review, and
 - (ii) include one or more persons who are not employed by the government or a government department or authority and have not, since the commencement of this section, provided services to the government, a government department or a government authority under or in connection with a contract, and
 - (b) that is not conducted or managed by a government department, authority or other private or public organisation that had or has carriage of either the implementation or ongoing operation of the subject of the review.
- (2) The Minister must cause an independent review of the operation of this Part to be carried out as soon as practicable after 1 January (and before 30 June) in the years 2005, 2007 and 2009.
 - (3) An independent review under this section is to include consideration of the following matters:
 - (a) the extent to which the Part has:
 - (i) contributed to reducing greenhouse gas emissions, and
 - (ii) encouraged additional generation of electricity from renewable energy sources,
 - (b) the extent to which the policy objectives of this Part have been achieved and the need for any alternative approach,
 - (c) the mix of technologies that has resulted from the implementation of this Part,
 - (d) the level of penalties provided under this Part,

- (e) other environmental impacts that have resulted from the implementation of this Part, including the extent to which plantation forestry waste has been utilised,
 - (f) the possible introduction of a portfolio approach, a cap on the contribution of any one source of abatement and measures to recognise the relative greenhouse intensities of various technologies,
 - (g) the level of the overall and interim targets,
 - (h) the performance and efficiency of the market, taking into account, among other things, the design of the abatement certificate scheme and frequency of trading,
 - (i) the appropriateness of and scope for further government action to address any shortcomings in market efficiency or effectiveness of this Part identified by the review.
- (4) The person or persons who carry out an independent review under this section must give the Minister a written report of the review on or before 30 June in each review year.
 - (5) The Minister is to lay (or cause to be laid) a copy of the report before both Houses of Parliament on or before 30 September in each review year.
 - (6) If a House of Parliament is not sitting when the Minister seeks to lay a report before it, the Minister may present copies of the report to the Clerk of the House concerned.
 - (7) The report:
 - (a) is, on presentation and for all purposes, taken to have been laid before the House, and
 - (b) may be printed by authority of the Clerk of the House, and
 - (c) if so printed, is for all purposes taken to be a document published by or under the authority of the House, and
 - (d) is to be recorded:
 - (i) in the case of the Legislative Council, in the Minutes of the Proceedings of the Legislative Council, and
 - (ii) in the case of the Legislative Assembly, in the Votes and Proceedings of the Legislative Assembly,

on the first sitting day of the House after receipt of the report by the Clerk.

Amendment No. 1 ensures that retail suppliers must, as part of their abatement activity, undertake programs to reduce consumption of electricity. I am concerned that energy retailers have a culture that works against the sale of less electricity, that is, energy conservation. The classic example is the scheme operated by Energy Australia that involved loans for people to purchase airconditioners that were repayable with electricity bills. Of course, that encouraged increased electricity consumption. If we cannot reduce electricity use per capita, we will run into great expense by having to build new generation and delivery infrastructure. That is the problem at the retailer level, but was also the problem at the planning level with the central business district upgrade, which is now costing in excess of \$200 million, when demand management would have been far cheaper. I spoke against TransGrid and its regulation of the grid. It wanted engineering and building solutions rather than alternatives that involved coal generation. Demand management is a cheap and effective way to reduce greenhouse gas emissions. The implementation of demand management creates many jobs in the production of energy-saving equipment and installation. This amendment allows that incentive to be built in for retailers.

Amendment No. 3 ensures that the greenhouse benchmark rules that will accompany the regulations, but which are very important in operation of the scheme, will have the same review process. Amendment No. 4 is extremely important. The legislation as it is removes the effective auditing function previously done by the Environment Protection Authority. An audit of the scheme's effectiveness is also included in the Commonwealth Renewable Energy (Electricity) Act 2000, which enables the Federal Mandatory Renewable Energy Target [MRET]. Although it should be acknowledged that conducting a review of this form may in itself introduce market uncertainty about future directions. There is some suggestion that the MRET review will commence in early 2003 and is to some extent inhibiting forward trading of renewable energy certificates for 2004 and beyond. However, the New South Wales Australian Democrats share the view of the University of New South Wales Electricity Restructuring Group that, on balance, the importance of the scheme in delivering real outcomes, reducing greenhouse gas emissions and undertaking some form of technical review carries more benefits than what is currently on offer in this bill. We believe this bill is significantly flawed, that it should be

looked at technically and formally by external bodies. The review needs a major rewrite. An external review might result in the legislation being redrafted. I accept the point raised by the Hon. Duncan Gay in his contribution to the second reading debate that the details are only just being worked out. The Australian Democrats believe that the situation is as bad as he says it is. Therefore, an external review is vital. I commend the amendments to the Committee.

The Hon. IAN MACDONALD (Parliamentary Secretary) [2.45 a.m.]: The Government does not support any of these amendments. In respect to amendment No. 1, retailers should not be required to undertake programs to reduce the consumption of electricity. The policy is not designed to pick winners. Instead, the benchmark scheme is specifically designed to reduce greenhouse gases using the cheapest means possible to minimise price impacts for consumers.

Amendment No. 3 would require a notice of all greenhouse benchmark rules to be tabled in Parliament and would make those rules disallowable by Parliament. The rules are highly technical in nature but fundamental to the operation of the scheme. If they were disallowed because of disagreements about small technical issues, the consequences could include an inability for anyone to create certificates and an inability to comply with the scheme. Such a threat of disallowance would undermine the operation of the scheme. In relation to amendment No. 4, the review clause is not required, because the entire Electricity Supply Act is due for legislative review in 2005. The review as proposed would create tremendous uncertainty in the market. The Government opposes the amendments.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [2.48 a.m.]: The Opposition also opposes these amendments. Amendment No. 1 seeks to insert a new subclause (h) that refers to retail suppliers of electricity being required to undertake programs to reduce their consumption of electricity. This does not make sense. These entities are retailers of electricity. Does the honourable member want to reduce the business of retailers by legislating that those who sell electricity must not consume it? The Opposition does not support amendment No. 3 because it would make the rules and methodology disallowable. The Opposition does not support amendment No. 4, which seeks to insert provisions relating to a review of the scheme. The amendment appears to be primarily based on the review provisions of the relevant Federal legislation and proposes independent reviews of the scheme at three, five and seven year intervals. The honourable member said that the Independent Pricing and Regulatory Tribunal would not be an appropriate administrator, but if his rationale extends to that he will not support the bill at all, for the same reasons that he did not support my amendments. Proposed section 97HA (3) (b) of the bill states that the scheme administrator, the Independent Pricing and Regulatory Tribunal—the authority that the honourable member said would not work—has the following function:

To monitor, and to report to the Minister on, the extent to which accredited abatement certificate providers comply with this Act, the regulations, the greenhouse gas benchmark rules and any conditions of accreditation.

Proposed section 97HA (3) (c) states that the scheme administrator can also "conduct audits, or require the conduct of audits, for the purposes of this Part". Furthermore, elsewhere in the bill provision is made for benchmark participants to provide an annual report detailing their compliance with reduction targets. Participants who do not supply that annual report are subject to a penalty. It is clear that the bill provides for review mechanisms and the Coalition is concerned that the Democrats amendment would insert a mechanism that is cumbersome and, frankly, not necessary.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [2.51 a.m.]: The bill is flawed. I do not believe that the Independent Pricing and Regulatory Tribunal is the body to review it, and that is why my amendment provides for another review. The bill is possibly better than nothing and that is why I have said that the Democrats have lukewarm support for it; they were the first words in my contribution to the second reading debate.

Amendments negated.

The Hon. RICHARD JONES [2.52 a.m.]: I move my amendment No. 5:

No. 5 Page 21, schedule 1 [2]. Insert after line 29:

- (3) A regulation or rule made for the purposes of subsection (2) (b) is to establish the point or level from which electricity generating activities relating to a generator having a nameplate rating exceeding 30 megawatts that was commissioned before 1 January 2002 give rise to an entitlement to create abatement certificates in one or more of the following ways:

- (a) the point or level may be the point or level that is equivalent to the usual level of output of the generator, as determined in accordance with the regulation or rule,
- (b) the point or level may be the point or level which reflects the usual greenhouse gas emissions intensity, expressed in tonnes of carbon dioxide equivalent per megawatt hour, of the output of the generator, as determined in accordance with the regulation or rule.

This amendment ensures that the regulations and greenhouse benchmark rules are to set the baseline date from which activities are counted to 1 January 2002. The modelling used by the Government operated from this baseline. It showed that there was only a very small cost to the consumer of between \$1 and \$2 per kilowatt hour. It also showed that by using this baseline a good variety of energy options would be adopted—wind, gas and demand management. If we were to set the benchmark at, say, 1997, two large Queensland coal-fired power stations would be included, making a mockery of the Government's scheme. It also means that the New South Wales utilities and consumers will be paying for Queensland energy infrastructure of the worst type. We should be paying for green energy infrastructure in New South Wales and creating jobs in this State.

The Hon. IAN MACDONALD (Parliamentary Secretary) [2.52 a.m.]: Once again the great amender of bills in this Chamber has successfully convinced the Government to amend its legislation, and we will support it. This might well be the last successful amendment moved by the Hon. Richard Jones in this Chamber—an excellent amendment at that.

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.

PRINTING COMMITTEE

Report

The Hon. Peter Primrose, on behalf of the Chairman, tabled Report No. 2, dated 5 December 2002.

Ordered to be printed.

BANK HOLIDAY LEGISLATION AMENDMENT BILL

In Committee

Clauses 1 to 4 agreed to.

Schedule 1

The Hon. IAN MACDONALD (Parliamentary Secretary) [2.57 a.m.], by leave: I move Government amendments Nos 1 to 3 in globo:

- No. 1 Page 4, schedule 1 [2], line 3. Omit "persons employed or engaged by the bank". Insert instead "persons employed or engaged (whether or not by the bank) to perform services for the bank".
- No. 2 Page 4, schedule 1 [2]. Insert after line 24:
 - (12) If the Director-General has not determined an application for approval before the expiration of the period of 40 days after the application was made to the Director-General (or such longer period as the Director-General determines with the consent in writing of the applicant), the Director-General is taken to have made a decision to refuse to grant the approval.
- No. 3 Page 6, schedule 1 [2]. Insert after line 4:
 - (2) A representative of an industrial organisation of which persons employed or engaged to perform services for a bank are entitled or eligible to belong may apply to the Administrative Decisions Tribunal for a review of any of the following decisions:

- (a) a decision of the Director-General to grant an approval under this Part to the bank (whether with or without conditions),
- (b) a decision of the Director-General to vary the conditions of an approval granted to the bank under this Part.
- (3) In this section, **industrial organisation** means an industrial organisation within the meaning of the *Industrial Relations Act 1996*, or an organisation registered under the *Workplace Relations Act 1996* of the Commonwealth.

Amendment No. 1 will incorporate in the public interest test a consideration of the effect of weekend bank trading on employees of employment agents who perform services on behalf of a bank. The view taken by the Finance Sector Union is that the current test does not consider the interests of persons engaged by banks through employment agencies to provide weekend services to banks. I consider that the amendment is justified in terms of the completeness of workers' protections. Amendment No. 2 will insert a prescribed time limit of 40 days or such further period as may be agreed upon within which the director-general of the Department of Industrial Relations is to consider an application by a bank for weekend trading.

Although a period of 28 days was suggested by the Australian Bankers Association I am of the view that a period of 40 days is reasonable, given the resources of the department. The proposed amendment is to be inserted to ensure proper and timely administrative consideration of a bank's application as a provision which has appropriate legislative precedent. The purpose behind Government amendment No. 3 is that the current section 15A of the Banks and Bank Holidays Act 1912 was to enable bank officers to have a five-day banking week in line with other Australian and international jurisdictions. The bill contains a public interest test, which requires that a director-general take into account the likely effect that the granting of an approval will have on persons employed or engaged to perform services for an applicant bank.

Given the purpose behind the current section 15A and the inclusion of the public interest test in the approval process under the bill, it is appropriate that industrial organisations representing bank employees have some say in the process to approve of the weekend opening of bank branches. With such representation comes a corresponding, albeit limited, right of review in relation to decisions of the director-general which affect the working entitlements of an industrial organisation's members. Therefore, an industrial organisation whose members are involved in the staffing of bank branches should be entitled to proper administrative review rights in respect of a decision by the director-general to grant or approve or vary the conditions of an approval.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [2.59 a.m.]: The Opposition does not oppose Government amendments Nos 1 and 2, but intends to move an amendment to Government amendment No. 3. The Opposition is opposed to the view, as put by the Government, that the industrial organisation representative should be the only person eligible to be the voice of employees. Government amendment No. 3 provides:

- (2) A representative of an industrial organisation of which persons employed or engaged to perform services for a bank are entitled or eligible to belong may apply ...

In other words, it does not matter whether the bank employees elect a union representative. Given that the Government amendments have been moved in globo, the Opposition is not able to support them. Therefore, by leave, I move Opposition amendments Nos 1 and 2 in globo:

- No. 1 From Government Amendment No 3, omit "A representative of an industrial organisation of which persons employed or engaged to perform services for a bank are entitled or eligible to belong".

Insert instead "An authorised representative of the persons employed or engaged to perform services for a bank (being persons affected by the decision concerned)".

- No. 2 From Government Amendment No 3, omit the following:

- (3) In this section, **industrial organisation** means an industrial organisation within the meaning of the *Industrial Relations Act 1996*, or an organisation registered under the *Workplace Relations Act 1996* of the Commonwealth.

Insert instead:

- (3) In this section, **authorised representative** means a person selected in a ballot (conducted under the supervision of the Director-General and in accordance with the regulations) by the persons affected by the decision concerned.

The amendments are consistent with the position the Opposition has taken over a number of years: that there is a need for representatives in workplaces to ensure that employees have a voice. However, we do not believe that it

should always be limited to a union representative. It must be borne in mind that organisations may want to have a voice elected from the workplace, but that person may not be a union member. The Opposition's position has been consistent on this issue. It is only a matter of time before people begin to realise that that is exactly what is happening in the workplace in this State. The Government may well ignore it because of its relationship with the union movement.

As the Opposition has said, 75 per cent of this State's workers are not members of a union. They deserve to have a voice, and they deserve to be acknowledged in legislation to ensure that there is an opportunity for them to participate in the process of protecting workers' rights and they do not have to go through an industrial organisation to do so. The Opposition amendments represent a move towards that acknowledgement, to ensure that there is a provision by which an authorised workplace representative can be elected. The amendments provide in part:

... a person selected in a ballot (conducted under the supervision of the Director-General and in accordance with the regulations) by the persons affected by the decision concerned.

The Opposition is simply maintaining consistency with the industrial relations approach it has taken over a number of years.

The Hon. IAN COHEN [3.03 a.m.]: The Greens support the Government's amendments. We are pleased that the Government has been persuaded to this position, and we were certainly preparing to move amendments along these lines if this had not been the case. The Greens accept the argument of the Finance Sector Union that these amendments reduce the risk of industrial disputation in the event of a disagreement between staff and an applicant bank. By giving workers, via their union, the opportunity to appeal decisions to the Administrative Decisions Tribunal, the banks will take their consultation observations more seriously.

I am informed that all current banking awards are in the Federal jurisdiction and that the Australian Industrial Relations Commission has no jurisdiction to arbitrate on matters such as opening hours. Without an avenue of appeal to the Administrative Decisions Tribunal, disagreements between the Finance Sector Union and an applicant bank would deteriorate into industrial disputes or would tie up the civil courts. That is a costly, stressful and unnecessary approach to resolving such issues. The significant advantage gained from the Government's proposed amendments which provide for the Finance Sector Union to appeal certain decisions of the director-general to the Administrative Decisions Tribunal is that it will almost certainly ensure that the consultation between banks and workers will be meaningful rather than cursory, and that the public interest test with respect to changed opening hours will be effective.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.04 a.m.]: I have three amendments that I seek leave to have incorporated in *Hansard* because I believe they are the origin of the Government's amendments.

The CHAIRMAN: The only way you can have them incorporated in *Hansard* is by moving them.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I support the Government's amendments. I will simply read my amendments into *Hansard* as part of my support for the Government's amendments, to emphasise the similarity between them.

The Hon. IAN MACDONALD (Parliamentary Secretary) [3.04 a.m.]: The Government acknowledges that the amendments that were to be moved by the Hon. Dr Arthur Chesterfield-Evans are similar to the Government's amendments.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I support the Government's amendments. I brought my amendments forward at the instigation of the Finance Sector Union. I believe that the Government, in recognising the quality of my amendments, worked on them and came up with something very similar, and I support those amendments. However, when the Government is assisted in coming up with a good idea, the origin of that idea ought to be acknowledged. I was in that position, and I am now supporting the child of those amendments.

Amendments Nos 1 and 2 agreed to.

Amendments of amendment No. 3 negatived.

Amendment No. 2 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.

DRIVING INSTRUCTORS AMENDMENT BILL

Second Reading

The Hon. IAN MACDONALD (Parliamentary Secretary), [3.08 a.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of this bill is to amend the Driving Instructors Act 1992 to introduce measures ensuring greater consumer protection for novices learning to drive with commercial driving instructors. Forty-five per cent of learners who presented for the 170,000 driving tests conducted during 2001 arrived with a driving instructor. Research shows that 80 per cent of learner drivers take some lessons with a driving school. There are 3,033 registered driving instructors in New South Wales, including more than 1,500 who are members of the Australian Driver Trainers Association. It is a major industry that is entrusted with the lives of tens of thousands of young and inexperienced drivers.

The vast majority of driving instructors are professionals who take their responsibilities seriously. But in the last two years alone the Roads and Traffic Authority [RTA] has conducted 507 inquiries and audits into driver training and testing. Each and every year around 50 complaints are received by the RTA from the general public. The most frequent complaints relate to sexual harassment, instructors being late for class, rudeness, impatience and inadequate instruction. The Driving Instructors Act 1992 was introduced to replace the Motor Vehicle Instructors Act 1961.

The 1992 Act was enacted largely as a result of an investigation into driver licensing by the Independent Commission Against Corruption, which identified instances of corruption within the driving instruction industry. The Government commenced the first review of the Act last year. The review was co-ordinated by a steering committee comprising representatives from the Roads and Traffic Authority, the New South Wales Cabinet, the driving instruction industry and the road freight industry. The Government believes strongly in its responsibility to regulate an industry that is critical to the safety of young drivers.

The review, which was completed earlier this year, recommended tightening requirements on driving instructors and schools, including strengthening character checks and checks of criminal records of applicants by creating a formal system within the RTA, requiring driving schools to report allegations of improper conduct to the RTA, introducing provisions to allow for temporary suspension of an instructor's permit while investigations into serious wrongdoing are being investigated, further development of training curriculum for driving instructors to improve training and driving skills, additional retesting of instructors by the RTA to ensure instructors' skills are up to date, and the introduction of an industry code of practice.

The Minister for Roads announced in the other place earlier this year that the RTA will also publish annually—commencing from January 2003—the pass-fail rates for driving schools over the preceding 12 months. While most of the recommendations will be implemented administratively, legislative and subsequent regulatory amendments are required to give effect to the following: exemption of post-licence instruction from driving instructor licensing requirements; removal of exemption from the Act for government instrumentalities; a requirement that the holder of a driving instructor's licence must not use a motor vehicle to give driving instruction unless the vehicle is covered by comprehensive motor vehicle insurance; a requirement for driving schools to report to the RTA allegations of improper behaviour by driving instructors; and provision for temporary suspension pending investigation into allegations of serious improper behaviour by a driving instructor.

I turn now to the details of the legislation. It is proposed that the following consumer protection elements be included in the Act: first, a requirement that driving instructors' vehicles be comprehensively insured, protecting learners from any accident claims made against them by driving instructors or other parties; and, second, retention of the requirement that instructors' vehicles be fitted with dual controls, as dual controls allow the instructor to slow the vehicle down to prevent the learner from crashing. Due to the vulnerability of learners whilst receiving tuition in an instructor's vehicle, it is of the utmost importance that the legislation provide protection of learners' rights and their well-being. For this reason a strict approach is recommended.

Any allegations of improper instructor behaviour, such as sexual harassment, corruption or dangerous driving, should result in the immediate suspension of the instructor's licence with a comprehensive investigation to follow. Furthermore, driving schools will be required to report complaints relating to instructor behaviour to the RTA. Failure to notify the authority will carry heavy penalties. The prerequisites to become a driving instructor are well-defined in the existing Act. The Government recommends that these be retained. The prerequisites include a minimum tenure period, fitness and probity checks and a requirement to undergo approved instructor training. The proposed amendments exclude provisional and good behaviour periods from being accepted as tenure time.

The existing Act was unclear regarding training provided off-street or at private venues. It was also argued that the Act did not apply to provision of in-house training, for example, by a road freight company. It is proposed that the scope of the Act be clarified to clearly include off-street training and the provision of training in a workplace context. Some government bodies are currently exempt from the Act. It is proposed that this exemption be removed so that all driving instructors providing training for licensing purposes be covered by the legislation, thus providing a level playing field for the driving instruction industry.

In the interests of encouraging competition, it is proposed that restrictions on advertising and post-licence training be lifted. It was recommended by the review committee that advertising guidelines be incorporated into a driving instruction industry code of practice. The focus of the Driving Instructors Act is on learner drivers. Accordingly, it is proposed that post-licence trainers such as those providing advanced, defensive and recreational driving courses no longer be required to hold driving instructors licences and that the regulation be amended accordingly. The amendments to the Act are cost neutral for the Government. There is no additional revenue, nor is there any additional expense. The proposed changes to the Act will ensure that learner drivers receive the standard of professional tuition that they are entitled to, without placing unreasonable constraints on the driving instruction industry. I commend the bill to the House.

The Hon. JENNIFER GARDINER [3.09 a.m.]: The Opposition supports the Driving Instructors Amendment Bill. It was developed in consultation with the Australian Driver Trainers Association, which is the representative body of professional driving instructors in this State, and the New South Wales Road Freight Advisory Committee. The Australian Driver Trainers Association represents more than 1,500 of the 3,033 registered driving instructors in New South Wales. These bodies are entrusted with the lives of tens of thousands of young and inexperienced drivers and the Opposition supports any measure that will improve, directly or indirectly, the safety of young people on our roads.

Deaths due to transportation-related crashes are higher among those aged 15 to 24 years than in any other age group. In 1998 young people aged 17 to 25 years represented 16 per cent of all licensed drivers and riders in New South Wales yet they accounted for 30 per cent of all drivers or motorcyclists killed or seriously injured. Research shows that if learners are presented with a structured approach to their training and driving experience they are safer, more competent drivers and are involved in far fewer crashes. They are able to nip bad habits in the bud. The vast majority of New South Wales driving instructors take their responsibilities very seriously, but the Opposition supports cracking down on the irresponsible few.

Parents and young people must be more confident that their driving instructors are safe, well regulated and professional. This bill has been introduced as a result of a review of the Act last year. This was the first review undertaken since the Act came into force more than a decade ago and it resulted in a number of recommendations, some of which are in this bill—namely, recommendations relating to the tightening of requirements on driving instructors and schools, including strengthening character checks and checks of criminal records of applicants by the Roads and Traffic Authority [RTA]; requirements for driving schools to report allegations of improper conduct to the RTA; and provisions to allow temporary suspension of an instructor's licence while investigations are continuing. I seek leave to incorporate the remainder of my speech in *Hansard*.

Leave granted.

Parliamentary Secretary, Tony Stewart, told the other House in his speech that each and every year around 50 complaints are received by the RTA from the general public, the most common of which related to sexual harassment, instructors being late for class, rudeness, impatience and inadequate instruction. Given this is the case, we in the Opposition are somewhat surprised that the Minister has not seen fit to introduce measures at an earlier date relating to strengthening character checks, requiring driving schools to report allegations of improper conduct to the RTA, introducing provisions to allow for temporary suspension of an instructor's permit while investigations into serious wrongdoings are being investigated.

An applicant for a licence is not eligible to be issued with a licence whilst serving a period of good behaviour under section 16(8) or 16A(7) of the Road Transport (Driver Licensing) Act 1998 which may be granted as an alternative to suspension for a person who incurs at least 12 demerit points within the 3 year period ending on the day on which the person last committed an offence for which demerit points have been recorded against the person may, after being served with a notice of licence suspension by the Authority, but before the commencement of the period of suspension, notify the Authority in a form approved by the Authority that he or she elects, as an alternative to undergoing the suspension, to be of good behaviour for a period of 12 months from the day on which the licence would otherwise be suspended.

The bill contains grounds for refusal of application and identifies the grounds for suspension or cancellation of a driver instructor's license if the Authority is satisfied that the applicant is guilty of misconduct, which is defined in clause 3(1) of the bill as being any conduct relating to sexual assault, sexual harassment, fraud or dishonesty, the commission of any offence involving dangerous driving, or the commission of any offence involving assault. This bill contains an amendment requiring driving schools to report allegations of improper conduct to the RTA—but I note there are no details as to what procedure the RTA will undertake on receipt of these allegations. That is of concern. Is that the end of the matter, or will the RTA be required to then go through the proper police channels and report it from there? In matters that relate to serious allegations of misconduct relating to sexual assault and sexual harassment, the RTA may not be an appropriate referral point.

The Hon. IAN COHEN [3.11 a.m.]: The Greens support the Driving Instructors Amendment Bill and acknowledge that, in light of the high youth accident statistics, it is appropriate to have properly regulated, licensed driving instructors and schools. Financial considerations may be involved as some people may no longer be able to afford driving instruction. However, the Greens believe driving is an important safety issue and we are concerned about the disproportionate number of road accidents involving young people. We believe driving schools play an important role in driver training and should be regulated properly. Schools should employ responsible, well-trained driving instructors so that young drivers can learn good driving habits. I commend the bill to the House.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.12 a.m.]: The Australian Democrats support the Driving Instructors Amendment Bill as a good consumer protection measure.

Reverend the Hon. FRED NILE [3.12 a.m.]: The Christian Democratic Party supports the Driving Instructors Amendment Bill. The review of the Driving Instructors Act 1992, which concluded early this year, made several recommendations that have been included in the bill. Some will be implemented administratively and there will be subsequent regulatory amendments. We believe this bill will improve the quality of driver training and, ultimately, the quality of driving.

The Hon. HELEN SHAM-HO [3.13 a.m.]: I support the Driving Instructors Amendment Bill. The objects of the bill are to ensure that driving instructors attain a minimum skills standard in order to promote the safety and protection of persons who receive driving instruction, to minimise the potential for corruption in the driving instruction industry and to discourage inappropriate behaviour by driving instructors. This is the last bill that I will speak to in this place, and I commend it to the House.

The Hon. Dr PETER WONG [3.13 a.m.]: I support the Driving Instructors Amendment Bill, which will introduce minimum standards for driving instructors and will protect consumers.

The Hon. RICHARD JONES [3.14 a.m.]: I support the Driving Instructors Amendment Bill, which is the last bill that I shall speak in this House.

The Hon. IAN MACDONALD (Parliamentary Secretary) [3.15 a.m.], in reply: I thank all honourable members for their contributions to this debate. I thank particularly the Hon. Helen Sham-Ho and the Hon. Richard Jones for their final speeches on legislation in this Parliament. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

[The President left the chair at 3.17 a.m. Friday 6 December 2002.]

Tuesday 10 December 2002

[Continuation of the sitting of Thursday 5 December 2002.]

[The House resumed at 10.00 a.m.]

ASSENT TO BILLS

Assent to the following bills reported:

Motor Accidents Compensation Further Amendment (Terrorism) Bill
Terrorism (Commonwealth Powers) Bill
Terrorism (Police Powers) Bill

AUDIT OFFICE

Report

The President announced, pursuant to the Public Finance and Audit Act 1983, the receipt of a performance audit report entitled "Managing Hospital Waste", dated December 2002.

Ordered to be printed.

TABLING OF PAPERS

The Hon. Michael Costa tabled the following papers:

Crimes (Administration of Sentences) Act 1999—Report of the Inspector-General of Corrective Services for the year ended 30 June 2002

Annual Reports (Statutory Bodies) Act 1984—Report of the New South Wales Institute of Sport for the year ended 30 June 2002

Ordered to be printed.

STANDING COMMITTEE ON SOCIAL ISSUES

Government Response to Report

The Acting Clerk announced the receipt of the Government's response to the report entitled "Safety Net? Inquiry into the Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2002—Final Report: On-line Matters", which was tabled on 6 June 2002.

The Acting Clerk further announced that, pursuant to the resolution, she had authorised the documents to be printed.

SELECT COMMITTEE ON MENTAL HEALTH

Report

The Acting Clerk, announced, pursuant to the resolution of the House of 13 March 2002, the receipt of the final report, dated December 2002.

The Acting Clerk further announced that, pursuant to the resolution, she had authorised the report to be printed.

The Hon. Dr BRIAN PEZZUTTI [10.05 a.m.], by leave: The Select Committee on Mental Health has reported and tabled its major report to the Parliament. It is the first parliamentary report since 1877, and it follows up on the Richmond report, which was tabled 20 years ago. The committee found that the Richmond report was flawed in two areas: first, it did not consider forensic patients, and second, over many years and under many governments, money was not provided to support people in the community. The report calls for increased funding from both the Commonwealth and State governments. Particular attention should be paid to the co-ordination of services. The committee strongly recommends that there be an office of mental health within the Premier's Department to ensure that that happens, and the establishment of a forensic service in New South Wales, in accordance with the recommendations of the Hon. Ron Dyer in his report on law and justice, for the co-ordination of all forensic advice to the courts, whether it be for mental health services, DNA testing or whatever.

The committee also strongly recommends that no more children be subject to adult mental health services, and that drug and alcohol services be amalgamated—as honourable members know, Richmond split them. The most important recommendation is that there be champions of mental health—the Premier and the Minister for Health—to ensure that the treatment of people with mental health, and the disability that goes with mental health and mental illness, be reduced by the provision of adequate long-term supported accommodation, and the co-ordination of many agencies.

It is a major and lengthy report—probably the longest ever report to this Parliament—because the committee received 303 submissions and heard from 91 witnesses. I urge the Treasurer or the Leader of the Opposition—whichever is in Government next year—to take serious note of this report, because people with mental illness really need our support. Right now, 20 per cent of people have a mental illness and 40 per cent of us will have a major mental illness at some stage in our life, and the associated disability needs to be addressed urgently.

In terms of mental health funding, New South Wales is the least funded State in the Commonwealth, and Australia is one of the poorest funded developed nations in the world. Something must be done fast to stop the continuum of deinstitutionalisation, homelessness and over-representation in prisons—30 per cent of the

people in our prisons are there because of mental illness and for no other reason. The plight of women prisoners is particularly important. I draw the attention of honourable members to the report, which I hope they will read. I hope the recommendations will be implemented and that members who remain in this House will be champions of people with mental illness and ensure they get a fair go in New South Wales.

SPECIAL ADJOURNMENT

Seasonal Felicitations and Valedictory Speeches

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.08 a.m.]: I move:

That this House at its rising today do adjourn until Tuesday 25 February 2003 at 2.30 p.m., unless the President or, if the President is unable to act on account of illness or other cause, the Chairman of Committees, prior to that date, by communication addressed to each member of the House, fixes an alternative day and/or hour of meeting.

I take this opportunity to thank all of those who have assisted the Parliament in its work during the year—especially the Clerks, the table officers, the staff of the Legislative Council and the staff of all departments of the Parliament. Each and every year they do a superb job, very often in difficult circumstances. This year is the end of the four-year parliamentary term and I thank them for their work not only during the year but, indeed, throughout the Parliament. I also thank my own staff for the tremendous assistance they give me. I am sure that on behalf of the House I can thank every member's staff in this place because they also work very hard and assiduously to ensure that the Parliament operates as well as I believe it does.

I thank my ministerial colleagues, my backbench colleagues and the parliamentary secretaries for the superb assistance they give me and for the superb job that I think, by and large, all members of the House do. In particular this year I thank the Parliamentary Secretaries because they have certainly lightened the workload of Ministers. Sometimes I look back and wonder how the Ministers operated when there were only two or three Ministers in this House and no Parliamentary Secretaries. Going way back to the days when I was first elected to the other place, this House sat for only a couple of hours of an afternoon, and perhaps it was easier in those days.

However, now that we probably sit longer than the lower House it would be completely impossible for a small number of Ministers to cope with the workload in this place. So I particularly thank the Parliamentary Secretaries. The Hon. Ian Macdonald has shouldered a huge amount of the legislative work this year and I am appreciative of that, as I am appreciative of the co-operation of all members of the House, including the Leader of the Opposition and the Leader of the National Party.

I again thank the Whips for a superb job. As the Premier pointed out at a Government caucus meeting recently, too often we are not aware of how vital the role of the Whips is in the running of the place. In the Hon. John Jobling and the Hon. Peter Primrose, the House has been very fortunate to have two excellent Whips assisting it. I thank all honourable members for their assistance and co-operation throughout the year. In particular, I thank the eight members among us whose terms are expiring at the end of this Parliament and who are not seeking re-election.

There are two on the Government side, the Hon. Janelle Saffin and the Hon. Ron Dyer; there are three crossbenchers, the Hon. Alan Corbett, the Hon. Helen Sham-Ho, and the Hon. Richard Jones; and there are three Opposition members, the Hon. Dr Brian Pezzutti, the Hon. James Samios, and the Hon. John Jobling. All of them can be proud of the contribution they have made to the Parliament. I do not intend to make comments about each of them specifically, other than my colleague the Hon. Ron Dyer.

As honourable members will be aware, the Hon. Ron Dyer is the father of this House. I am one of the few members who was a member of Parliament when he was elected, so I remember his election to this place, taking the seat of the Hon. John Ducker. It is 23 years since John Ducker left this Parliament. To some of us who were here at the time, it seems like only yesterday. I have known the Hon. Ron Dyer for a lot longer than he has been in Parliament. In fact, he was one of the first faces and names I got to know when I joined Young Labor in about 1965. We were on different sides; he was a right winger and I was a left winger, and I thought the only thing worse than being a National or a Liberal was being in the right wing of the Labor Party. Young Labor, or the ALP youth conference as we then called it, was a very unusual organisation. There were only about 100 of us in the whole of the State, and that was at a time when we thought, at least in our saner moments, that the Labor Party might be doomed and might not even see out the decade.

Young Labor comprised an unusual bunch of people, all of whom in their late teens were convinced that the world was in dire danger and most of whom were convinced that we could save it by the time we turned 30. We not only had to save it amongst all the external forces; we had to save it amongst one another, so we fought bitter battles. But I must say that the Hon. Ron Dyer—and he probably does not appreciate this point—was my first introduction to economic rationalisation. We used to meet every second Tuesday in Labor Party headquarters in Elizabeth Street. One evening the Hon. Ron Dyer moved a motion supporting the containerisation of our ports. I remember that my faction vehemently opposed that because it would cost jobs on the waterfront. So when the Hon. Ron Dyer moved the motion I was outraged, like all of my other left-wing colleagues. I even took a point of order.

The President of Young Labor, whose name I think was Paul Keating, asked me what my point of order was. I said that the motion was out of order because it would cost jobs. He said, "That is not a point of order. Sit down!" However, during the course of the Hon. Ron Dyer's speech I saw the sense of what he was saying. I had never heard the term "containerisation" before—I just knew it was bad because it was being moved by a right winger—but by the end of his speech he had not only convinced me that our ports needed to be containerised, he had also convinced me for the first time to break ranks with the Left. So that was the beginning of my life of economic rationalisation.

Throughout the Hon. Ron Dyer's parliamentary career he has exhibited the good sense that he exhibited on that occasion. He has been an extremely valuable member of Parliament and an extremely valuable member of the Australian Labor Party. He has served his party, the Parliament, and the people of Australia and New South Wales with great distinction.

I also pay tribute to the other seven members who are leaving us at the coming election for their contributions to the Parliament. This House will certainly be a very different place and, I think, a poorer place for their departure. They are all leaving at an age when, at one time, one would only begin to contemplate a parliamentary career. So they all have a lot of life left in them, and I am sure they will distinguish themselves in whatever new activity or occupation they take up, just as they have distinguished themselves as members of this Parliament. On behalf of all members I thank them. I also wish everyone a very happy Christmas.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [10.17 a.m.]: I have pleasure not only in offering felicitations for the season but also in putting on record my thanks to honourable members who are retiring for the contributions they have made to the Parliament. Indeed, I have been able to develop a good personal relationship with a number of them. As we reflect on the past 12 months, we think of the loss in our ranks with the passing of Doug Mopett. He was a great contributor to debate in this House, not only in the current Parliament but, indeed, throughout his time in the Parliament. I am sure that not only National Party members but all members of the House will reflect with sorrow on his passing. I suspect that it will be a long time before this House sees someone with Doug Mopett's ability and his real passion for the issues that made him synonymous with country New South Wales. Other members are retiring. I think all of us will miss the Hon. Dr Brian Pezzutti's intellect.

The Hon. Jan Burnswoods: Some of us won't.

The Hon. John Della Bosca: She has just made the Hon. Dr Brian Pezzutti's day.

The Hon. MICHAEL GALLACHER: As the Special Minister of State points out, the Hon. Jan Burnswoods has just made the Hon. Dr Brian Pezzutti's day. The Hon. Dr Brian Pezzutti should be aware—not naming names—that some opposites have wanted to seize any opportunity to have him removed from the House in recent times, but the Hon. Dr Brian Pezzutti has resisted challenges by taking very sensible and learned points of order during question time and during debate. His intellect showed out again. He was too smart for them and they could not trip him up.

We are going to miss the Hon. Dr Brian Pezzutti but, as he will detail to the House shortly, he will be replaced by a very capable person who will continue the intellectual debate that he has engaged in so often in this Chamber. I suspect we will all miss him when we get ill during the parliamentary session. He is the first person we go to for medical advice, and if we need help he ensures we get it. Many people in this Chamber have availed themselves of his assistance.

What more can be said about the Hon. John Jobling beyond what has been said about him in previous farewell speeches. I have wondered at times who makes the decisions about the way this House runs—both for

the Opposition and the Government. The Hon. John Jobling is undoubtedly a man of ability. At times it appears he has a never-ending source of ability to ensure that the House operates properly and freely. When we come back next year I am sure that his absence will be reflected in how the Legislative Council operates.

I am pleased that the Hon. John Jobling will be only a phone call away if at any time we need advice about the best way to proceed. He will be sorely missed. I am sure the Hon. Jan Burnswoods will miss the Hon. John Jobling. I will never forget that great day when the Hon. Jan Burnswoods came across the Chamber to tell the Hon. John Jobling what she really thought of him. It was one of those really warm moments! It was an emotional side of the Hon. Jan Burnswoods that we did not know was there! It was very succinct and I am sure a number of us will remember that day.

Without a doubt the Hon. James Samios is one of the real gentlemen of the Legislative Council. Over the past decade in particular, when there has been a greater reliance on members of the Legislative Council getting out into the community and interacting with various groups and stakeholders, who has been a greater advocate for the ethnic communities of New South Wales? One has only to go with Sir James, as we often call him, to any ethnic function around the State to see the way Jim is welcomed—and the respect he has for the ethnic communities flows both ways. He, too, will be sorely missed, not only by members on the Opposition side but by members of the Legislative Council in general. We will miss his advice and guidance on the sensitive issues that arise from time to time that require the expertise that he possesses.

I am going to miss the Hon. Richard Jones's humour. I am sure the parliamentary garden staff are happy that they will be able to keep their hoses intact now. Be that as it may, there is no doubt that members of this Chamber will miss his humour and the unique way he has purported to represent the business community and the small business community. It is amazing how he has managed to get away with it for so long. I will miss his friendship in this place.

The Hon. Ron Dyer has been a great contributor to maintaining the respect that the Legislative Council deserves. I came into this place when the Hon. Ron Dyer was a Minister and I will never forget his knowledge of sandstone and the way he was challenged on many occasions. At that stage I would sit on the backbench next to the Hon. Virginia Chadwick. The working relationship he had with the Hon. Virginia Chadwick was absolutely fantastic. I used to look forward to the times when the Hon. Ron Dyer and Virginia would go head to head. It made being a member of the Legislative Council very enjoyable.

The Hon. Janelle Saffin is an absolute lady. She will be greatly missed by members on this side of the Chamber. We look forward to the contribution she will make later today and, beyond that, to the role she will continue to play on the North Coast. I am sure that with Hon. Janelle Saffin and the Hon. Dr Brian Pezzutti out of Parliament, the mischief they will get up to on the North Coast will be something to be seen.

I wish all members of the Legislative Council staff, who have been absolutely invaluable to all of us, the best for the Christmas season. Members of the Government have been challenging on issues but from time to time they have been prepared to accept the Opposition's reasoning for reform and for the way things should proceed through the Legislative Council, and I thank the Leader of the Government for that. I particularly thank Virginia Knox for her preparedness to work with the Opposition to smooth the passage of legislation. In this Chamber we have a far better working relationship with ministerial staffers than do members of the Legislative Assembly. There is not that adversarial approach in this Chamber, and that is the hallmark of how the Legislative Council works. I thank all ministerial staffers who are here and those listening upstairs for the work they have put in over the past four years and their preparedness to work with us. Of course, I wish them all the best in their new careers next year!

The members of the Opposition behind me have put up a fantastic fight for the past four years. If there is any fairness, next year they will have the sun shining on their faces instead of on their backs when they take their seats in this Chamber. I look forward to working in government with all of you who are remaining next year. I look forward also to working with those of you are leaving, in the role you will play as community leaders. The Legislative Council staff have been our friends in ensuring that everything we do in this place works smoothly. I thank Lyn, in his absence John, Warren and all the members of the Legislative Council office for their assistance and guidance during the past 12 months in particular, which have been very challenging, and during the past four years. To all, thank you very much.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [10.28 a.m.]: On behalf of my National Party colleagues I join with the Leader of the Government and the Leader of the Liberal Party in wishing everyone well. I congratulate my small team, Jenny, Rick and Melinda.

The Hon. John Della Bosca: It is going to get smaller too.

The Hon. DUNCAN GAY: It will not. It is about to get bigger. The National Party is the first party to achieve gender equality in this House. The sad thing is that our impending success next year will mean we will lose gender equality, but at least we got there first. We could not talk in this Christmas Felicitations debate without expressing our sadness at the loss of Doug Moppett during the year. Everyone in this place and in Doug's area has expressed that emotion. The words spoken about Doug will linger. I am sure that Melinda, who has joined us in this place, will make a great contribution.

I have two members of staff, Ben Hamilton and Jane Simmons. I shadow four Ministers and therefore, like many others in this place, rely heavily on my staff. What they produce, sometimes under the stress of a very heavy workload, not only makes us look better but is quite outstanding. I thank my colleague the Leader of the Opposition, Mike Gallacher, who has demonstrated a great ability to work with me. I concede I am not always easy to work with, particularly as I have very definite views on many matters. But Mike has been terrific to work with, as have the Coalition team. If our Victorian colleagues could have learned a little bit from us, perhaps the election result there would not have been nearly as catastrophic.

I thank Government members for the way in which they work in this Chamber. This House is different from many other Houses of Parliament. Whilst the Coalition and the Government disagree on many things, there are times when we can lean across the table and talk to a Minister—Michael Egan and John Della Bosca in particular but other Ministers as well—on matters of interest to the people of New South Wales and take a bipartisan stance or, in conjunction with Ministers' staff, agree on how to fix a problem. I have appreciated that attitude of Ministers in this place. It is a practice that the Coalition, in government, would implement as well. It is a practice of this House that should continue. I think it happens only in this House. I have no knowledge that such goodwill has been extended across the table in the other place.

Congratulations to Lynn Lovelock, the Acting Clerk, Warren Cahill and Mike Wilkinson, and the Legislative Council staff. My appreciation also to Madam President and the Deputy-Presidents. I always remember the Deputy-Presidents, because when I was a Deputy-President the President at the time, who never did much work, always forgot to congratulate the Deputy-Presidents. I hasten to add that I am not referring to the current President, who, I am sure, does a lot more work than the President at the time I was Deputy-President. He never did much work.

The Hon. Michael Costa: That was Johnno!

The Hon. DUNCAN GAY: No. Johnno did a bit of work. Madam President, congratulations. It is not an easy job, and, as a result, recognition of Deputy-Presidents is often overlooked. As a former Deputy-President, I certainly will not forget them. Special thanks to Stuart Lowe, who has to help all of us with our logistic support allocations. His achievements are incredible. I really do not know how he does it. Thank you to Hansard. We listen to many contributions made in this House, but the next day's *Hansard* proof of our speeches have an intellectual rigour that we cannot remember them having had at the time they were delivered—so much so that one of my former colleagues always circulated his *Hansard* speeches; he rarely spoke. People said he was terrific. They could not believe how such a great orator never spoke out of the House. Those of us who were there then would know why.

Many thanks to the office of Parliamentary Counsel, which often has to sort out in a hurry what we send over. David Draper and the catering staff work incredible hours and are always friendly. Ian Pringle and the attendants are a good crew; they are just terrific. Katrina has just left and gone to Broken Hill. Her terrific personality has been much appreciated. Our thanks to the security staff—although some of them, peculiarly, do not seem to know who members of the upper House are!

The retiring members have been a great group. I have enjoyed friendships with all of them, even though disagreeing politically with some of them. Richard Jones has always kept me entertained. I have carried around a bottle of Round-Up, and whenever I see Richard in the parliamentary gardens we ensure that the Round-Up is used effectively to get rid of weeds!

The Hon. Richard Jones: You have not got at my balcony, though.

The Hon. DUNCAN GAY: No, I cannot get onto your balcony. But we can look forward to kangaroo stew from now on. It is a taste sensation that will soon be enjoyed in Parliament House. Not all the good guys

are on my side. Ron Dyer and Janelle Saffin are two people of great integrity. I just could not fault you. I have enjoyed my time here with you. Congratulations, and all the very best. Following the Hotel California incident I travelled to China with Janelle Saffin, to a place where no member of Parliament may ever have travelled. We were the death squad that the *Daily Telegraph* was going to take to. I led the trip, along with people from State Development and—

The Hon. Janelle Saffin: Joe Tripodi and Grant McBride.

The Hon. DUNCAN GAY: Yes, from the Labor Party. They were terrific, and worked like you would not believe! I really appreciated that time with them. I now turn to my Coalition colleagues, first John Jobling—Mr Machiavelli. I do not know why he would deliberately take the Parliament from one stage to another and then back, except to prove that he can. I will miss his friendship and the friendship of Jim Samios. You have been great friends. "Sir James" is an underestimation; it really is "Lord James" as far as I am concerned. There is no other way to regard him.

Brian Pezzutti and I entered Parliament on the same day. We have agreed to disagree on quite a few things, but most people opposite would be surprised how many things we agree on. I love his wit. He has a great sense of humour. He is irrepressible and totally convinced and passionate about his beliefs. That, I think, is just terrific. I will miss him as a doctor. Some on the other side of the Chamber rather unkindly say, "Did you go to a real doctor or did you go to Pezzutti?" The advice and care I have had from Brian have been terrific. The alternative was Dr Refshauge!

The Hon. Ian Macdonald: Or Ace!

The Hon. DUNCAN GAY: Or Henry Tsang! I thank all members for their co-operation and friendship during the year. This has been a hard year, and we are about to embark on an election campaign, which is always a frenzied time. Today we have rain in the city after a lengthy drought. There is good rain on the tablelands. I am unaware at this stage whether it extends to the Western Division. I certainly hope it does.

The Hon. Michael Egan: Is it raining at Crookwell?

The Hon. DUNCAN GAY: It was raining at Crookwell this morning. I was talking to my mother, who said we had had terrific rain there.

The Hon. Richard Jones: Run-off?

The Hon. DUNCAN GAY: No run-off yet, but there would not be at this stage. This rain is a start at places like Inverell. It has been patchy across the State, but nonetheless there has been good rain. Last night I drove back over the Blue Mountains, where the effect of rain on the bushfires has been quite dramatic. So that is good. This has been a year when we have faced threats of terrorism as well as terrorist acts in Bali. These have not been pleasant times, but they have brought the community together. As we go into the Christmas period we will think of those affected by drought and bushfires and the families of those affected by the incidents in Bali.

The Hon. RON DYER [10.38 a.m.]: I would like first of all to thank the Hon. Mike Egan, the Leader of the Opposition and the Deputy Leader of the Opposition for their kind remarks about me and my retiring colleagues. I have known the Hon. Michael Egan, as he indicated, for a very long time. I did not realise that this morning he was going to enter into a pre-emptive strike and reveal to the House, first of all, that he was a left-winger, which is a notorious fact so far as I am concerned. My first meeting with the Hon. Michael Egan is almost lost in the mists of time. And I did not realise this morning that I was going to be blamed for economic rationalisation.

The Hon. Michael Egan is someone with whose views I have usually agreed over the years, but I believe that he is profoundly wrong regarding one matter. The Leader of the Government has said that he will remain as a member of this House until 2016 or as long as it takes to abolish the House. I happen to believe in the bicameral system of government, and I think that this House, in particular the committee system of this House, plays a useful role. Although I agree with Mike on most matters, that is one point of departure. I actually thought that containerisation was an issue advocated by our mutual friend Paul Keating many years ago, but I am being saddled with economic rationalisation. I thought I was a follower of the Chifley legend. Mike Egan is perhaps partly rewriting history, at least to the extent of blaming me for economic rationalisation. Some of my left-wing colleagues are saying that I have a lot of blame to carry if I am responsible for that change.

My term of service as a member of this House commenced on 14 September 1979, obviously a long time ago. As has been mentioned, I am now the father of the House. My successor in that role will be Reverend the Hon. Fred Nile, who was elected two years after me in 1981. In case Fred is overawed by the awesome responsibilities of that office, I say to him that the fact he is to become the father of the House does not mean that the Hon. Michael Costa becomes his son. I have been here a long time and I have seen a lot of amusing things happen. I will tell just one story. I cannot tell you any more because my colleagues might not speak to me again.

Shortly after I became a member, I was among the first group of members who moved into the parliamentary office building fronting the Domain. The Labor members had to decide how to allocate our parliamentary offices. A ballot, or perhaps more correctly a drawing of lots, occurred and was performed by the Hon. Johnno Johnson, with the late Hon. Kath Anderson and the Hon. Dorothy Isaksen as the scrutineers. The outcome of that drawing of lots was surprising. The right-wing members of the caucus, including me, found themselves with offices along the Domain side of the building. The left-wing members of the caucus, plus the Hon. John Morris, who was offside with Sussex Street at the time, found themselves with offices on the other side of the building. The Hon. Peter Baldwin, later a Minister in a Federal Labor Government, was one of those disadvantaged left-wing members. Peter, who was quite a whiz at maths and statistics, worked out that the odds against that outcome happening randomly were many millions to one. From that time on we decided that the seniority principle was the better way to go.

I sincerely thank my wife, Dorothy, who is in the public gallery, and our children, Andrew and Elspeth, aged 24 and 21 years respectively, who cannot remember me as a solicitor, only as a member of Parliament. A couple of months ago I was asked to speak to a group of social work students from the University of Western Sydney. They asked me to address three questions, the first of which was why I decided to go into politics. On that day, which was a sitting day, I was driving to the city with my wife. I said to her, "What do you think I ought to say?" She said, "Tell them you were insane at the time." I did, and they thought it was very funny. However, the serious answer I gave to the question was, "You cannot change the world but you can make a difference." I will come back to that shortly.

I would like to thank the Hon. Peter Primrose, unquestionably the best Whip under whom I have served; he is highly conscientious and efficient. I also extend my regards to the Hon. John Jobling, who is retiring with me and with whom I have always had a good relationship. I thank my former ministerial staff and my present staffer Pam Ball, who was my private secretary when I was the Minister for Public Works and Services. Finally, I thank the Clerks, who make this place tick procedurally; Hansard, who have the facility to make a silk purse out of a sow's ear, the Parliamentary Library; the dining room staff; the attendants, who administer to our needs constantly; and the ministerial drivers.

I would like to extend special regards to my old sparring partner opposite, the Hon. Dr Brian Pezzutti. We have said some fairly harsh things about each other from time to time. On one celebrated occasion, when I was admittedly under a severe degree of provocation, I referred to him as "boofhead". The Hon. Max Willis, in considering a point of order, ruled that the term implies a lack of intelligence and that it was on the borderline of being unparliamentary.

The Hon. Michael Costa: So you can use it.

The Hon. RON DYER: You can use it at your own risk. I have seen some impressive members pass through this Chamber. I would like to mention the late Sir Adrian Solomons, with whom I had a father-son relationship in some ways. We attended many constitutional conventions together and he was a consummate speaker on legal issues. I also remember the Hon. Richard Bull, with whom I travelled overseas investigating police promotions. Richard Bull is an example of a member who brings into focus what the Hon. Mike Egan said at the end of question time last Thursday, that is, that politics is largely a matter of timing. I regard Richard Bull as a very able shadow Minister and someone who would have performed well as a Minister, but he was here at the wrong time, when the Coalition parties were in Opposition.

There are some people in the other place who will very much miss my departure from this House. I am thinking of Grant McBride and Paul Gibson, who tell what I would describe as bar stories about me late at night. The bar is not a place that I am known to frequent with any regularity, but I do receive regular intelligence reports. When they are in the bar brainstorming over their constituents' problems, they relieve the tension by telling stories about me. My favourite is that when I was an adolescent I went through a personal crisis when I had to decide whether to be a ballet dancer or a boxer. I resolved this conflict by deciding to be a boxer and ended up as, I think, a world light featherweight champion.

There is one true story, and that is the Christmas card incident. The Hon. Michael Egan is ducking for cover. When we were in Opposition and the Hon. Mike Egan and I were shadow Ministers, the Hon. Mike Egan, assisted by the Hon. Paul O'Grady, a former member of the House, obtained, to use a neutral term, one of my Christmas cards. They wrote in it: "Bob, get, Ron" and sent it to Bob Carr. When he received it, he was more than a little surprised and wondered what he had done to upset me so much. He realised that someone was having a joke at his expense, and at mine as well.

I said that I wanted to make a difference. Without puffing up my chest too much, I want to say that juvenile conferencing is something of which I am proud, although the Coalition can take some credit for that as well, particularly the Hon. John Hannaford. It gives a fairer deal to young people. I established juvenile detention centres at Dubbo and Grafton—not that I gained any pleasure from constructing such facilities. The rationale for doing so was so that young people would not be incarcerated many hundreds of kilometres away from their homes and be deprived of visits from family and friends. I restored the deleted child protection positions, although I do not want to make a contentious speech on this occasion. I established what was then the Ageing and Disability Department, which is now known as the Department of Ageing, Disability and Home Care, and I created 383 permanent supported accommodation places for people with disabilities. Following that initiative, I received some very moving letters of thanks.

My proudest achievement in public works—and this is partly contentious, or it was at the time—is the Conservatorium of Music, which I believe is a highly sophisticated and very successful building. The Treasurer will know that it was not erected without cost. It certainly does not look, as one critic said when I was going through the trauma of trying to get it built, like a cupcake on a plate. It is a truly magnificent building. However, I consider that my main achievement was not a ministerial achievement, but the contribution I sought to make to the committee system of this House.

The Hon. John Ryan: The committee on committees.

The Hon. RON DYER: In 1986 I chaired the Select Committee on Standing Committees, which was commonly called, as the Hon. John Ryan has just indicated, the committee on committees. That led in turn, albeit under a Coalition Government—I want to give credit when it is due—to the establishment of a permanent system of standing committees. In the last four years, since I ceased to be a Minister, I have been happy to chair the Standing Committee on Law and Justice, which in my view has produced some significant reports, of which I will mention only three. The first is the report entitled "Crime Prevention through Social Support. I believe that is the way to go to reduce crime levels and to deal with the problems of neglect, abuse and poverty, which are productive of high crime rates. The Government has partly sought to deal with the recommendations of that report through the Families First Program.

The Hon. Michael Egan will know that the New South Wales Bill of Rights inquiry was not something that the Premier favoured. In fact, I think he was incandescent with rage the night it was set up. However, I was determined to get something out of that exercise. We recommended that there ought to be a scrutiny of bills function in this Parliament. That led to the Regulation Review Committee being upgraded to a legislation review committee with a scrutiny of bills function. That committee has been legislated for but it has not commenced to sit yet. It will in the new Parliament. I wish that initiative well, and I am pleased with that outcome.

Finally I mention the recently released report on child sexual assault prosecutions, which contains, in my view and in the committee's view, worthwhile recommendations for reform of court procedures relating to child sexual assault. Among other things we recommend a model court to have more child-friendly procedures so that children are not intimidated in various ways that are inappropriate to their stage of intellectual development, for example, asking questions containing double negatives or hypothetical questions that the child simply does not understand. There are ways to deal with that, and in a detailed report we have made those recommendations. I pay tribute to my deputy-chair, the Hon. John Ryan, for his invariably constructive role, which has permitted unanimous reports during the last four years. The fact that they were unanimous has added an increased measure of credibility to them that has made the adoption of the reports' recommendations more likely, as has proved to be the case.

I wish to make a final comment that is quite serious. During my parliamentary life, and my political life beforehand, I have always regarded myself as an adherent of parliamentary democracy. I regard that as something that should be guarded and as something that is very precious. I regard the recent raid by the Independent Commission Against Corruption of the parliamentary office of the Hon. Malcolm Jones as an appalling abuse. I believe that legislative attention is required to address that matter. I wonder what is left of parliamentary privilege if such an event is allowed to happen.

I would like to add that, in arguing for the support and defence of parliamentary privilege, I am not speaking from some elitist perspective in favour of members of Parliament. We should all remember that parliamentary privilege is basically not our privilege but the privilege of the people. Just as legal professional privilege is the client's privilege rather than the solicitor's privilege or the barrister's privilege, parliamentary privilege is there so that we—who, after all, are the elected representatives of the people, not people who are appointed to some commission and who are not answerable to anyone in the way we are—are able to speak openly and fearlessly on behalf of constituents and their problems. We should not be open to the threat of being sued as a result of raising sensitive problems, as all of us have done over the years, that would otherwise leave us open to legal action. I regard that matter as serious. I hope that some legislative attention is given to it, as I have said.

I thank all my colleagues of whatever party, especially the Ministers at the table, the Hon. Michael Egan and the Hon. John Della Bosca, the latter of whom I have also known for a long time and with whom I have always had a productive relationship. In politics one forms many friendships that are by no means confined to parties but are spread across parties. I convey my best wishes to all my colleagues who are both retiring and continuing as members of this place.

The Hon. JOHN JOBLING [10.58 a.m.]: Before I commence my address, it is proper that I should move, according to tradition, the standard amendment that has been moved to the special adjournment motion. I understand that the standing and sessional orders may well be changed to include these stipulations and there will no longer be a need to move the amendment. In accordance with longstanding tradition and as the last amendment I move in this House, I move:

That the question before the House be amended by the addition, at the end, of the following paragraphs:

- 2 Notwithstanding the above, the President, on receipt of a request by a majority of the members of the House, that the House meet at an earlier time, must by communication addressed to each member of the House, fix a day and hour of meeting in accordance with the request.
3. For the purpose of paragraph 2, a request by the leader of any recognised party or group is to be deemed to be a request by each member of that party or group.
4. A request may be made to the President by delivery to the Clerk of the House, who must notify the President as soon as practicable.
5. In the event of the absence of the President, the Clerk must notify the Deputy President, or if the Deputy President be absent any one of the Temporary Chairmen of Committees, who must summon the House on behalf of the President, in accordance with this resolution.

It is a lovely day to make a valedictory address. The rains have come and someone up there seems to be pleased that we are making valedictory speeches, that it is raining, or simply that eight of us are leaving. I do not intend to reflect upon that. Indeed, it is difficult enough to contemplate how one reduces to 15 or 20 minutes almost two decades of service in this House on both sides of the Chamber, having been told that I am not allowed to attempt to reclaim the record. I have enjoyed my time this House, working with many members and facing various challenges. I hope at the end of the day it is said that I have achieved some good and that it is a better place at my going than it was before I arrived.

I had an early introduction to politics. I recall when I was very young, when Liberal Party support was strong in Coogee and the electorate of Phillip, wandering around with my father letterboxing the area for the then State Speaker, Sir Kevin Ellis, and the Federal Speaker, William Aston. It was an interesting exercise, although I did not know what I was doing at the time; we simply took the bits of paper and put them in letterboxes. It is strange how nothing much has changed; I suspect that all members have done a great deal of letterboxing. I progressed to university, and because the study of pharmacy was what it was in those days I spent time at university and also worked for my master in his pharmacy. Saturday afternoons were dedicated to rugby or surfing, depending on whether it was summer or winter. I did not get involved in university politics, and perhaps that is a good thing. In those days the Student Representative Council was seen as a distant lot of crazy left-wingers intent on reforming the world and destroying the status quo. I wonder what has changed.

On graduating, I looked at where we might go. We looked at practices in the country—in Cooma, Quirindi, Taree, Dubbo, Grafton or Coffs Harbour—and eventually decided on Scone. That led us to 30-plus years in the Upper Hunter, and I enjoyed every one of them. About 18 months later we moved to Muswellbrook and became involved, as one does in a country area, in every conceivable activity, from joining societies and organisations to restoring old houses and trying to serve the public. As it was in those days, today pharmacy is at

the top of the list of professions or trades most trusted by the people. It is alleged that today's politicians join real estate agents, used car salesmen and other funny people at the bottom of the list. I have seen and enjoyed both ends of the spectrum.

In the mid 1960s I became involved in politics with the Liberal Party at Muswellbrook. It was an interesting time. I recall that the party had an unusual bank account arrangement with the Country Party, as it was then. We all paid money into the account and during Federal election campaigns we drew down for Sir Allen Fairhill, the Liberal member, and during State election campaigns we drew down for Frank O'Keefe, the Country Party State member. I fear those days have vanished; it does not happen that way any more and that is sad. In 1968 I became involved in local government, as one does. Having criticised it for some time, I had the option to put up or shut up—so in my usual manner I put up my hand and was duly elected. I stayed involved in local government for almost 25 years, both with local councils and electricity councils in the Upper Hunter and later, to the shock of some in Newcastle, as the chairman of Shortland County Council for several years. Some of the Labor members in the Shortland and Newcastle areas still wonder how that came to pass, but things did improve.

In 1969 Sir Allen Fairhill retired as Minister for Defence and from the Federal electorate of Paterson. That was the old seat of Paterson, which ran from Maitland to Port Stephens and Raymond Terrace up to just south of Tamworth to Colly Blue, Quipolly and back down through Merriwa and Branxton. It was a fascinating seat. Although at the time I argued it was three years too early for me, timing being what it was, I put my hand up and I well recall the day that 15 other people and I turned up at Singleton for the preselection process. As luck would have it, two of the nominees claimed to have almost 50 per cent of the votes each, but somehow I managed to sneak through and win. As the Leader of the Government commented, it was unfortunate that I lost the election by about 200 votes out of 66,000.

At midnight on election day, the Australian Broadcasting Corporation decided I had won and that the then State member could resume his place in State Parliament. Unfortunately, while the ballot papers were being checked the next morning it was discovered that 100 of his votes were in my pile. Damn! Paterson was also one of the three seats in Australia that the breakaway Democratic Labor Party decided to use to punish the Liberal Party. Therefore, I got the party's third preference instead of its second preference. I often wonder what would have happened had the situation been different. I suppose it was beneficial because I stayed at home, got involved in the local community and saw my children and family more than I would have if I had been successful in my attempt to go to Canberra. Instead, I rusticated and enjoyed it.

It was not until 1983 that I was afforded the opportunity to stand for this House. Originally 32 nominations were submitted for what turned out to be a memorable preselection process. Only four nominees would be successful. One later pulled out, leaving us with 31. In those days we divided the process into segments. In the first round nominees gave a six-minute speech and were subjected to five minutes of questions. As a result, 31 nominees were reduced to 20. I was lucky enough to survive the first round. We then started over again with a seven-minute speech and questioning for six minutes. I was nominee No. 13 in the second 20 and I pondered what the heck I could say to attract attention. The preselection team had been listening to nominees since 8.00 a.m. and the process was to continue until 5.00 a.m. the next day. They deserved an award! I told them a fairy tale, which I believe has since become party legend. It was a terrible risk, but it worked and I subsequently arrived in this place. My colleagues the Hon. Jim Samios and the Hon. John Hannaford and I have been accused by some of our Federal colleagues of being responsible for sending them a certain former Senator and now member of the House of Representatives. We have not been forgiven. I will leave members to work out to whom I refer.

Things have changed in this House dramatically. When I first arrived we had five amanuenses, but that was soon increased to seven. Those seven amanuensis had to serve the then 45 members of the Liberal and National parties. How they worked out what work they should do is beyond me. We were doing very well at the time—our equipment had been upgraded and we had an electric typewriter, although we had no staff. They came later as a result of extensive discussions when we came to office in 1988. I was fortunate in 1988 to be appointed by my colleagues as the Government Whip. That was a risk on their part! I have enjoyed that role virtually ever since, both in Government and in Opposition, with a short break during our first term for about six months to take on the chairmanship of the Standing Committee on State Development. Certainly we produced a number of interesting reports in that time, including the marvellous coastal report.

The Hon. Richard Jones: An excellent report.

The Hon. JOHN JOBLING: Yes, it was. However, at that time my leader was not impressed and had some quite rude words to say. It was difficult to contain oneself and not reply, but with a change of 24 words and a change of chairman, Brian Pezzutti achieved the passage of that report and its receipt through the House. I am told that it is still the basis of much of the work of the committee. I also created some degree of fracas in the preparation of the first committee report on tendering. In that report there was a suggestion that I admit did enrage the Deputy Leader and Deputy Premier, Wal Murray. The question was asked: Why do we have public works at all? The bureaucrats reacted in the most astonishing way.

It is vital that a Whip can count—Whips who cannot count do not survive for very long. Of all the modern scientific technologies that we have, the current pagers are absolutely marvellous. Honourable members would remember the first pager—we now have the third version and it still does not work! On 3 December I received an email, from an officer who will remain nameless, that stated:

I have the test unit now. If you could give me a time and place I will demonstrate its functions etc.

It struck me that that would be a lot of work, and I shall leave it to my successor to see whether there is now a pager that actually works. The original pager worked well—it had to because all the old-time colleagues knew every nook and cranny in this place in which to hide. They also knew how to sneak out of this place. It became apparent that the old pagers had a reasonable range—they worked at Government House, the old Hotel Wentworth, the Law Courts in King Street and occasionally a degree beyond. I recall many a member coming into this Chamber in short pants and flushed in the face, obviously having snuck out without telling anyone and just making it back in time for a division.

As a Whip one has to keep one's eye on one's colleagues—to keep an eye on the sheep. Given a chance, those sheep will escape out of the paddock—and they do. However, most of them have been very good and I thank them for their concurrence in that regard. I think "Baa" might well be the response! The Hon. Ron Dyer commented on the number of committees that we have structured, and I am quite proud of that. We have a bicameral system; the Leader of the Government and I will continue to disagree on the desirability of a monocameral or bicameral system. He can keep his views; he will never succeed in changing the system. Nevertheless, I am pleased to have seen the introduction of the five general purpose standing committees. They were established for very good reason. They also sit as estimates committees. I believe that their range of inquiry will continue to increase.

I have downloaded my maiden speech, which I delivered on 12 September 1984. I was considered to be rather pushy in those days. Not long before I became a member of this place new members had to wait two to three years before they were granted permission to make their maiden speeches. They were not allowed to say anything, they were a backside on a chair, they were a cipher at the Whip's call, and they were not allowed to ask questions or to interject. "It just wasn't done, old chap," they were told. So there was I, after about six months as a member, succeeding in delivering my maiden speech. I have since taken the view that we do not have enough members to afford the luxury of allowing even that short time for a member to become an active member of the House. It is interesting to note what has changed since I made my maiden speech in 1984. At that time I commented on the strengthening of the role of the Legislative Council and the reintroduction of legislation that originates in this House. I still concur with that statement. I repeat the words of John Mill, which I quoted at that time. He said:

The consideration which tells most in my judgment in favour of any holder of power, whether an individual or an assembly by the consciousness having only themselves to conduct. It is important that no set of persons should, in great affairs, be able, even temporarily, to make their will prevail without asking anyone else for his consent.

A majority in a single assembly easily becomes despotic and over-weening if released from the necessity of considering authority.

Interesting! Not much has changed in that long time. In my maiden speech I spoke about roads, coal and related freight charges, water conservation, beleaguered dairy farmers, and the attitude of the then State Government in attempting to circumvent its own local government laws, the many ad hoc government departments—it really did not matter whether it was Landcom or Elcom, the names of which have changed and metamorphosed into new names, the list is endless—which were more than happy to circumvent the planning and environment procedures by whatever means were available. That was an interesting proposition, an interesting indictment. At that time I said

Let me now turn to roads. Roads are, as honourable members know, the link and lifeblood of our country, whether it be in time of peace or war. It does not matter where one travels in New South Wales, whether it be in an urban area or a rural area, the roads are steadily but at an increasing rate falling to bits.

Things are still about the same! The Treasurer has kept his reputation and carried on wonderfully. As I said at that time:

No wonder this State has the reputation of being one of the highest taxing States in Australia.

Treasurer, you have upheld a fine tradition. It is not my intention to go over the many issues I raised at that time, but it is interesting how everything changes but everything remains the same. I take this opportunity to thank my wife, Linde, who is present in the gallery this morning. My time in this place has been a long-suffering time for her—not being terribly sure of where and what and why, and whether I would be home. Living in the country made it more difficult for her and for my family.

The Hon. Duncan Gay: She was probably grateful at times.

The Hon. JOHN JOBLING: Duncan is probably right. It was a problem, and I will come back to that. He may have a solution for that problem. I thank all the members of my family, who, equally, had to put up with father's peccadilloes of not being at home and on many occasions not being able to attend the sporting functions that children, reasonably, expect a parent to attend. I did my best, and I think I have been forgiven for those failures. I would like to commend a few people from the Upper Hunter and Muswellbrook areas for their long-term support of Linde and me. I thank John O'Brien, who is now in Newcastle; Anne and Peter Daunton, whom many Liberal members would know; June and John Davies; Paul O'Neill, the President of the Muswellbrook Branch of the Liberal Party; long stalwarts Lou and Nan Craig; and John and Kathy Selcock, current members. It has been difficult to keep the branch together, but I have remained a member of Muswellbrook branch from the middle 1960s.

I take this opportunity to thank the three leaders under whom I have served on my side of politics. I thank Ted Pickering and John Hannaford, who, in Government, gave me fair leave and licence to take some of the load from their shoulders and gave me freedom in running the House. That freedom continued under Michael Gallacher, whom I thank for that. It has been a joy to work with both the Liberals and the Nationals. Despite his gruff exterior, his well-carved Norman Breton French fishermen face, and a rather standing, yelling, determination to push one right to the limit, and threatening one to put a leg over the cliff—but, as a negotiator, he knows not to take the next step—I thank Duncan for his friendship, his comments and advice, not all of which was taken, as he would readily agree. Frankly, underneath all of that he really is a pussycat, a marshmallow.

The Hon. Duncan Gay: I've been verballed!

The Hon. JOHN JOBLING: Try him some time—he really is! I regret that after 22 March I will not be able to come back to the other side of the Chamber. I started in Opposition, I then moved to Government and I then moved back to Opposition. Let me say, it is much more fun in government! I regret that after 22 March I will not be able to be part of John Brogden's government team. I would have enjoyed seeing the now Leader of the Government sitting on this side of the House—one of the most effervescent, ebullient, jump-up-and-down, short-burst-of-energy persons I have ever seen. If the Treasurer is going to be here until 2016, I cannot think of a finer place for him to be in the interests of the State of New South Wales. I have enjoyed Michael Egan. In this House you can do many things—you can have an interrogatory across the table. I recall my first opportunity to engage him when we were in Opposition. He is actually quite good fun. He enjoys the banter; he enjoys the play. It is even more fun when you can get him off the script. What you can get out of him sometimes! He probably regrets it later.

To my staff I would like to say thank you. I was fortunate to have one of the early staff in the House, and Katrina Hadjimichael has been with me for a long, long time. I thank you, Katrina, for all your work and effort. When Katrina first came to work for me I said, "You simply need to do two things: one, keep me organised; and, two, keep me in order." That is a fair ask. When Katrina took maternity leave it looked like we were starting a dynasty because her husband, Noel, then came to work for me for a period of 12 months or so. During Katrina's absence I was fortunate that Patricia Callaghan came to join me for about 18 months. I have been extraordinarily lucky in the staff I have had. They have always looked after me and done anything and everything I have asked of them—in fact, generally they had things prepared long before I even got round to thinking about wanting to do them.

To all the officers of the Parliament, including those under Les Jeckeln and John Evans and his colleagues, I say thank you. I have enjoyed the friendship of most of the members of this House. I can honestly say there are probably only one or two people—I will not say it; I have just got doubts about it. I have been

asked whether I will miss the place. I believe that after nearly two decades anyone who is honest must say yes. It has become part of your life; it has become ingrained in you; it has become simply something you do. I am sure that after 22 March I will wonder what I have forgotten to do, or where I am supposed to be, or what was that function I was supposed to be going to. I will think, "Damn it, have we got another committee meeting?" Actually I will not miss some of the committee meetings and the workload involved there. I wish my colleagues who continue all the best in their committee deliberations. There is one question that I suggested to Duncan he might like to ponder. This is one that I am sure Linde would like him to answer. Linde is looking for somebody to tell her: What is she going to do with me after I leave here?

The Hon. John Della Bosca: National Party—

The Hon. Duncan Gay: National Party vapouriser.

The Hon. JOHN JOBLING: The offers are coming already! I am not quite sure that they are quite right. Of things incomplete, there is probably only one. I had intended to put a private member's motion on the notice paper relating to living wills. I had started work on it, but I confess and apologise that I never did get around to dealing with it. I will have to leave that to a successor to deal with, and I hope somebody will take it up. It is quite clear to me that all members who have come into this House have come here perforce of the party system. Because of the proportional preferential electoral methods we have in this House, every member here owes his or her seat to the party under which they stood. It is something that all members need to be reminded of when they forget how they came to be here. Loyalty to one's party and the return of that loyalty is something that should be given freely and taken as rote. But, unfortunately, from time to time that has not been so. In conclusion, I return to a quote that I virtually concluded my maiden speech with. It is attributed to Abraham Lincoln. I have to say to you that that is a false attribution; the quote was given by the historian at Ford's Theatre and more correctly should be attributed to the work of William J. Boetcher, a clergyman from Erie, Pennsylvania. I am sure you will recognise these words:

You cannot bring about prosperity by discouraging thrift. You cannot strengthen the weak by weakening the strong. You cannot help the wage earner by pulling down the wage payer. You cannot further the brotherhood of man by encouraging class hatred. You cannot establish sound security on borrowed money alone. You cannot build character and courage by taking away man's initiative and independence. You cannot help a man permanently by doing for him, that which he can, and should do for himself. But in these days of high inflation and high income tax there is not much incentive left for any of us, whether we be individuals, in big business, or small business. Private enterprise, like we individuals, needs incentives and in its case the profit incentive, the opportunity to earn reasonable but not excessive profits.

Those words encompass many of my thoughts today, as they did in 1984. I have enjoyed my time here. I wish well those members who are continuing. May you enjoy your service to this Parliament and the people of New South Wales, and the privilege of serving, as much as I did.

The Hon. JAMES SAMIOS [11.27 a.m.]: After some 19 years in the Legislative Council of the oldest Parliament in Australia, I thank the House for the opportunity of speaking on the occasion of my valedictory speech. Much has happened since my arrival to this Parliament in 1984 as second Liberal on the Coalition ticket led by John Hannaford, followed by John Jobling and Beryl Evans, and including Richard Bull and Judy Jakins of the National Party. Today, only John Jobling, Opposition Whip extraordinaire, and I remain from that Coalition ticket of 1984. Whilst much has happened during the 19 years in Parliament, I believe that possibly the most important thing that has occurred in this Chamber has been the transfer of the balance of power from Legislative Assembly to the Legislative Council, as we had predicted, with the emergence of 13 members on the crossbenches. This has been a challenge not only for the crossbenchers but also for the major political parties and their leaders: for the Leader of the Government, Michael Egan, and the Leader of the Opposition, Michael Gallacher, and his deputy, the Leader of the National Party, Duncan Gay. In Plutarch's *Lives* it is recorded that Solon, the ancient great lawgiver, reflected that men keep their promises when neither side can gain anything by the breaking of them.

Solon would fit his laws to the citizens so that all should understand it was more agreeable to be just rather than to break the laws. I believe that our leaders have played a pivotal role in balancing the legislative needs of the State with the pragmatic realities of ensuring the numbers to pass legislation that comes from the crossbenches. The Leader of the House, Michael Egan, has displayed great resilience, diplomacy and political skill in facing the realities of the new balance of power. He has also had to face the reality of being matched on the Opposition side by the Hon. Michael Gallacher and the Hon. Duncan Gay.

I refer also to the important role that multiculturalism has played in underpinning the social cohesion of our nation. In the 1970s, on the occasion of the Australian citizens conventions in Canberra, when Peter Heydon

was secretary of the immigration department, I first came to grips with the move towards multiculturalism. Up until then Federal policy had been a policy of assimilation. The conventions of 1970 in Canberra, under the aegis of Peter Heydon, moved to a policy of integration. People coming to this country were able to relate to their language and culture of origin and contribute the best of that to the core values of Australian society—the values of law and order and the value of a constitutional government in a Westminster system under a constitutional monarchy.

Subsequently, I became Chairman of the Ethnic Communities Council of New South Wales, a position which I held from 1972 to 1982. I was later appointed by Michael MacKellar as Chairman of the Migrant Settlement Council for New South Wales—a position which I held from 1979 and 1981—and as Chairman of the Community Refugee Committee of New South Wales, a position which I held from 1979 to 1982. Later, in a private capacity, I visited refugee camps on the Thai border and saw, first-hand, in camps like Koi Dun and Sa Kao, the plight of refugees looking to migrate to a safe haven like Australia. I was later appointed by Ian Sinclair as a member of the Special Broadcasting Committee, a position which I held from 1981 to 1983.

On entry to State Parliament I was privileged, as Parliamentary Secretary, to work with Premier Greiner and Attorney General John Dowd on the racial vilification amendments to the Anti-Discrimination Act 1989 until the review in 1979 when Premier Fahey was leader. I also had the privilege of working alongside George Souris, who was then Minister for Multicultural Affairs. I was able, with Stepan Kerkyasharian, the then Chairman of the Ethnic Affairs Commission, to work on the principles for a culturally diverse society.

In 1991, when I was a member of State Parliament, I was appointed by Federal Labor Minister Gerry Hand to the ministerial committee for the provision of language services. I believe that that aspect of bipartisanship played a pivotal role for parliamentarians. Another important aspect has been the need for society to reflect on the decision-making process of the changing composition of a multicultural society. Another aspect of multiculturalism is reflected in the inclusiveness of our religious and secular celebrations. Today Australians attending Jewish Hanukkah celebrations would find people of many religions, just as they would find people of many religions if they attended Ramadan feast days, or Lord Buddha's birthday, which is known as Vesak day or Deepavali, the Festival of Lights, for the Hindu community.

Australia is home to people from some 230 ethnic groups. We can be proud of their contribution. As one would expect, there have been some tensions, but those tensions—to the surprise of many—have been little compared with the great contribution that has been made by multiculturalism. Finally, I want to thank a number of people. I thank my secretary and assistant, Gloria Klein, for her support over the years. I thank the parliamentary attendants who have all been courteous in their assistance. I thank John Evans, Warren Cahill, Lynn Lovelock, and the staff under them for the good service that they have given us.

I thank Rob Brian, Greig Tillotson and others in the library. It has been said that we have the best parliamentary dining room in the Southern Hemisphere. Tribute must be paid to Mr Draper for that. Last, but not least, I thank members of my family—my wife Rosemary and my son Milton—for their support over the years. I also thank those community leaders who have been so generous in their dialogue with the Parliament in the structures in which I have been more notably involved—the arts and ethnic affairs. I believe that that dialogue with them has extended in a positive fashion.

Overall I believe that the people of New South Wales must be thanked. They have seen this Parliament undertake a number of new initiatives. They have stood by and watched how those initiatives have fared and how the balance of power has moved. They can be proud that this Parliament has acted positively and correctly in that regard. I thank John Brogden, Leader of the Opposition, for his important contribution to the democratic process. I thank my leaders in this House, Michael Gallacher and Duncan Gay who, over the past four years, have played a significant and important role in our democratic system. I wish everyone in the Parliament a merry Christmas and a happy new year.

The Hon. RICHARD JONES [11.39 a.m.]: Many things have changed since I was elected to this House in 1988 as a Democrat. That was the beginning of the Greiner era, with its many changes the way in which the State was run. Lis Kirkby and I effectively held the balance of power and we negotiated many changes to legislation. The then Leader of the House, Ted Pickering, once told me that we saved the Government from itself. I used to have regular meetings with Nick Greiner—just the two of us in his office over coffee—and we often ended up arguing about issues. But he did listen. He did some remarkable things, not because I did deals with him—he never did deals nor did I try to do them—but because he believed it was the right thing to do. He once asked me to block a piece of National Party legislation. I tried but I could not do it

because the Labor Opposition would not support me! So Nick Greiner missed out on that occasion. There is no doubt that the many reforms implemented by Nick Greiner made the running of this State more efficient and may explain why he is now earning more than a million dollars a year in the private sector.

Whilst the Greiner and subsequent Fahey governments were not nearly as green as the Carr Government, we still had a number of significant environmental wins, especially under Tim Moore, and some good wins under Chris Hartcher. The National Party was the stumbling block and Garry West swore that he would never allow another stick to be added to the national park system. Unfortunately, any environmental wins in those days were in spite of the National Party. The National Party is of course a very different animal these days.

It was the state of the environment that led me into politics in the first place. I became radicalised when I saw what was happening to the high dunes of Myall Lakes and I started campaigning on this issue in late 1971 with the Myall Lakes Committee, together with Milo Dunphy and many others. I left a job in which I was being paid more than I am today to campaign full time and it took 16 years to get into this place. I chose the Australia Party at the time, funded and founded by Gordon Barton and Ken Thomas, because it was the green party of the day. This later merged into the Australian Democrats.

I was twice elected as an Australian Democrat on the preferences of many smaller parties, whom I committed to represent as well. In March 1996 just after the Federal election the State Executive of the Australian Democrats voted to have the Federal Executive expel me. The reason was that I wrote personal letters in support of two Labor candidates in the Federal election—one of whom I went with to Tahiti to oppose nuclear testing and the other was a member of the Wilderness Society. The Democrats had done a dirty deal to direct preferences away from them to anti-green Liberal candidates. The Democrat leader, Cheryl Kernot, was also saying disgusting things about two long-term friends of mine, both Greens candidates, Bob Brown and Professor Peter Singer. I was advised that the motion to expel me would be successful so I resigned before the vote was taken.

I might say that since then I have offered three times to rejoin the Australian Democrats. The last time I sent a cheque and a membership form. I never heard back—not a phone call, not a letter. I heard second-hand that they had rejected my application—mind you, I was happy being an Independent. My workload and my voting pattern did not change: I remained a Democrat except in name. I came into this place an idealist wanting to save the planet. I am still an idealist and even an optimist but I realise it may be impossible to save the planet as we know it today. Huge areas of forest in New South Wales have been cleared under both the previous Coalition Government and under this so-called "green" Carr Government. Countless birds have lost their lives, countless other wildlife species have died and more species are heading towards inevitable extinction.

This is true in other countries too. Vast areas of the Amazon have been cleared for cattle in the past 15 years. Gigantic areas of rainforest to the north of Australia have disappeared. Every time people buy Indonesian teak furniture they contribute to the destruction of the rainforest. The future of the orang-outangs looks bleak indeed—almost all their habitat has been cleared or is about to be cleared. The greenhouse effect is already upon the planet. It is now beyond doubt, although some doubting Thomases still will not believe it even when Pacific islands go under.

This is the era of the sixth great extinction event. The difference is that these extinctions are not caused by an external event—for example, a giant meteor—but by a rogue species inhabiting the planet. Humans are to the planet what cane toads are to Kakadu—an utter disaster. In the long term it will not matter: Biologists whom I have talked to believe humans are on the road to extinction anyway. Whilst we will take very many other species with us when we go, there will be a re-balancing of life on this remarkable planet just as occurred after the five previous great extinction events. Life will start again with the remnants and after several million years once again there will be extraordinary biodiversity on this planet, different from today's life forms but just as amazing. With a bit of luck the most intelligent of these new life forms will not set about destroying the other life forms as humans have done.

On a more mundane level, I am very disappointed with the Carr Government. It had the opportunity of being a genuinely green government and of making a real effort to slow the catastrophic decline in our environmental quality. But it has compromised and compromised down to the lowest common denominator. This may be explained somewhat by the fact that Bob Carr does not actually run this State, as many people believe. The State is actually run by Roger Wilkins and the Cabinet Office, just as he ran the previous conservative Government. Governments come and go but Cabinet Office goes on forever. I was told by one

senior ministerial adviser that when a minute goes into Cabinet Office it often comes out the other side unrecognisable. A Minister complained to me that Roger Wilkins sits in on Cabinet meetings, unlike during the Greiner era when he had to stay outside. One adviser told me that they regarded Cabinet Office as the evil empire. I asked a member of Cabinet Office, "If the Premier wants something, does he get it?" His reply was, with a totally straight face, "He does have some influence".

We have had two conservative governments in a row and this is largely because Cabinet Office and Treasury have an inordinate say in the running of the State Government. From time to time we see the Premier and his Ministers get their way. It is usually when there is a political imperative. Suddenly what Treasury and Cabinet Office say is pushed aside for the greater good—that is, political good. This was evident in the decisions on Callan Park and the reversal of the sale of Hunters Hill High School. Maybe some more correct decisions will be made in spite of Treasury and Cabinet Office. Maybe we will be able to do the right thing by the people of Sydney and put filtration into the M5 East tunnel and into other tunnels in Sydney. The Roads and Traffic Authority [RTA] has been extraordinarily obdurate on this issue. It has constantly misled the Minister. One of the most extraordinary admissions in an answer to a question on notice was that the RTA had no knowledge of the number of tunnels filtered in Japan. Its officers had visited a single tunnel and appeared oblivious to the fact that dozens of other tunnels are filtered in Japan.

I believe that the RTA needs a good shake-up. It is a nonsense having one entity intent on building more and more roads separate from another government department concerned with public transport. We urgently need to merge these two departments to find the most effective way to move people around the State, in particular in the city of Sydney. Thanks to the RTA, between 1,000 and 2,000 people are dying in Sydney every year from air pollution. Most of the dangerous air pollution in Sydney comes from diesel vehicles. During General Purpose Standing Committee No. 5 hearings the CSIRO gave evidence to the effect that 80 per cent of this diesel pollution comes from faulty vehicles. Yet when our committee asked the RTA to institute a compulsory scheme to check diesel emissions as part of the checks undertaken for re-registering vehicles, the RTA refused. It has an opportunity to save hundreds of lives in Sydney each year with a simple administrative procedure, yet it has refused even that.

If the RTA was truly serving the people of this State and not acting as a self-serving bureaucracy resistant to change, it would have ensured that compulsory diesel vehicle testing was undertaken as soon as the facts about the dangers of PM2.5s became known. As soon as the extraordinarily high pollution rates within the tunnel became evident, the RTA should have acted—if only to protect its own employees—to fit electrostatic precipitators [ESPs] in the tunnel. Japanese, Norwegian and Australian companies would be happy to tender for ESPs. Terry Methereil once told me that in order to change a bureaucracy you sometimes need to destroy it first—and he had a very good go at it. That is rather like something Niccolò Machiavelli would have written 500 years ago.

The RTA is somewhat like the Tasmanian Hydroelectric Commission, whose sole purpose in life was to build more and more dams regardless of the effects on the environment or on energy needs. We need a new entity perhaps entitled Transport New South Wales, which would include within it rail—both light and heavy—ferries, buses, cycleways and roads, both private and public. We might then get some sense into the system of moving people and goods around the State. It would also save taxpayers hundreds of million dollars a year.

Another bureaucracy needing urgent reform is the Department of Health which, would be more aptly named the "Department of Ill Health". The department's latest blunder is breathtaking in its implications. It has set up the Health Claims and Consumer Protection Committee under the chairmanship of Professor Dwyer, of all people. Professor Dwyer has been bluntly outspoken in his attacks on all aspects of complementary health care. His bias is so evident that it is extraordinarily inappropriate to have him chair what can only be termed a witch-hunt. He has roundly condemned traditional Chinese medicine. Traditional Chinese medicine is at least 5,000 years old. The words doctor [yi] and medicine [yao] appear in the written Chinese language at about 2500 BC. Emperor Shen Nong—3494 BC—is accredited with being the first herbal doctor.

The *Yellow Emperor's Internal Classic* or *Huang Di Nei Jing*, which was written between 200 and 300 BC, included the first explanations of the pathological concept, diagnostic method and treatment strategy. This 5,000-year-old healing art has been based on empirical data accumulated over millennia at a time when Europeans were walking around naked painted with woad and hitting each other over the heads with the leg bones of mammoths. Chinese materia medica today is the most advanced natural pharmacopoeia in the world in terms of natural substances having medicinal value, whether of plant, mineral or animal origin. Some 5,767 medicinal entries are registered and studied in the three-volume encyclopedia *Zhong Ya Zidian*, published by the *Shanghai People's Press*.

Acupuncture, which is also under attack, may well have been in place for 10,000 years as acupuncture tools have been found dating to that period. Whilst Professor Dwyer may rubbish acupuncture, the World Health Organisation recognises over 40 conditions that benefit from acupuncture. The *Yellow Emperor's Internal Classic* is the earliest book describing acupuncture as we know it today. I have benefited from acupuncture, as no doubt have other members of this House. Ayurvedic medicine, which also goes back over 6,000 years, is the oldest known system of medicine. It is referred to in the *Rik Veda*, the oldest surviving book of the Indo-European language written in 3000 BC. It was placed in written form by Shaktavesha Avatar of Vishnu. In the sixteenth century Paracelsus, who was regarded as the father of modern Western medicine, practised and propagated a system which borrowed heavily from Ayurveda. Ayurveda is a widely and successfully used system of healing in India today. My wife, Jo, and I will avail ourselves of the opportunity to benefit from it on our trip to Kerala early next year.

Homeopathy is also under attack, as usual. The royal family has been using it since the 1830s. Use of homeopathy in the United Kingdom is growing at 39 per cent a year. A British consumer organisation surveyed its 28,000 members and discovered that 80 per cent had used some form of complementary medicine and that 70 per cent of those who had tried homeopathy were cured or improved by it. The *British Medical Journal* recently published a survey of British physicians and found that 42 per cent referred patients to homeopathic physicians. A survey in France revealed that 11,000 French doctors use homeopathic medicines and that 25 per cent of the French public have used or are presently using homeopathic medicines. Their use is widespread around the world, especially in India, Pakistan and Sri Lanka.

Aboriginal bush medicine, also used for thousand of years, is far more complex and sophisticated than most of us realise. Fortunately, we are all beginning to benefit from those thousands of years of knowledge. Traditional Tibetan medicine, called Sowa Rigpa, has also been practised for over 2,500 years. Professor Dwyer is a Johnny-come-lately when it comes to complementary medicine. He specialises in a small fraction of the total spectrum of allopathic medicine and has no experience whatsoever in traditional medicine. It is true that many of these traditional medicines and practices have not been double-blind tested, but in many cases they have been used for thousands of years and have stood the test of time.

Western medicine, which is relatively new, has made many ghastly mistakes, for example, thalidomide or the current rash of unnecessary operations. The hard dogma of science can blind some people to other valid sources of information and well-tried and tested modalities of health care. The failings of modern allopathic medicine are precisely the reason why so many are turning to traditional medicine. Allopathic medicine is very crude. People with the flu attend a doctor and receive a prescription for an ineffective antibiotic. The doctor almost never inquires about diet, state of mind or why the immune system is down—he or she almost never takes a holistic approach. Thousands of people die every year at the hands of doctors.

There is an epidemic of multiresistant golden staph in intensive care wards which is killing untold patients and yet ancient Aboriginal bush remedies such as melaleuca alternifolia, tea-tree oil, or backhousia citriodora, lemon myrtle, might well provide the answer. Have they been tried? I doubt it. Hospital food is so bad it beggars belief. No thought is given to what would hasten the recovery of patients. Unbelievably, hospitals have Coca-Cola machines in them as well as machines selling appalling junk food. What we really need is an inquiry into the tragic failures of modern allopathic medicine, not highly successful complementary medicine.

Another department needing urgent reform is Agriculture. It is way behind the times and seems to pay little regard to what is happening overseas. I had a fascinating insight into what is happening on the ground after a visit to Nullo Mountain last weekend. A number of land-holders in that area are getting involved in niche crops—most of them organic—and producing their own products for retail sale. They are diversifying away from cattle and mono crops into multiorganic crops. The Department of Agriculture pays only lip-service to organics, not being aware apparently that it is the fastest growing business in Europe. Instead, it has been promoting genetically engineered [GE] crops. I question its motivation.

At meeting after meeting, both here and overseas, farmers have rejected GE crops. We have the chance to produce genuine clean, green GE-free organic produce for hungry European, Japanese and American markets, which are growing up to 70 per cent a year. However, the Department of Agriculture is spending its energy promoting GE crops, which will destroy the organic growing of those crops. We need a leaner, greener department of sustainable agriculture, which is market-orientated and which does not waste taxpayers' money on already well-established production systems. It is quite extraordinary that the department is still promoting the battery hen industry. It supports other cruel systems that are being phased out in Europe. The department needs a revamp to get it into the twenty-first century.

Recently, the Minister for Education and Training launched Safer Solutions—integrated pest management for schools and child care centres—written by my wife, Jo Immig, who is in the Chamber, which has been distributed to 8,000 schools in New South Wales. If implemented it will make schools so much safer for our children. Another project that is needed is one in which children are introduced to the cycle of life in the school grounds. Some children have no idea where their carrots come from. A small section of the school grounds should be set aside for the organic growing of vegetables and fruit so that children can gain a connection to the land and develop an empathy with the farming community. I hope that this project is implemented soon in schools across New South Wales because, apparently, pesticide use in schools is still harming our children.

Whilst the Government has declared hundreds of thousands of hectares of new national parks—an initiative we all welcome and applaud—we are still a long way off meeting the nationally agreed criteria for the establishment of a comprehensive, adequate and representative reserve system for forests in New South Wales. As was agreed, the general criterion should be protection of 15 per cent of the pre-1750 distribution of each forest ecosystem. As of now we have only 6.76 per cent of the Janis targets protected in the State and some of that is subject to mining anyway. The accepted international target is 10 per cent of each bioregion. The situation out west is much worse, with protection ranging from as little as 1 per cent to under 5 per cent of bioregions. The Government has squibbed on Pilliga and Goonoo, caving in once again to the forces of destruction, which seem to win many of the environmental battles in this State. Money wins and the environment loses.

Under the stewardship of Eddie Obeid we are doing better with our marine parks. Currently, 2.2 per cent of our marine coastal environment is protected in sanctuary zones. Whilst that compares with Victoria's 5.3 per cent, we will undoubtedly do better than Victoria eventually, with several new parks on the drawing board. We need to explain better the message from researchers and scientists that sanctuary zones where fish can grow in size and breed at a faster rate mean there will be more fish available in areas outside those sanctuary zones for those who wish to fish. It will become obvious in the years ahead that there are more fish. But if we demonstrate the scientific knowledge now, it will make the battles for these vital sanctuary zones so much easier. It truly is a win-win situation. The National Parks Association has a target of 20 per cent of each habitat in a reserve system, which is extremely reasonable.

During my term in Parliament grey-headed flying fox populations, which have dropped by 30 per cent, are now threatened. Ten years ago there used to be many flying foxes up north where I live, but no longer does one see them in those numbers. We used to hear neighbours shooting them illegally and there was one report of people having to walk almost knee-deep through carcasses of flying foxes that had been killed in one orchard. Both illegal and legal killing have decimated their populations and, unbelievably, the National Parks and Wildlife Service is still allowing them to be shot. Farmers have had years to net their crops or use proven deterrent devices and many have. There is no excuse to issue licences to kill a threatened species. Flying foxes are vital in the regeneration of forests, as State Forests would aver.

Recently, I talked to Jerry Coleby-Williams from the Royal Botanic Gardens who informed me that the Royal Botanic Gardens acknowledges that flying foxes are an important and integral part of our ecosystem and that they will not be culled. He told me that he has spoken to the Premier about a system called organic botanic, which will result in the Royal Botanic Gardens soon becoming totally organic. That will provide a model for other botanic gardens around the world. I hope that the Premier and the Minister take up that proposal.

The Carr Government treats our native wildlife in a very cavalier fashion. Whilst the Government reluctantly passed my legislation to stop the duck season, it brought in another duck season by the back door in negotiation with John Tingle. Just as many ducks are being killed by recreational shooters today as were killed before the end of the duck season, and that is a disgrace. John Tingle and others on the hard right always had the ear of the Premier, and that is why we ended up with the shameful game bill, which promotes the recreational shooting of animals. Anyone who requests a licence to kill wildlife gets it without question. The current situation with kangaroos, wallaroos and wallabies is quite appalling. The drought is killing them in huge numbers, yet the Government is still allowing the survivors to be shot commercially. It is an international disgrace.

The Minister who can make the biggest positive impact on the environment in the long run, apart from Eddie Obeid, may well be Kim Yeadon. His carbon trading legislation has the potential to create vast new forests in New South Wales and to reduce greenhouse gas emissions more than is happening in any other country. State Forests, which is gearing up for massive plantings in New South Wales, is to be congratulated on

its new hardwood forest plantations that are doing so well. Minister Yeadon is to be congratulated on his wonderful efforts. I came into Parliament to do what I could for the environment, particularly for the animals.

I have also been involved in drug law reform, but still 18-year-olds in this State can be gaoled for having a single joint, which leads to a high risk of their being raped and acquiring AIDS. The hypocrisy of Government members is unbelievable. Most of the Government members in this place have used marijuana at some time in their lives. They admitted that to me, but I will never reveal their names. Even if I were tortured I would never reveal the names. Fortunately, none was gaoled. It is absurd that marijuana is illegal while tobacco, which kills 50 per cent of its users, continues to be legal.

The Carr Government is just another conservative Government intent on gaoling more and more people, getting tougher and tougher on young people, turning New South Wales into a police State, and not addressing the fundamental causes of crime. Whilst I have found it exhilarating and an awesome privilege to be a member of this place, it has also been intensely frustrating. I have gained an insight into how government works or does not work. Many welcome changes could have made these years an extraordinarily progressive time for the people of New South Wales, but that has not happened. The Government had the numbers to do anything it wanted but did not take that advantage. The ultraconservative view almost always won out. The small progressive changes that have been made have had to be fought for tooth and nail.

One thing I have learnt in this Chamber is that you should not dislike people merely because they have a different view of the world. Amongst the members of this Chamber there are a number of complete opposites. I understand that in the Wran days Labor party members were not allowed to talk with Opposition members or, heaven forbid, sit with them at lunch or dinner. That at least has changed, perhaps as the two major political groupings have virtually merged. I used to be quite unkind to Reverend the Hon. Fred Nile in the early days, and obviously he and I differ radically on very many issues. Indeed, we are at the opposite ends of the spectrum. Fred and I do agree on some issues, thankfully. I have grown to like and respect Fred and to understand him better over the years. Whilst I utterly disagree with him on so much, I admire what one man has been able to do. I really like his wicked sense of humour, which was so evident the other night.

I have found it fascinating that I can like and get on with members of this Chamber whose views are utterly opposed to mine. It goes to show that you should not allow people's views to be an obstacle in your relationship with them. Crossbench members represent an extraordinary diversity of interests and are able to present a wide range of opinions. Extremes of community views as well as all shades of opinion in between are represented in this House. All sections of the community must be represented in Parliament, and that is why the upper House is such a valuable forum. The Government generally speaks as one, and the Opposition speaks as one or sometimes two. The crossbench members often speak as 13 when members of the same party express different views.

It has been a great privilege to represent the people of New South Wales in the Legislative Council for the past 15 years. I thank the Democrats for giving me that chance. I have tried to do what I came to this place to do, but it has been a very difficult task. Recycled paper is widely available, no thanks to me. Hemp clothes are to be found in stores across Sydney. Many more national parks have been created. Recycling has reached Parliament House, and there is even vegetarian food on the Parliamentary menu largely thanks to Janelle Saffin, who was starving.

I thank all my parliamentary colleagues and their staff for your friendship. I have really enjoyed being here and I have enjoyed your friendship. I admire all of you for what you do. You are grossly underestimated in the media. All the members I have met during my 15 years in this Chamber have worked hard. I know that those who have not been regarded generally as hard workers nevertheless have worked extremely hard behind the scenes. We all have different views, but we can still be friends while maintaining our differences. I would like to thank very much the Clerks, the Legislative Council procedure office, the Usher of the Black Rod, the Legislative Council administration staff, the attendants, and the committee staff. I like these people and I do not want to name individual persons. I have a lot of friends among the staff and if I mention one of them I will miss out on someone else.

I want to apologise to Hansard for 15 years of torture, which is now at an end. They can have acupuncture now and be ready for the next session. They are the ones who have suffered most from my being in this Chamber, and I apologise to them for that. I wish I could have learned to speak more slowly. I also want to thank the catering staff—David and his staff—security and the cleaners, particularly the woman from Ollantaytambo in Peru, an obscure village that probably no-one else in this place has ever heard of. It is a

beautiful little village that I had visited. She is a wonderful woman. I also thank the gardener for looking after our plants on the balcony, which will now disappear to Manly or up north, except perhaps the larger one. That is open for negotiation. Who would like it?

The Hon. John Ryan: Is it legal?

The Hon. RICHARD JONES: It is still legal. It is neither a noxious weed nor a—

The Hon. Duncan Gay: Buy a bottle of Round Up.

The Hon. RICHARD JONES: You may even get high on it. I do not know. I will find out, if you like. I could do some research on it. Last but obviously not least I want to thank my own precious, hard-working and amazing staff, Jeni Emblem, Christine Black and Barry Davies, and my previous amazing staff, Kath McFarlane, Sally Girgis, Nigel Stanier, Nicole Hertogs, Tanya Van Bosch, Genevieve Slattery, Veronica Green, Aldis Ozols and Jane Millett.

The Hon. John Ryan: Remember Aldis!

The Hon. RICHARD JONES: Aldis is fantastic. He is a very bright guy. He is amazing on the computer. And a big thank you to my adorable wife, Jo Immig. And the future? I am not going to retire. The word is not in my lexicon. I am not going to go away. Jo and I will work together on many issues both here and overseas, and may even form our own organisation. Green issues will increasingly hit the news as the greenhouse effect takes its toll. Hopefully, the impact of the Greens will also rise and the Democrats will rise again. The planet needs the Greens to counterbalance the forces of planetary destruction. I want Conservative members of this House to realise that there are no jobs on a dead planet.

The Hon. Dr BRIAN PEZZUTTI [12.07 p.m.]: In 1988 I came into this House with Virginia Chadwick as my leader. The second person on the Liberal-National ticket was the Hon. Bob Rowland-Smith, followed by the Hon. Marlene Goldsmith, myself, the Hon. Duncan Gay, Helen Sham-Ho, Stephen Mutch, and then Michael Barnes, a very good friend of mine, who missed out by a whisker. The only two on the Opposition side who remain from that ticket are the Hon. Duncan Gay and me. Duncan Gay can report to the Leader of the National Party in the other place: Mission accomplished—Pezzutti is on the way out.

The Hon. Duncan Gay: He asked me this morning.

The Hon. Dr BRIAN PEZZUTTI: Did he? I thought he might have. After I came into this House I said in my maiden speech:

I find it an attractive liberalism that emphasizes mutual efforts, the right of all people to equality of opportunity, equality of access to programs—sometimes extensive—to make that right a reality; a form of liberalism that emphasizes our obligations to respond to needs while we pursue the creation of wealth and the enhancement of human potential. It is a philosophy that values liberty, which dedicates itself to the task of empowering human beings, a philosophy that emphasizes truth, tolerance and generosity. It has ideals that seek to promote empowering individuals.

I hope that during all of my service in the Chamber and as a member of Parliament I have pursued those goals. At that time I also spoke of how my people came to this country. Last evening I shared with my daughter, who is present in the gallery today, the speech that was given in 1881 by the Colonial Secretary to Italian internees in the Domain. He spoke to them about their need to find a job—it did not matter what it paid so long as they got a job; to get out and go their separate ways, rather than moving together as a group; and to learn English and the ways of the English people because that was the only way they would progress.

The rules for staying in the Domain—in a wooden exhibition building at the time—were that they had to be there to answer the call at 8.00 a.m., 1.00 p.m. and 8.00 p.m. and they were not to go to any other part of the quarters, except with the approval of the superintendent. They were not allowed to leave the Domain unless they got a job. It is fascinating that almost everybody approved of that at the time. The Government had saved these internees from death and was laying down the rules on how they were to operate after their arrival in this country. Under those rules, if they found a job they took up a one-page employment contract, a copy of which I hand to the Minister for Industrial Relations. Under that contract of employment, which referred in part to "the person for the first part, the person for the second part", an internee received £20 per year, paid quarterly, to be a useful person. The contract would also provide for an internee's family, his wife and three children. Importantly, at the end of five years of such service these people were to be granted by the State of New South Wales a house

of four separate rooms and, according to the *Government Gazette* of the day, 20 hectares—not acres—and more land if they were more worthy. What a way to bring people to this country. Sure, it was assimilation, but it was a fair method of dealing with the needs of the day.

The New Italy Museum is up and running due to the generosity of the Greiner Government and particularly the Fahey Government, and also to a donation from Maurice Iemma. The museum celebrates the settlement of New Italy, which was established by Henry Parkes, and the school was established in 1883 by means of a document signed by my great grandfather—who did not sign with capital As or capital Ps—and a local resident. The form used to establish the school was a one-page document on which there were about three signatures, and that was it. It is quite different these days when bureaucrats have to go through every tumble and turn. The New Italy Museum has been visited by large numbers of people in this Government and other governments. I encourage the Treasurer, who has never come to Lismore when I have been there, or has never let me know he is coming so that I could host him, to visit the museum. Maurice Iemma has been a constant visitor, as have the Governor and Governors-General. The museum should be seen.

I came to this Chamber intent on fixing a number of things. I wanted to stop the North Coast being the forgotten north, and to an extent I have failed in achieving that goal. I also wanted to cure the problems with health care and to fix the Pacific Highway. At last the Pacific Highway is being given some form of appropriate funding. However, the forgotten North Coast of this State had, and still has, the lowest per capita income of families anywhere in Australia. We have been through a period of terrible expansion and rapid population growth without the benefits of infrastructure development. We were just getting there under the last Fahey Government but again we crashed. I was not successful in getting the Treasurer to produce a North Coast budget statement, even though I asked him every year when we were able to speak in reply. We on this side of the House have not been able to speak in reply to the budget for the past two years because that is the way this Government runs the Chamber. Each time I have asked the Treasurer, "Where is the North Coast budget statement that you promised in 1991?"

The Hon. Michael Egan: You convinced me it was a bad idea.

The Hon. Dr BRIAN PEZZUTTI: No, I knew it would be a joke. However, I came here at a time when the doctors were in dispute with the Government. We had seen the crash-and-burn effect of Laurie Brereton, and the very good stewardship of Unsworth. I recall the very decent Ron Mulock having to carry the can at the last minute when Neville Wran and Bob Hawke had to apologise profusely on television, withdraw the section 17 legislation and pay up. I well remember when nurses were in turmoil. I can vividly remember the huge demonstrations before the Coalition came into government in front of Sydney Hospital and at Royal Prince Alfred Hospital. At that time nurses were losing heart and walking away from their work, as they are now.

I have achieved some successes since became a member of this House and I would like to mention a few. One success was in relation to the distribution formula for health funding. I own the idea about a population basis for health funding. That idea came to me following a discussion with Dr Harris, who was the North Coast regional director at the time. Dr Harris said to me: "Brian, if we got our fair share of funding, both capital and recurrent, we would be laughing because we are so efficient up here. Our length of stay is shorter, and a bigger number can be treated." As I mentioned in my maiden speech, we were able to put more people through the same number of beds. Dr Harris made clear that the quality of care would be better than anywhere else if we just had our fair share. I took that idea to Peter Collins and he said it was a fair idea. Eventually Peter Collins wrote to me—action does not take too long when your party is in government and you have got can-do Ministers—on 13 February 1990 and said:

It is with this in mind that I approve the use of the resource allocation formula to guide funding allocations beginning 1989-90. My aim is to redistribute health resources over a 10-year period towards those areas of the State experiencing rapid population growth.

I mention that only because this year we are getting there. We were almost there in 1995 but the Government took a step backwards with Dr Refshauge as Minister for Health. This year, for the first time I believe, if I accept the rhetoric of the department, everybody on the North Coast, plus or minus 2 per cent—and on the North Coast it is usually minus 2 per cent—is getting their fair share of the cake. That cake is cut up in a different way to that arranged by Peter Collins but the funding process is more transparent. I was able to achieve that main goal of ensuring that we got our fair share. I was also able to achieve a return to the section 22 committees and peer review in our hospitals, without the information within that review process being discoverable for use in courts.

I hold a copy of the latest copy of a report entitled "Safety of Anaesthesia in Australia" by the death under anaesthesia committee. Obtaining secret and confidential information is the only way to find out why people are dying, what the morbidity rates are, and what is happening. In 1984 one in 26,000 people died of causes associated with anaesthesia, yet in the 1997-99 report the rate is one in 79,509, most of whom were at the highest level of risk. Nobody under the age of one died in New South Wales of anaesthesia-related causes in that period. That is remarkable, and the co-operation of members and their ability to work in an open and confidential way within the committee enabled us to achieve those results. These are the best figures in the world by a long way, on the basis of the 130 cases being investigated in which anaesthesia played a part in the death of a patient admitted to a hospital in Australia. That is due to the work of Bernie Amos and Marilyn Walton from the Health Care Complaints Commission in convincing Peter Collins and the Government that notwithstanding Laurie Brereton taking away that protection and privilege we could actually do things that were beneficial. That is the basis of all peer review and all quality assurance programs, and is recognised by the current Minister for Health in relation to risk management.

I contributed to securing and completing negotiations for Peter Collins on the Mental Health Bill in 1990. Ron Phillips and I negotiated with every community group uphill and down dale for almost 15 months until we reached full agreement. We came into the House with a new bill. Lis Kirkby wanted to amend the bill, but we got it through almost unamended because we had widely consulted on it. It was the best we could do to provide treatment and care to people with mental illness in the least restrictive environment. However, Peter Collins wanted to exclude a couple of things from the bill. For example, he wanted to exclude hypnosis. Ron Phillips and I did the negotiations, and we could not for the life of us find out what harm hypnosis was doing. We could not find any evidence. So we wiped hypnosis from the bill. Peter Collins also wanted to ban psychosurgery, which was in the bill initially. I had that taken out in the party room after a major effort. The party room listened under Greiner. Ministers were locked into Cabinet decisions, sure, but there was a way to get the party room to vote against a Cabinet decision. That was not with Ministers walking out or Ministers being there, but getting views aired and discussed in the party room. We were also able to roll Nick on a couple of other things, like big trucks on little roads, and so on.

The Hon. Duncan Gay: And conveyancing.

The Hon. Dr BRIAN PEZZUTTI: Yes, conveyancing. I was able to get a few things done as well. I was able to get funding for the second New South Wales branch of the AIDS Council outside Sydney, which was established on the North Coast because it was necessary. We put up the argument and Peter Collins funded it. Importantly, we were able to get help to fund the collection of information to be included in the worldwide study on intensive care morbidity and mortality, which was called the Apache II trial. That was the first time we were able to get critical care processes in place to collect information on a big scale and to get databases that mean something. In the Apache scoring process we were able to demonstrate that morbidity and mortality rates were better for seriously ill patients in New South Wales than for equally seriously ill patients in America or, indeed, elsewhere in the world. That was one basis of being able to demonstrate that we were better.

Establishment of the pain clinic at Royal Prince Alfred Hospital was one of my big wins, as was the new hospital at Port Macquarie. I remember John Hannaford and Ron Phillips sending me to face the people of Port Macquarie on the green at Port Macquarie to explain that they were getting a brand new hospital that would be privately owned and operated but look just like other public hospitals. I copped a fair bit of good humoured and bad humoured criticism, but the reality is that that is exactly what was built. The hospital that was built at Port Macquarie is bigger than Coffs Harbour hospital; it cost half the money in real terms, comparing the cost in today's dollar terms; and it operates more efficiently because it is a more efficient building. At last this Government, forced by an inquiry I was doing into value for money and quality of services in country areas, sent Mick Reid to Port Macquarie and guaranteed that the people of Port Macquarie would get their fair share of mid North Coast money, and be properly funded after years of neglect by Refshauge.

Refshauge kept including in recurrent funding the cost of renting the building not from Mayne Nickless but from another company that owned the building. It is no wonder Port Macquarie was \$7 million behind the eight ball. At last it will get its fair share and Port Macquarie hospital will look as it should, that is, a public hospital. The only thing that is missing is quality mental health services. The Government must change the Act to allow a private company to operate public mental health services. I believe I had an impact on the swimming pool legislation. Again, I had the agreement and strong support of Nick Greiner simply to make the bill comply with the Australian standard. In doing that, I lost my friend John Valder along the way. John Valder was appalled—

The Hon. Charlie Lynn: Did he drown?

The Hon. Dr BRIAN PEZZUTTI: No, he did not drown. I crossed the floor on the swimming pool legislation without criticism from my party. The vote took place close to preselection but my crossing the floor did not have an impact on my preselection because it was something I believed in passionately. I explained that to the party room and the party room was happy. The only trouble was that when I crossed the floor Ted Pickering said, "It's fine, have a bit of a jolly." I said, "But I'll win." He said, "No you won't, mate. Can't you count?" I said, "Of course I can count." So I crossed the floor and I was sitting where the Hon. Dr Peter Wong is sitting. I was feeling a bit anxious about it all when the Labor Party came in and supported me, thanks to the work of Grant McBride in the other place. Suddenly Pickering stood up and said, "What? What? What?" He did not realise that if one vote is taken from this side of the House and put on the other side of the House that makes two. Poor old Ted could not work that out. Then he had a go at me because he thought it was just a song and dance that would not make any difference, but it did.

I had to fold on that issue when we ended up with an unstable lower House being controlled by some strange people. The Independents were so bound up in their own persona they could not see the wood for the trees. I helped to open the Jali Aboriginal aid centre on Cabbage Tree Island, which was the first aid centre opened by the Coalition Government. I notice the Government has opened quite a few more aid centres. It was important to allow Aboriginal people to start controlling their own health services after the establishment by the previous Labor Government of Aboriginal medical centres at Blacktown, Redfern and La Perouse. The new centre established at Casino by the Government and Andrew Refshauge was most welcome.

Let me tell you about the creation of the position of chief nurse. I went to see Peter Collins and said, "What sort of nursing input are you getting into this show?" He said, "I don't know. We have the departmental advisers." The nurses were a critical group for the Coalition when we came to Government in 1988. I said to Peter Collins, "I have had a bit of a look. There are quite a few nurses in your department but they are in human resources or the corporate support section down on levels three and four. You have no internal management of advice on nursing." So Peter Collins said, "Let us have an office of chief nurse." Along came Judith Meppim, who served this State extraordinarily well, and who retired last year.

Linked to that, I was strongly in favour and supportive of Ron Phillips' idea of creating the position of nurse practitioner. Ron bore the brunt of that change—a change we needed to make. He and I are both very disappointed that there are still only two nurse practitioners in New South Wales at present. One of them is at the children's hospital in Western Sydney, which was not the aim at all. So after eight years of Labor Government there are still only two nurse practitioner positions. We fought that through the Australian Medical Association and with the nurses. We got our act together with the College of Nursing, but there are still only two nurse practitioner positions.

The Hon. Duncan Gay: Where is the other one?

The Hon. Dr BRIAN PEZZUTTI: The other one is working in mental health services near Gunnedah. Another thing I was able to do was to convince Ron Phillips that we needed a research funding base for infrastructure in New South Wales. The State does not fund medical research or basic research at all; research funding comes from the National Health and Medical Research Council [NHMRC]. However, I was able to convince Ron Phillips that, instead of the centenary institute putting in a big bid to construct the Garvan Institute building or something, we needed a firmer basis on which to move forward transparently so that smaller organisations could get their act together and make a bid. That was driven by Nick Greiner's concern that all the research money was being allocated to Victorian institutes by the NHMRC and the national institute. The only institute in New South Wales that was getting any base grants was the Garvan Institute.

So the Coalition Government allocated a large amount of money. The current Government, to its credit, has continued that funding under the same arrangements, and the funding is allocated not in a palsy-walsy way but on a proper contracting basis. That is good. I give credit to the Government—I give credit where credit is due—because the current Treasurer has been most generous in funding that infrastructure development so that we can get grants and we can get our researchers doing the work.

I protected the people of New South Wales from optometrists, who, from 1988, wanted to do just about everything. Fred Hollows, with whom I had worked for many years, said, "Whatever you do, I have got cancer, just don't do it." So, we did not. I was able to protect the people of New South Wales until this year, when it came to the crunch. The optometrists had to walk away without getting everything they wanted. When I was Parliamentary Secretary I was able to get folate put into bread against the advice of our good friends the food police. They had forgotten they were the servants of the Ministers; they thought they were their own little body.

Gai Pinkus, who was Secretary of the National Food Authority, said that we could not do it for a number of reasons. We told her to do it, she did not do it, so she went, and we got it. That will protect a large number of women in this State from having children with spina bifida. I was able to line up with my friend Peter Wong to convince the Liberal Party that the Premier was being as silly as Gai Pinkus about monosodium glutamate. I am pleased we put that to rest. It was a good example of how we can work together.

When I was Parliamentary Secretary I launched the Hot Water Burns Like Fire Program, which has probably saved children a great deal of misery. That program, which is being restarted, was probably the most effective public health program that has been run. During this Parliament I was able to introduce the idea of ticking healthy foods. We had a quit smoking program, and I was able to convince the Hon. Max Willis that we needed defibrillators in this place, which were installed. The current President is inquiring into whether they need to be upgraded. Immunisation has been a major matter of concern to me and I have asked many questions about it. Things are now improving in New South Wales, thanks in particular to the Federal Government, but a lot more work has to be done by those who follow. Helicopter rescue services are very important. The Hon. Andrew Refshauge created problems by using smoke and mirrors, but we were able to institute a proper contracting basis from which to establish those services across the State.

There have been a number of reports on health, and one in particular on hospital waiting lists. Bob Carr said he would resign or cut his throat, or something, if he did not reduce the waiting lists. They were reduced, but the Government needed to use every bit of guile it could to convince the Hon. Lis Kirkby that it was even vaguely close to being right. Pat Staunton was horrendous during that inquiry. I am sure that to this day the Hon. Lis Kirkby regrets that she sold her soul on that issue and—being a paragon of debate and discussion—moved on 68 occasions that the question be put. She supported the Hon. Ian Macdonald in imposing the gag at the Committee stage. Each time she moved the gag tears welled up in her eyes, but she was not particularly honest on that occasion.

As a backbencher I have been interested in Dr Dascolopoulos and the dye that was wrongly injected at Canterbury Hospital. Craig Knowles said he would get this guy and have him for murder. Dr Dascolopoulos has been through a most trying two years. He got a little tap on the wrist from the Medical Tribunal, which again displayed its usual ability not to apply natural justice. The Supreme Court kicked to death the District Court judge who chaired the tribunal, as well as the medical board people, who do not understand the first principles of natural justice. It wiped the slate clean for Dr Dascolopoulos, but two years later Central Sydney Area Health Service has still not reappointed him. This highly skilled professional, through no fault of his own, had to go to the Supreme Court but the service will not reappoint him. It is a disgrace what bureaucrats will do.

In government it was pleasing to work with the Hon. Ron Phillips and the Hon. John Hannaford. Greiner had the idea that he could have a Minister for Health and Community Services and another Minister who did the work—a policy Minister and a doing Minister. It was a good idea but it did not work. As Parliamentary Secretary to those Ministers I signed 20,000 letters for them—more letters than I will receive in my entire life. That was good for me because I understood what the community was worried about, how the bureaucrats were dealing with them, how the ministerial advisers were mucking around with them, and how the director-general felt about them. One learns an awful lot signing those letters: it is something that every member should do. The Hon. John Ryan is going through that process at the moment for the Leader of the Opposition. I am sure he is learning a lot about what is worrying the people in the State and the solutions that are being offered by his colleagues and whether they will fix the problems. I attended a large number of openings and closings.

The Hon. Dr Arthur Chesterfield-Evans: A lot more openings than closings, I bet.

The Hon. Dr BRIAN PEZZUTTI: A lot of openings. When the Coalition Government opened the extensions to Sydney Hospital, it made a total of 27 new hospitals opened under the Greiner and Fahey governments, against three opened by Labor during the previous eight years. There were many openings, all over the countryside. On one occasion I opened the Cowra Show. We set a national agenda with the Minister for Health in Victoria and the Labor Minister in Queensland. Ron Phillips got them together and they drove a new national agenda. There was an attack on heart disease, which has been successful, an attack on cancer death rates, which has also been successful, and a successful attack on asthma. The State Ministers took that agenda to Graham Richardson, who suddenly realised he was being overtaken. That was because of Richard McKinnon, one of the smartest advisers I have ever met. He worked with Ron's staff, Dr Paul Fitzgerald, Carleen Wilson and Ross Thornton—the three names I remember vividly from those days.

I believe that the Premier is a man of good intent. He talks about the need for research. He has said that no-one has led to the improvement of human condition more than medical researchers have by relieving

suffering and saving lives. That is what drives the current short-term Leader of the Government in this place, the Treasurer, to fund research. I have had the privilege to work on the University of New South Wales and Southern Cross University councils and to start off the latter university as best I could. I worked on the Law Society's complaints process and I think I improved it. I was able to put in place not only the health care complaints legislation but also the joint parliamentary committee that supervises it, which is doing tremendous work at the moment.

I have served on a large number of committees and I have probably read more papers and distilled more information than any member in this place, because I have had to. The committee on hospital waiting lists was a disaster personally because of the dishonesty of a large number of people—not particularly the Hon. Lis Kirkby, but the department, in being particularly treacherous. The committee that I remember most vividly as the first to produce a report which stepped away from the evidence was the committee that produced the first report on veterinary laboratories. That committee, which was chaired by Patricia Staunton, received 120 submissions stating that veterinary laboratories and the Biological and Chemical Research Institute at Parramatta should stay open. The Hon. Ian Macdonald nods his head, and if the Hon. Eddie Obeid were here he would nod his head wisely as well. The only evidence against those laboratories remaining open was from the department. It was pretty lame evidence, but Pat Staunton went all the way with it. The Hon. Jennifer Gardiner and I, with the help of the Hon. Ian Cohen, wrote a strong dissenting report. That was the first time a parliamentary committee stepped away from reporting on the evidence it received. That was a disgrace and a great shame.

I come now to a few other matters with which I had some success. I had a few successes with the Gordon's Bay volunteer bush regeneration project at Coogee. During my Commonwealth Parliamentary Association travels I had the opportunity to look at the issue of drugs and drug policy. I learned a lot from visiting places with populations of about seven million, similar to New South Wales, such as Quebec, Washington DC, Sweden and Switzerland. I learned a lot about drugs and drug treatments at that time. I was able to ensure that my party stuck to the straight path, first of all, of having decent repression, as do the Swiss, compassion for drug addicts, and provision of adequate rehabilitation and other services for those who want to get off drugs—neither of which this State has enough of. Michael, if you are still Treasurer next year—or if the Coalition is in office—you should look at those two issues.

The "Boy" Charlton Pool I believe is one of my great successes. Both Ron Dyer and Michael Egan said I was being tedious in asking so many questions about it. But the pool has been rebuilt, and that is of great advantage to the community. I was also involved with a large number of preselections. I think I was on the winning side in most of those. The new crop of Liberal party candidates is probably the best I have ever seen. Certainly, it has the largest number of bright, new, hard-working people—many of whom left their jobs three or four months ago to campaign full time for the election. That is unheard of. They are getting a lot of support.

The mental health report that I tabled last Friday was launched today. I thank Michael Egan for letting me speak this morning about it. It is probably the most dramatic report that I have seen. I say that in recognition of the hard work of the secretariat and the members who served on that committee, including Amanda Fazio, John Hatzistergos, Peter Breen, John Jobling and Doug Moppett. Doug Moppett kept attending the meetings up to four days before his retirement from this place. That was how important he regarded the issue. Of course, Arthur Chesterfield-Evans initiated that inquiry. This has been my swan song. I do not think I could have undertaken that inquiry without the experience I had. I thank the committee members for their support. My thanks also to the secretariat, Rob Stefanic and Bayne McKissock.

Another committee that I was part of, and a committee that John Jobling has served for many years, is Staysafe. It has initiated a number of measures that save lives. The wearing of bicycle helmets by kids has saved thousands of lives. If only that attitude were shown to Staysafe more often! I have not seen a report from Staysafe for a while. It must be hibernating. Another important issue, also mentioned by John Jobling, was the coastal inquiry. I became a member of that committee just before it was due to report on its inquiry. The Premier point-blank refused to restore that inquiry to the committee, which meant it would have died. I convinced the Premier that the committee should continue its work, and he restored that inquiry.

The committee made a 24-word recommendation—with Ian Macdonald and Richard Jones preparing a brief dissenting report. Everything we recommended is now in place. That is thanks to Robyn Kruk, in particular, for convincing Nick Greiner and Gary Sturgess that this was the way to go. Robyn Kruk was crucial in that respect, as was Robert Webster, an excellent Minister. They made Nick Greiner realise that if he was to go to meetings on the environment with heads of government he had to have appropriate credentials. A

depiction of the sun rising over North Head and South Head encapsulated the report. Some time prior Ian Macdonald had pinched that initiative to use as the Labor Party's policy for the election that nearly toppled Greiner. In fact, he stole the title of the report. That was disgraceful.

I have had a few failures. I could not get the North Coast budget that I wanted. However, I have found in my files a copy of debate on the State Debt Control (Balanced Budgets) Bill, which was introduced by Premier John Fahey on 24 November 1994. So anybody who thinks that Michael Egan is doing this because he wants to should know it is because John Fahey said he had to. I say that because I think it is important. I am very upset that I did not get the budget that I wanted. I know the Hon. Janelle Saffin would agree that we needed that budget and to show how badly we have been treated. The Hon. Janelle Saffin and I have released many joint press releases on a number of local issues. We have always been very happy to co-operate.

Another tragedy was not being able to ban this document, the Terrorist's Handbook. I directed about 20 questions on the issue to Attorney General Jeff Shaw and other Ministers about banning this document. But it has not been banned and it remains on the web. It is disgraceful that we still have no real method of controlling or censoring what is on the web in order to protect us.

The Hon. Richard Jones: It is not possible.

The Hon. Dr BRIAN PEZZUTTI: It is possible. Members will recall my freedom of information request which resulted in a response that if I paid \$26,070 I would get the information. I had simply asked what Queen's Counsel had been briefed by the Minister for Industrial Relations and the Attorney General to appear before the Industrial Court. That followed an allegation that only mates were getting briefs. Instead, I was asked for \$26,070 to supply the information. Jeff Shaw, to his credit, gave me the answer for nothing.

Another of my great regrets relates to the Justice Bruce incident. I believe this House did Justice Bruce a grave disservice in allowing him to hang on and hang on. This House should have taken the advice of the Attorney General and judicial officers at the time and allowed him to be cut loose. It was a tragedy to see this man staggering on. My speech in support of Justice Bruce's dismissal put the position fairly. It is sad that eventually he had to leave the way he did. But the way in which the House dealt with that matter was a disgrace. The Independent Commission Against Corruption has been well served by some good people and badly served by others. Justice Roden's belief that Parliament was nothing more than a post box did none of us a favour.

Of course, Michael Egan had a bad run with his bed tax. Remember that? I do. I asked Mr Egan if he thought brothels should pay bed taxes. His reply was, "I hope it's not a personal concern of the honourable member—they are." I said at the time, "This certainly makes Mr Egan the biggest pimp in the world." That probably summed it up. But, at the end of the day, Bob Carr walked away from the issue. I regret also that we were not able to carry the day in this Chamber on changes to the age of consent. That was because of my absence in East Timor and the absence of the Hon. Dr Peter Wong. That is a matter that needs to be corrected in New South Wales. We need to raise the age of consent for young women, deal with exploitation of young women, and change the age of consent for males.

I seriously regret that I have had to do so much travel as a member of this place. I note that the Hon. Janelle Saffin keeps being pilloried about how much she travels, but last year I spent \$10,000 more than she did travelling backwards and forwards between home and this place. Yet she is subjected to criticism and I seemed to escape it.

The Hon. Dr Arthur Chesterfield-Evans: Teflon man!

The Hon. Dr BRIAN PEZZUTTI: I may be the Teflon man, but I am not the Tutti-Frutti man, as Michael Egan often accused. Where is Michael Egan? I have some good photographs that I want to show him, including a great fruit shop in Kempsey. Helen Sham-Ho found a picture of Tutti-Frutti in Malaysia. The best coffee shop in Florence is called Tutti-Frutti. But I have to say that the winner of the best veggies project was the Northern Rivers Area Health Services' Tooti Fruity Veggie project, run by Aboriginal people to grow their own vegetables. So I am very proud of that.

I would now like to thank a few people. First of all, I thank my wife and children, who have put up with my absence and the difficulties that has caused. In particular, my wife, who is isolated in Lismore while I am here much of the time, has had a difficult time. She assisted me in establishing the Liberal Party in Lismore and has been there every time I have needed her help. Sadly, often when she has needed me I have been away. My kids have grown up without having a mum and a dad as close to them as we would have liked, but they have turned out very well and we are proud of them.

I thank some local Liberals: Denys Wynn, Malcolm Marshall, Chris Marshall, Dr Stuart Sillar and Dr Bill Nardi and his wife Pam. I also thank former members of my staff: David Barnes, whom everybody would remember; Anthony Roberts, who now works for the Prime Minister; and Dr Cintina Blainey, who, without doubt, was the highest paid researcher in this place but also probably the best. Dr Blainey was one of the greatest acquisitions for a member of Parliament. I would also like to thank members of my staff who worked with me: Danny O'Sullivan, Mel Gibbons, Andrew Stone and Ainslie Thomas. I have also been assisted by a large number of interns.

The staff at Parliament House have been my good friends. I have made a habit of using the service lift on level 11 where I have met the catering, cleaning and maintenance staff. They are all great people who are here to help. Every time I have asked, they have come to help with great vigour. I particularly thank David Draper, Joseph and Maureen in the dining room and, of course, Santiago. The security staff have been fantastic. Hansard staff have always had trouble with my speaking and have complained bitterly that I interject in the middle of speeches. They have been very tolerant with me and have been very accurate over the time. The attendants, particularly Maurice, Lucy, Katrina and Ian have been great friends of mine, as have Robert and Charles.

The Clerks have been helpful and unhelpful. Sometimes they say yes and sometimes they say no, but they have their standards and they stick to them. I thank Les Jeckeln, whom I remember as being very helpful, as well as John Evans and Lynn Lovelock. Warren Cahill has been a difficult person, and I now understand why the Treasurer stays well away from him. Beneath that mild-mannered exterior lie bulging muscles. He is a really powerful person. Stuart Lowe and Glenda Baker have kept me on the straight and narrow from the logistic support allocation [LSA] point of view. Of the public servants I have met I particularly mention Bernie Amos, John Wynn Owen and Robyn Kruk. I believe the most important health public servant we have had in this State was Mick Reid, backed by Bob McGregor. I have had nothing but support and help from those two bureaucrats. I particularly mention Debbie Picconi. Sometimes Deb is helpful and sometimes she plays a bit of politics. Mostly her heart is in the right place. The most recent addition is Robyn Kruk, who without doubt is the most experienced public servant to come to health. I believe she will be a very healing addition to Health and will work well with Jillian Skinner when she becomes the Minister for Health.

Of the members I have known, the women stick in my mind. In particular, I remember Judith Walker for her strong support in the debate on industrial relations. It was one of the longest debates we have ever had: we had 17 hours of bellringing, with the bells sometimes ringing for one minute. As members would understand, Judith Walker was on her feet for almost all of that time. She presented her arguments clearly and with great style and did not lose her cool. John Fahey was astonished by the breadth of her knowledge and wisdom. He gave her due credit and liked her very much.

Annie Symonds was a great woman of this Chamber, as was Virginia Chadwick. One day I had a go at Judith Walker. I did it in a most unusual way for me because I got a bit personal. Virginia Chadwick gave me a kick at the table. I said "What was that for?" She said, "That's my mate. You don't mess with her." Marlene Goldsmith was another great woman. A headline in today's paper states "The Liberal Party has plenty of heart but not much head". Marlene Goldsmith was a person who could write well and put Liberalism in its true perspective. We desperately miss her. I am really sad that Marlene was taken from us so early. Pat Forsythe is another of the great women in this Chamber. Pat will go a long way. I will miss Deirdre Grusovin, but I will not miss some others. Max Willis was one of the great Presidents of this Chamber. His leaving the Chair was most unfortunate.

The Hon. Charlie Lynn: It was spectacular, though.

The Hon. Dr BRIAN PEZZUTTI: It was also unfair.

The Hon. Duncan Gay: It was deserved.

The Hon. Dr BRIAN PEZZUTTI: It was not deserved. I was in the President's chambers having a last drink with Lis Kirkby, and Max was drinking water. He must have had a flu tablet because he was sober when I was in there, yet barely 15 minutes later we saw some unusual behaviour in the Chamber.

I remember vividly good friends from the other side, such as Johnno Johnson, Deirdre Grusovin and Ron Dyer, who has been a good friend to people with disabilities. He gave a lifelong guarantee of support to people with disabilities. Although he did not refer to it in his speech today, it is probably the most significant thing he

did in his years working for supported accommodation. Of course, I cannot forget Michael Costa. I love Michael Costa and I reckon you will like having him around. He will be leader in this place very soon. Della Bosca will miss out because he is too nice a bloke.

Carmel Tebbutt is growing in stature and is doing a good job. I will particularly miss Tony Kelly, who has been a good mate of mine. I have served on committees and travelled with him. He is a very decent bloke, as is the Hon. Ian Cohen. We all worked hard for Ian Cohen's preselection and reselection. We were all very worried about what she would do with him. Ian Cohen is a really decent person. He says how far he will go and how far he will not go. He does not do deals, but he will put his argument and you are able to talk to him and try to convince him. He is always very decent and I like him a lot. I think he will go a long way.

I have saved the lives of two people in this Chamber. One is Ian Macdonald and the other is Paul O'Grady. I will not tell you how or why, but I do not regret doing it for either of them. Ian Macdonald has started to do some work in the Chamber for the first time in all his years here. I agree with the words of the Leader of the House that Ian Macdonald has worked very hard this year. He has been a very good politician. He has worked against us in many ways on this side, but he has worked for his party.

On this side of the House Beryl Evans and Dick Evans were the first people I met when I entered politics. I remember John Jobling for all the good reasons I gave last Friday night—I meant every word. John Hannaford was a great leader. He was the second person who came to Lismore to give me support after Peter Collins had opened the Liberal Party branch. John Hannaford was a great inspiration. I was Parliamentary Secretary to Ron Phillips, who got every bit of work out of me he possibly could. He was a tireless worker and was committed to health. That is what I liked about him. Jillian Skinner, the present shadow Minister for Health, is one of the hardest working shadow Ministers. She is very effective and has some good policies that are ready to be released soon.

Ted Pickering was an interesting person. It was hard to get close to Ted, but much easier to get close to John Dowd. However, I shared with both of them a strong urge to be a little "I" liberal. I really enjoyed Kathryn and Nick Greiner. Again, I found it hard to get close to Nick, but to see him cry about the suffering of AIDS victims told us a bit more about the man. He was a very private and shy individual who wanted to improve the lot of the people of New South Wales. Jim Samios is without parallel in his work with ethnic communities. I commend him and his assistant, Gloria, for their efforts to get us to attend various functions. John Fahey is my favourite politician. He was a person you could get close to, a really nice man who personally cared about what he was doing. John had good people working for him because they liked working for him. I still see a lot of John. He is on to his eighth check and there is no cancer. His voice has improved and he has a bounce in his step. He and Colleen are booming along.

I think Richard Bull and Robert Webster were the pick of the Coalition side, by streets. I also think that Duncan Gay and Jenny Gardiner will make excellent Ministers. I have had lots of disagreements with Duncan over time and, yes, he is a bit of a bully from time to time, but at the end of the day he is a very decent person. As John Jobling said, Duncan is a bit of a marshmallow when you get past the rough exterior. In the Liberal Party I have some very good friends, and some of them—Betty and Lindy—are present today. Some very good friends in the Liberal Party have guided me with their extra wisdom. I mention John Valder, Stephen Litchfield and Peter Kidman, whom I mentioned in my first speech in this place and who is still around, although not working in the party. The women's council of the Liberal Party of New South Wales is an extraordinary group. The guiding lights for my future work are Peter Baume and Chris Puplick—the two who held out the image of our direction. Andrew Peacock and Prime Minister Howard were very great sources of inspiration, as were John Tierney, Tim Moore and Terry Metherell, who told me what I should do but not how to do it properly.

But the future of this Chamber belongs to Mike Gallacher, the very talented and hardworking John Ryan, and Don Harwin, who knows where all the bodies are buried and who knows more about politics and what has happened before than anybody else. Don has learnt the lessons of history. Greg Pearce is a fearless person and we need some fearless people. He has a lot of integrity and he will go a long way. Of course, with Melinda Pavey being elected to this House and with Catherine Cusack and Robyn Parker coming into the Chamber, we will have a new breed of young women, and we also need them. Catherine Cusack is without doubt the most talented person I have seen during my time in this House. I was thrilled when she moved to the North Coast and I was equally thrilled when the party changed the preselection process to enable preselection to be done by provinces so that I could get someone to replace me who would be passionate about the North Coast. John Brogden will win the next election, as he should. He is, without doubt, one of the brightest people that I have had to deal with; certainly he is the most compassionate, and he has a better grasp than most because of his

background and his life experiences thus far. Nick Greiner said four years ago at a Coalition dinner in Coffs Harbour that at that stage John Brogden had more political experience than Nick had when he was Premier in 1988, even though Nick had been Leader of the Opposition for some time before winning government.

Finally, I want to mention my army career. When I went to Lismore to rusticate and to be a specialist anaesthetist, never in my wildest dreams did I expect to happen what has happened to me and my family. First of all the children came along, and that was great; then politics came along, and that was interesting; and then the Army came along, and that has made me realise that this nation is very well served by democracy, by the decency of the people on both sides of this Chamber who can deal with differences in a democratic way, even though we may disagree violently, and by the rule of law. The Dalai Lama said that a society without order is a society without freedom, and that is what we need—order and freedom, and the right doses of both. I think about people who give their lives for us, especially the Special Air Services [SAS]. I have a poster in my office that many people have seen. It is of Jonathan Church, who was an SAS officer and who helped to protect me when I was in Rwanda. He lost his life in the Black Hawk helicopter disaster, and his death was a great loss. He was a towering fellow but a very gentle person. The picture in my office captured him carrying one of the children from Kibeho. It depicts him accurately, but he was also a tough fighter. These are the people who protect our democracy.

I have enjoyed many friendships in this Chamber. I would like to make one last comment about the Leader of the Government in this place. When the Wood royal commission was being held I received a number of phone calls and a written message from Dr Vaughan Turnbull, a South Coast physician, advising me that he had lost 11 of his patients to suicide because they had been implicated in the Wood royal commission. Dr Turnbull told me through tears that although there is no death penalty in this State, even for paedophilia, 11 of his patients had died. I tried to do something to get the Department of Health to give people accused of such offences somewhere to go to receive counselling. In the absence of the Premier and the Deputy Premier, who were out of the State at the time, Jeff Shaw and Michael Egan were most sympathetic to my request. Jeff Shaw was the acting Minister for Health at the time, and he and Michael Egan contacted the Department of Health and made sure that counselling services were available, even for people who were being accused of paedophilia, because everybody deserves to be helped. Michael Egan was most fair about that, as was Jeff Shaw.

I thank also the Premier, who gave me help in my hour of need, when I was having trouble with Mr Speaker. The Premier was more than happy to take my phone call from across the world; he came to my aid in dealing with a most recalcitrant and difficult person. Madam President, I thank you very much for giving me this time. I will not read the classic letter I showed you earlier today: I hope you continue your fight against sexism and racism for so long as you have breath in your body, because we all should. I wish you all the best, but I believe you will be replaced in the new Parliament either by Tony Kelly or by a member from the Coalition. Members on both sides have worked extremely hard in my time as a member of this Chamber. There are many rising stars on the Government side. Amanda Fazio has a great future ahead of her; I am impressed by her commitment and her intellect.

The Hon. Rick Colless: What about Jan Burnswoods?

The Hon. Dr BRIAN PEZZUTTI: I do not think Jan Burnswoods has anywhere to go. Madam President, I thank you for the time I have taken today. In conclusion, I wish all members the very best for the future. I would be more than happy to have dinner with any member of this Chamber at any time.

The Hon. HELEN SHAM-HO [1.06 p.m.]: It is impossible at this time for me to say everything I want to say, but people say that at times some things are better not said. Consequently, I will not speak for very long on this occasion. In goodwill, I ask all honourable members for the last time to bear with me. In 1988 at the beginning of my maiden speech, I quoted the Chinese philosopher Lao Tse, who said:

千里之行始於足下

which translates to, "The journey of a thousand miles must start with the first step." My parliamentary journey, which will come to an end in March 2003, has been winding and at times rough. There have been many ups and downs, and often I have had to run in order to keep pace. Looking back, I think that the theme that has run through the last 15 years has been that I have always stood up for the principles I believe in. I have always fought for justice and fairness in all my parliamentary work, and for my passions. I have tried my best. I have never given up, despite the often harsh consequences I have had to face and the personal costs I had to endure.

As the first Chinese-born member of Parliament in Australia, my election in 1988 was historic. It was a true testimony to Australia's great democracy, its diverse culture and emerging maturity as a multicultural society. I symbolised the aspirations of migrant Australians to fully participate in public life and the patriotism of migrants who have chosen to make Australia their home and to bring up their children here. I was a pioneer for people of Asian backgrounds to be active in public life. Since then 10 members of Asian background have been elected around the country, including the Hon. Henry Tsang and the Hon. Dr Peter Wong. Richard Lim was the first Minister of the Crown in the last Liberal-Country Party Government in the Northern Territory. I congratulate him.

I will always feel indebted to the Liberal Party for giving me the opportunity in the first place to become the first Asian-born member of Parliament in Australia. I thank both my mentors in the Liberal Party—the Hon. Justice John Dowd, who was my supervisor in my law studies, and the Hon. John Hannaford, now an adjunct professor at the University of Technology, Sydney, and still my friend. Without their efforts and guidance I would not be standing here today.

I also acknowledge the Hon. John Jobling and his strict discipline as the Opposition Whip. He certainly never gave me many pairs! However, he was a good Whip. He has been the best strategist in this House. His retirement is a big loss for the Liberal Party and no doubt his knowledge of procedure will be sorely missed in the Legislative Council.

While I will not dwell on the lows of the past 15 years, it is necessary to mention the greatest hurdle of my political career, and the one that caused me the most personal anguish during my time as a member of Parliament. I am speaking, of course, about one of the most difficult decisions I have ever made—resigning from the Liberal Party in 1998. To this day, people do not realise just how hard that decision was. No-one will ever understand the pressure I was under at the time. With racism raging in the community, which was sparked by Pauline Hanson's racist remarks, the Asian community was absolutely outraged by the lack of leadership and inadequate response of the Prime Minister. The intensity of the anti-Asian sentiment in this country then is similar to the sentiment expressed now towards Muslims. In line with the Asian community's expectations—the Hon. Dr Peter Wong will vouch for that—and precipitated by lack of support from my colleagues, I relinquished my Liberal membership. Becoming an Independent member in 1998 was a major fork in the road for me. In every sense, I have been forging my own path since then. While it was initially frightening to be on the road alone, being an Independent has allowed me to follow my own conscience and to vote according to the merits of the argument. It has enabled me to stand on my principles. I have been able to maintain my true independence and remain non-partisan to this day.

My passions have always been in social justice, Aboriginal reconciliation, women's rights and multiculturalism. As a former social worker and as a lawyer before becoming a parliamentarian, I know that my experience, my knowledge and skills have helped my parliamentary work. In particular, my commitment to the Council for Aboriginal Reconciliation for 10 years was one of the most satisfying aspects of my career. Many honourable members are aware that I have raised many issues about Aborigines in this Chamber. Reverend the Hon. Fred Nile has raised similar issues. However, not many people know that I spend a great deal of my free time and weekends on council work attending meetings and events.

For me, working on parliamentary committees has also been very rewarding. As speakers have said today, parliamentary committees are a democratic process involving direct community participation. I thank the Leader of the Government for appointing me as Chair of the Standing Committee on Parliamentary Privilege and Ethics, and I thank members of the General Purpose Standing Committee No. 3 for electing me as Chair of that committee. There is no doubt that its inquiry into police resources in Cabramatta has certainly been most significant. John Evans, Clerk of the Parliament, told me that the committee's report was the most high-profile Legislative Council report he had seen during his parliamentary career. We had a picture taken together when the report was tabled. The inquiry has been most effective in terms of bringing about real change to policing policies in New South Wales. I was more than surprised when Premier Bob Carr thanked me personally for the recommendations in the committee report. Only today I received a letter from the Minister for Police, the Hon. Michael Costa, assuring me that his response to the committee's recommendations would be forthcoming out of session.

At the beginning of the inquiry in 2000, I was attacked from all sides. It was called a "whitewash" by Fairfield Councillor Thang Ngo, and the Hon. Greg Pearce called for me to step aside as Chair of the committee. The then Minister for Police, the Hon. Paul Whelan, even claimed that I had abused parliamentary power—he was later censured in this House for doing so—and the local member, Reba Meagher, criticised me for causing

"real and long-term damage" to the Cabramatta community. Throughout all the attacks, I persisted because I knew I was on the right track and I had community support. Indeed, I was vindicated when the people of Cabramatta appreciated the committee inquiry. They have benefited from the Government's positive response to the committee's recommendations. In fact, I am delighted to tell the House that I will be given an award by the community tomorrow night at Cabramatta. I am grateful to the committee secretariat's support for the committee and for me as chair. I thank committee directors David Blunt, who is at the table, and Steven Reynolds, who is sitting in the gallery, who expended all their energies to make the inquiry such a success.

Other parliamentary duties I have enjoyed include my appointments to the governing bodies of the University of Western Sydney, Macquarie University, and the University of Technology, Sydney. I have participated in the life of these universities and I hope to maintain my association with them after my term finishes. However, the work that I have relished the most as a member of this House has been serving the community. An enormous amount of my time as a member has been spent assisting constituents, in particular members of the Chinese and ethnic communities, with problems and difficulties, making representations to Ministers, attending briefings, meetings, interviews and community functions. Helping people in this direct way has been very rewarding and I have made many friends doing so.

I would especially like to thank the Chinese community in Sydney and my many close friends in the community who have backed me throughout my parliamentary career and who have been there when I needed encouragement and support. I name just two members of that community: Ben Chow and Frank Chou. The many fundraisers I have organised over the years have been a success because of the community's involvement. It is also very gratifying to know that many ordinary members of the public know the extent of the hard work I have put in over the past 15 years. It continues to surprise me that complete strangers approach me in shopping centres, restaurants, petrol stations and other public places simply to tell me that I have done a great job. In my extra-curricular capacity I am pleased to have been the Charter President of the New South Wales Parliamentary Lions Club and look forward to supporting its many worthy causes in the future. I have also been a member of numerous parliamentary friendship groups, including the Asia-Pacific Friendship Group; Israeli Friendship Group and Friends of Egypt Group.

On the whole I have always maintained that you do not go into politics to make friends. Having said that, I do share a rapport with numerous lower House and upper House colleagues, too many to name. However, I will mention the Hon. Richard Jones, who has been my bench buddy over the past few years. I was very happy to attend his official farewell party last week. While we are like chalk and cheese, I know that Richard and I can communicate easily. As he put it, we have endured together to the last bill. Now we are still sitting together. Although the crossbench members are by no means united, as the Hon. Richard Jones, we have frequently been a cohesive bunch. There is a sense of camaraderie among members of the crossbench that I have enjoyed. I express my appreciation to them. I mention in particular the newest crossbench member, the Hon. Gordon Moyes. Although we may have been blamed for slowing down the passage of legislation, the scrutiny and criticism of the crossbench has often been very constructive and democratic. In that regard, I particularly mention the Hon. Ian Cohen, Ms Lee Rhiannon and the Hon. Dr Arthur Chesterfield-Evans.

I have met Ministers and members in this House who are approachable and friendly and others who have been arrogant and distant. The Hon. Ron Dyer falls into the former category. I have always found him very friendly and co-operative and a real gentleman. I know he had a tough time as Minister for Community Services, but I believe he put a great deal of energy into all his work. He has done a great job and I wish him all the best in his retirement.

As I said before, friendship among politicians is rare. However, that is not to say that I have not had companions in my journey; fortunately I have always had the support of my personal staff. On that score I thank them all for their commitment and contribution to the work I have done, in particular since becoming an Independent. I name but a few: Jodie Young, Stephanie Lenn and Rachel Roberts, who are present in the President's gallery; Kristyn Wilson; Miriam Moses; Lisa Emanuel; and Adam Jacobs. Last weekend a total of 10 attended a staff reunion. Although some could not attend, it was a most enjoyable get-together.

While I cannot name everyone, I take this opportunity to say "Thank You" to other people as well. I express gratitude to the many colleagues in this Chamber with whom I share mutual respect and understanding, particularly, the Hon. Jim Samios, the Hon. Dr Brian Pezzutti, and the Hon. Janelle Saffin, who are also retiring. I appreciate their friendship and I wish them all well. I thank the President, the Chairman of Committees, and the Government Whip, who has been very helpful. It would be remiss of me to not express my thanks to the Clerk of the Parliament, John Evans, who is not in the Chamber at the moment; the Deputy Clerk, Lynn

Lovelock; Warren Cahill; and Mike Wilkinson for all their help and assistance. The staff of the Parliamentary Counsel and the Parliamentary Library have always been most helpful to me.

I thank all the Legislative Council Attendants, whom I will name because many members do not know their names: Ian Pringle, Maurice Rebecchi, Charles Barden, George Moutsos, Mike Jarrett, and Lucy Smith. I thank Hansard, Security, and David Draper and the staff from Food and Beverage. I thank also the staff of Ministers and other members, who have been very co-operative.

Last, but certainly not least, I thank my husband, Robert Ho, and my family. Robert has always been supportive of me on my parliamentary journey and was present in the gallery this morning. I thank him for his support. When I entered Parliament I had two daughters in high school. Now I have four-and-a-half grandchildren! Much time has passed and an enormous amount of water has flowed under the bridge. Knowing that I have had my family's love and care throughout my political career has been absolutely essential for me. Thank you Nicole, Andrew, James, Emily and Melissa McPherson, and Narelle, Brett and Stephanie Backhouse—such is the nature of multiculturalism. I could not have made it through the past 15 years without their support.

It has been a privilege and a challenge to serve in this House, and I will miss it. It is with sadness and with a strong sense of pride in my contribution to the people of New South Wales that I complete my parliamentary journey. I would like to end with another Chinese quote, suggested to me by Wilson Ng, Chief Editor of the *Australian Chinese Daily* newspaper:

功成身退

which means to "retire from political life after great work is done". Finally, I take this opportunity to wish each and every one of you a merry Christmas and a happy New Year. I wish all the very best to all members who are continuing to serve.

The Hon. RICHARD JONES [1.23 p.m.], by leave: The Hon. Alan Corbett is unable to get to Parliament House today because of the bushfires. Therefore, I seek leave to incorporate his final speech in *Hansard*.

Leave granted.

The Hon. ALAN CORBETT: It has been a privilege to be elected a Member of the Legislative Council. I can probably lay claim to have been the person who spent the least money in the history of Australia to get elected. When I first learnt of the possibility of being elected it was only as a result of the Hon Richard Jones whose number crunching skills as it turned out were spot on in 1995

What followed was an interview with the late Andrew Ollie. An interview I still remember today because he was professional at putting a person like me at ease. Then a media feeding frenzy in which, in a state of shock, I coped fairly well. To Jane Hutchinson, a reporter at the time in '95 with the ABC I would like to say, I noticed you and followed your journeys to China.

It was all a bit of a dream—unreal, as if it was happening to someone else. I followed the radio over the next few days and of course the print media, curious to see if in fact what was predicted came to pass. It did and with the Hon Ian Cohen and Hon John Tingle, I joined the Hon Richard Jones and Hon Elaine Nile on the crossbench.

It is amusing to read the Editorial in the then Telegraph Mirror of Thursday, April 27th 1995, in which the Members of the Legislative Council are portrayed as irrelevant, in semi-permanent hibernation and interfering. Over the last eight years this has not been my experience. I know I will cause the Treasurer and the Leader of the House just a slight moment of discomfort, but I do earnestly believe that when the numbers in the Legislative Council do not give the Government a majority, the good of the people of NSW is served. Arrogance is the one trait which the Labor Government needs to combat, lest they have their legs chopped from beneath them in 2003.

As I write, the power has been off for over 12 hours, I can hear two helicopters water-bombing a fire that threatens Medlow Bath. This fire was started from a cigarette butt or a person who just lit a match in the Megalong Valley. The fire has destroyed a magnificent rain forest at the entrance of the Megalong Valley. I was able to get through this morning to Blackheath to do some urgent shopping and it brought me to tears—the rainforest looks like a lunar landscape—my son and his children will never see it as it was. What is the lesson to be learnt from all this destruction?

Grab the opportunity you have to do what you want to do, to enjoy the beauty of nature because tomorrow you may not have the opportunity, and tomorrow it may be gone. Members will be aware that I am carer to my wife, who has a chronic and debilitating illness and that is principally the reason I am not here today. There is no-one to look after her other than myself. If I could have been there today I would have because I put so much significance into this occasion. I wanted to look around the chamber one last time as a Member and leave knowing that I would never return. However, as I have learnt life is not predictable and the importance you attach to things is illusory. I do have my memories and accomplishments, however, and those cannot be taken away by fire or circumstance.

So what do I remember, what do I want my son and his children's children to read in Hansard, if they should ever wonder about the Hon Alan Corbett.

I want them to remember that I became a Member of the Legislative Council purely by chance, but that the Universe, or God, or whatever, deemed it to be so. I want them to remember that it is important to go with the feeling within them to do good for others and that the energy they put into such an activity will be magnified by powers outside of themselves and they cannot and should not expect anything in return. Therein lies the magic—you do something because it feels right and you never know what might eventuate.

I could list a number of accomplishments that would argue against the irrelevance of this House. However, these will remain with me because they are special to me. All I would say is that whoever ultimately claims the credit, I have made a difference to the lives of the people of NSW and to that extent have fulfilled the transitory expectations of the 43,000 people who voted No.1 for "A Better Future For Our Children" in the 1995 election.

In closing, I must say how much I have appreciated the Clerk, Mr John Evans, and all his assistants. John called me early in 1995 to congratulate me and all I had in my confused mind was that was I talking to a Clerk—how little did I know!

To Hansard, the catering staff, attendants—thank you—I never received anything but the best.

To my fellow Members all I can say is this: "Your vote counts" and to my fellow crossbenchers I would say: "Go forth and multiply!"

A warm expression of gratitude to all the staff who have assisted me throughout my eight-year term. I could not have done what I accomplished without them.

The Hon. JANELLE SAFFIN [1.24 p.m.]: It has been my honour and privilege to serve with all members of this House and to represent the people of New South Wales, particularly country people. When I came to this Chamber I was a community activist, and I leave here as a community activist still. I feel good about that, because it seems that when people come into parliamentary life their activism dissipates, lessens or in some cases disappears. I know there are different roles in life, and this is one I feel good about. At the start of my parliamentary career—note I do not say "political career"—I was given three pieces of advice. The first was, "Wear your hair up all the time, because you look like a hippie with it long." I have had long hair all my life; in fact, it is usually a lot longer than it is now. I did not follow that advice. When I wore my hair up, which I did on a number of occasions, it was as a matter of practicality, not because I was following advice. It takes a lot of effort to have long hair.

The second piece of advice was "Call yourself Mrs, not Ms." I chose to ignore that advice, on the basis of sexism. However, I do not really care what people call me—Miss, Mrs or Ms. The third piece of advice was "Deepen your voice for radio." I thought, "What? So I can be like a bloke?" That is not why I came here. I ignored those three pieces of advice, which were given to me in all seriousness by some of my colleagues.

The Hon. Dr Arthur Chesterfield-Evans: Pure sexism.

The Hon. JANELLE SAFFIN: Yes, I thought it was sexist advice, so I did not follow it. As I am leaving parliamentary life, not public life, people have asked me, as other members who are leaving have been asked, "Are you still going to do some of the things you do now?"—as though we did not have a life before Parliament and arrived here with a clean slate. I replied, "Of course I will continue to do all the things that I have done before. Indeed, I will be able to do more." When people say, "But when you leave Parliament you will be a nobody", I respond, "It is not quite like that." People come to Parliament, contribute, and leave Parliament, but it is their contribution, whether in the community, in Parliament, in law, or in teaching—the fields that I come from—that counts.

I have been asked whether I will miss being in this place. The answer has to be yes. I have been a member of this Chamber for eight years. Recently I said in an ABC regional radio interview that, of course, I will miss being here. I will miss each and every one of you in some way—in different ways, but I will not go into any detail in that regard. In that interview I said that being here is like being part of a family. So, I will miss you.

The Hon. John Della Bosca: A dysfunctional family.

The Hon. JANELLE SAFFIN: As Della said, a dysfunctional family—but what family is not a bit dysfunctional? We are no different. We reflect the community at large. I thank Michael Gallacher for his comments to me. Yesterday a Liberal Party staffer, in the presence of a Labor Party staffer, said to me, "You are so normal, after eight years." I took that to be a compliment. I am really looking forward to spending more time on the North Coast, my home. As my colleague the Hon. Dr Brian Pezzutti said, I get pilloried for the amount of

travel I do. However, it is weekly travel, up and down—as Brian so truthfully put in *Hansard*, it is less than he travels. But we have no choice. It is just ridiculous that it is reported we are somehow indulging ourselves and spending money needlessly.

The Hon. Dr Brian Pezzutti: It is a great indulgence, isn't it! It is a great pleasure, isn't it!

The Hon. JANELLE SAFFIN: I cannot wait until I do not have to travel up and down, every week—pack bags, carry them in and out. People are often surprised, and say to me, "You carry your own things, and you do not have a car?" I reply, "Yes, that is how it works." The North Coast is represented by a number of members apart from myself: the Hon. Dr Brian Pezzutti, the Hon. Richard Jones, the Hon. Ian Cohen and the Hon. Peter Breen.

The Hon. Michael Costa: Did someone say overrepresented?

The Hon. JANELLE SAFFIN: No. It has been well represented. The North Coast is represented also by lower House members, including Thomas George, Don Page, Harry Woods and Neville Newell. That we have so many people who come from the North Coast to the upper House says something about our area. I extend my good wishes to Bill Rixon and Ian Causley, two parliamentary colleagues who are both suffering ill health at the moment. I have had dealings with each of them in different ways. With Bill, it was far more personal. Ian is a person whom I disagree with mightily, but I respect his tenacity. I wish them well. I also thank the Australian Labor Party for its support and the opportunity to serve our community. I came here on a Labor Party ticket, and I thank the party for that. I thank my local Lismore branch, which is meeting tonight. I extend my apologies; I have to miss that meeting.

In politics you win some and you lose some. I think the important thing is to always be graceful in triumphant defeat; that is the best approach. Equally, I think I represented the ALP well and tried to put our best foot forward at all times. To Della, I would like to say thank you. Before I became a member of this place I spent many years with Della on the campaign trail. I have known Carmel since she was a young girl—she is still young—and she was formidable then and she is formidable now. Carmel is a leader of the future; she will go a long way. I wish her well.

The Hon. Patricia Forsythe: In which House?

The Hon. JANELLE SAFFIN: We can speculate as to which House. To Michael Egan, I have to say this. Michael, my mother likes you, and Jeff Shaw's mother likes you. Jeff and I had a conversation about this one night. My mother is a pretty good judge of character, and Jeff Shaw tells me that his mother is also a pretty good judge of character, so I think the two mums cannot be wrong. Jeff and I were ruminating on this. Our mothers like Michael Egan; they think he is a good man. I apologise about the St Mary's Cathedral spires. When Michael allocated the money for the spires, I said—a little uncharitably perhaps—that I would rather the money be spent on legal aid or some social justice area. I apologise to Michael, because the spires look wonderful. The cathedral is a real Sydney landmark and a great tourist attraction. Even those of use who come from the country feel proud of Sydney.

I also wish to acknowledge Virginia Knox, who is one of the nicest, most competent people I have known in political life. The whole time I have been involved with the Australian Labor Party and political life—it is many years now—Virginia has always been there; when I first met her she was with Jack Hallam. She is well liked, well respected, and well regarded by everyone in this House. Michael is very lucky to have her on his staff, as we all are.

I would like to say a few things to my colleagues in Country Labor. To Tony Kelly, it has been great working with you, particularly in Country Labor. I have enjoyed it immensely. In fact, I have penned some stories from Country Labor. Jokingly, I penned them under "Carry On Up Country", and one day I might get to publish some of them. We have had some good times; we have done some good things.

I will miss going on country tours with Blackie. That is an experience. One of the things you probably do not know about Blackie is that frequently when Parliament is sitting he comes up to my office at night and has a coffee with me. People ask, "A coffee?" I say, "Yes, a coffee." He always says, "I like that coffee you serve." It is just the coffee in those little packets that you get in a plane, a motel, or somewhere like that, because I am not a coffee drinker. He usually comes up and has a coffee and a bit of a chat with me, and I will miss that.

Politics is all about making a difference, and I would like to give two examples of what we were able to do in Country Labor. They are only little things, but they are big things for the community. First, Tony Kelly,

Gerard Martin and I went to Warren, and we went out and had a look at the Mundadoo Bridge. The people wanted us to go and have a look at it. So we drove out there. It was flood time, but we drove through. I remember they said to us, "You'll only have to go through a bit of water." Ten flooded crossings later, we got to the bridge. I was hoping we would get there. It is a bridge you would all know about, because it was once shown on a television program. The bus driver used to stop, get the schoolkids off, drive the bus across the bridge, and then walk the kids across the bridge because there were problems with the bridge.

Tony, Gerard and I looked at the bridge, and I took photographs of it. As we were leaving, Tony, Gerard and I looked at each other and said, "We've just got to fix that bridge." There is no way we could have gone back and faced those people unless we fixed it. And we did: we got the new bridge. I could not attend the opening but Tony did. Originally when we made the request, the department offered only about half the funding. Immediately the three of us said no, we want the new bridge, it is either the whole bridge or nothing, and that is what we stuck to.

The Hon. Dr Brian Pezzutti: What about the underpass at Lismore, and the kids parking?

The Hon. JANELLE SAFFIN: The same thing with the underpass, the kids parking and the interchange at Lismore. We have done a lot of things in Lismore, and I will deal with some of them. There is a lot more we will probably do in Lismore. I think that is what some of our communities are worried about: having us at home all the time. One fond memory of Country Labor is going to a community with Blackie, Tony and others, and being told, "You are the seventeenth delegation to visit us. We hope you can do something." I said to them, "I promise you, we will."

When you go into people's lives and their communities, they take you into their confidence; they can reveal quite intimate things to you. So, when you leave you have a responsibility to not just walk away and ignore them but to make sure you do what you can. I believe we did make a difference in that community. I said to them, "We might be the seventeenth delegation, but we are the ones who will make a difference." And we did, and we are continuing to do so.

Ian Macdonald, my parliamentary colleague and colleague in Country Labor as well, you are formidable. Few could match your political ability and capacity, and also your parliamentary know-how. I have known Ian for a long time. The first time I encountered him he was a bureaucrat. I was trying to get a Department of Housing house for people with disabilities in Casino. When I rang the department I got the runaround and ended up with this man called Ian Macdonald. I finally persuaded him that it was a good idea for the Minister to allow us to keep the house, and he did. That was my first encounter with Ian. I remember that he was a straight talker, he was persuaded by my argument—I would not leave him alone—and I got the house. Ian has a good heart, and he showed it to me at that time.

Going back to Country Labor, for many years before becoming a member of Parliament I campaigned for lower House seats that I knew I could not win. My motto always used to be: No matter which government is in power, Sydney is in power. That is a reflection of how country people feel, and that has not changed. One person I miss today is Doug Moppett. I would love to have heard his valedictory today, with all of us here. He would have delivered it without a speech note, we would have needed a dictionary to decipher some of the words, it would have been wide-ranging, yet grammatic, and it would have been intelligent, witty and generous. I did not have an opportunity to speak about Doug on the occasion of his retirement, so I want to do so now. When Duncan and I were in China, as Duncan mentioned, I was awoken at 5.00 a.m. by regional ABC radio and given the earth-shattering news that Doug had made a supposedly sexist comment, and I was asked to comment on it.

I thought, "Doug—a sexist comment? What has he said?" I cannot even remember, it was so inconsequential. They had Helen Dickie lined up to debate me. Helen was ready to argue against me attacking Doug for being this sexist, misogynous person, but when we started on air I said, "It is a fact in public life that we are mostly judged for what we say and not what we do. I know what Doug Moppett does and I judge him by that, so I will forgive him for a moment of stupidity, if there was one." Helen was ready to debate, but we did not have to have it. I thought about that later on and I thought that, perhaps because of things like that, that is why I failed, to some degree, to be a hard-nosed politician. I found it incredibly difficult to seize a political opportunity to have a go at an opponent; I just could not do it.

To Fred Nile I would just like to say, Fred, another colleague and I—I do not think Madam President would mind me saying that she was the other person—were talking recently about who we would trust in a crisis

to look after our interests. We agreed it would be you, Fred. Some of our friends were a bit surprised, given the things that we disagree on. We were saying that we had this innate trust of you, so I think that speaks for how we feel about you, Fred. I can never look at your seat and think of it as anything other than the love seat, because I once sat there with Elaine and she said, "You can join me on the love seat." So every time I look at that seat I always have that picture of it and think about it in that way.

Reverend the Hon. Fred Nile: Elaine sends her greetings to you.

The Hon. JANELLE SAFFIN: Thank you. I send mine back to her as well, and good wishes. I would like to say also to Ian Cohen, another one of my North Coast colleagues—I do not think Ian was here when I was first elected—that I echo the comments of Brian Pezzutti that with Ian you always get someone who is straight, and you know exactly where you stand: he stands on principle. I would like to say, Ian, thank you for your friendship. I have had a lovely personal friendship and good support from you, and our friendship will continue away from this place.

The parliamentary staff—John Evans, who is away, Lyn Lovelock, Warren Cahill, Mike Wilkinson, David Blunt, Glenda Baker and Stuart Lowe, who supported us through the logistic statistical allocation requirements—really do deserve a medal for having to not only administer the Parliament but deal with us. To Ian Pringle and the team—Maurice, George, Charles, Katrina, Lucy and Mike—thank you for all your years of service and good grace.

Thank you to David Draper. As Richard Jones said, I am a vegetarian. He thanked me for getting vegetarian food in the Parliamentary dining room. In my first three weeks in the Parliament I lost about five kilograms in weight and David Draper got really worried. He said, "You can't afford to take off weight," and became worried about my diet. I said, "There is not much I can eat here," so we talked about changing some of the food served here. I believe we have the best parliamentary library in Australia, and I thank Rob Brian, the Chief Librarian, and all his staff.

To all my parliamentary colleagues, thank you for your friendship and support, especially recently when I have had both personal trauma and physical illness. I do not recommend typhoid to anyone; it is quite debilitating and takes a long time to get over. I am now 90 per cent well physically and spiritually. I have got my health back and I am ready for new challenges, which means I have got a lot of my energy back.

I thank all of the staff I have had over the past eight years: Andrew Hegedus, Troy Swan, Veronica Black, Madeleine Doherty, Judy Mannering, Dominique Tubier, Margherita Tracanelli—Margherita is here and Judy wanted to be here but could not get in from Liverpool—Saw Patrick Sein and Cameron Murphy. I have had tremendous staff and I have been very well served. It has been challenging at times, but we are still all friends. They have all gone on to bigger and better things, with my encouragement and support, as no doubt you will too, Margherita, when our time together finishes.

To my legal colleagues I say thank you for your support, particularly to John Dowd, President of the Australian Section of the International Commission of Jurists. He and I have spent a lot of years working on legal matters and doing things together, and I value his friendship, as well as Jill's. I say thank you. I do not think John has a thick head; I have not noticed it. Greg Pearce, I accept your offer of support. I still owe you coffee and cake and I will not let it be said that you are not generous; you have shouted me.

I wish my retiring colleagues all the very best. Like Ron Dyer, I support the bicameral system, the committee system and Parliamentary democracy. I also support Ron's comments on the ICAC. I too have heard the Gibbo and McBride stories about Ron. I cannot repeat some of them here, but they are very funny. When new members come in they think, is this true? I have been in the House and seen new members come in and say, "Is this really true about Ron Dyer?" They only have to get to know Ron a little bit to know that everything that Gibbo and McBride say is utter fabrication, but the stories are very entertaining.

To John Jobling, who is always learned, helpful, and a stickler for procedure, I say thank you for your friendship. He and Macca—Ian Macdonald—undertook the onerous job of choosing the parliamentary liquid refreshment, and they did it with extreme diligence. Thank you to both of you. It was a real chore and it took a whole day, but we were behind you every step of the way. So thanks to Jobbo and Macca for a job well done.

Thank you to James Samios, a gentleman who is concerned with broader human rights issues, multiculturalism concerns, and our ethnic communities. To Richard Jones, your tirelessness in parliamentary

debate, your passion, and your wonderfully creative madness—which I mean in the nicest possible way—has been wonderful. I know that you are going to participate in cleaning up the Ganges. What a job to take on! I know you have already had some successes there. I wish both you and Jo well in that, and I am sure our paths will cross somewhere in Asia.

To Brian Pezzutti, my neighbour: we have a few things left to do. You talked about Cabbage Tree, and we still need to get community transport there. Maybe we will get that done before we finish up. We have done quite a few things together in our local community as well as in the much broader community. In Lismore alone there is the baseball stadium, the bus interchange, the road sealing between Kyogle and Nimbin, \$100,000 for the cycleways—lots of things. Brian, I once opened the Woodenbong Show and I got them \$15,000 for painting. I hope you did that for Cowra.

The Hon. Dr Brian Pezzutti: We gave them \$50,000 to be the main sponsor for the show.

The Hon. JANELLE SAFFIN: But Woodenbong is pretty small, isn't it? I got them \$15,000 for painting, so have a look next time you go through; it should be painted. It took me a year, but I just did not give up and I got the \$15,000. Brian has a reputation for being a very good doctor and I recommend him. One of the things he does is to ring people after they have gone home from surgery and ask them if they are doing okay. Not too many doctors do that, but Brian does. He once telephoned me from theatre. I did not realise it at the time but that night I attended a meeting with Dr Bill Nardi, who is on the local hospital board, who recounted our conversation. So it was obvious from where Brian had telephoned me. Brian, did you know that Bill is a cousin of Greg Combet from the ACTU?

The Hon. Dr Brian Pezzutti: Yes, I did know that.

The Hon. JANELLE SAFFIN: He is quite proud of that. Brian, I admire your intellect and the fact that you never seem to have any self-doubt.

The Hon. Dr Arthur Chesterfield-Evans: That is a compliment.

The Hon. JANELLE SAFFIN: It is. I am wracked with self-doubt but Brian has none whatsoever. I admire you for that.

The Hon. Ian Macdonald: That is the most vicious thing ever said about him.

The Hon. JANELLE SAFFIN: No, it is not vicious. Brian and I know each other. Brian has also given me support that has manifested itself in many ways. He is passionate about people and causes. Brian and I worked together in East Timor and I am sure that our paths will cross again as we pursue humanitarian causes. Brian, I think you are wrong about Justice Bruce. They should have done their job better across the road before they sent it to us. That is the reality. They could have dealt with the matter over there so I was not going to do their job here. Justice Bruce has since retired.

I first met the Hon. Helen Sham-Ho, a fellow Macquarie law graduate, when she was working as a social worker at St Vincent's Hospital in Lismore and I was working in a women's refuge. I remember her well. Helen is a tireless community and parliamentary worker, and I know she will continue her work outside this place. The Hon. Alan Corbett, who is not present, is also retiring. I congratulate him on his success in championing legislation about children, for which he can feel justly proud, and his later commitment to raising the profile of complementary medicine.

One of my major concerns is the fact that we are not creating enough job opportunities for young people. I am also concerned about issues such as youth homelessness and mental health. I agree with Brian's comments about mental health. I was concerned about that issue when I entered this House and that concern remains with me today. We have certainly done a lot at government level but much remains to be done. We have the lowest funding base in Australia in this area; funding is increasing but more money must be allocated. We must create more options for our young people. More than 80 per cent of homeless people suffer from mental illness. That is why they are on the streets. I do not think any of us is proud of that.

It is no secret that I do not like law and order policies and legislation. I have two principal comments about the latest terrorism legislation that has been before Federal and State parliaments. First, by removing judicial review we are removing the umpire, which is rather unAustralian. There must always be an umpire,

particularly when people are losing their rights, to scrutinise legislation. By removing the umpire we are undermining the rule of law. Yes, Brian, the Special Air Service helps to safeguard our democracy but the rule of law and the separation of powers under our system of government are paramount. Judicial review is a fundamental plank of our democracy, and it must remain. I flag my intention—I have my practising certificate—to be involved in challenges to legislation that removes judicial review.

Secondly, I am glad that Parliament is to establish a scrutiny of bills committee. I feel good about the work of the Standing Committee on Law and Justice, supported by the Regulation Review Committee, of which I was deputy-chair. National security legislation is necessary but it is important that it be scrutinised by a scrutiny of bills committee, which would balance our rights and liberties against security measures.

There is a saying that you either achieve results or you make excuses; the two things rarely co-exist. I have not achieved all I set out to do in this place but I make no excuses. I have achieved in public life many things of which I feel proud. I have made a difference in small ways, which have made a big difference for individuals, and I have tried to be honest in politics. I have enjoyed the support and encouragement of many people. I must mention my constituent—I would normally make this speech during an adjournment debate—Mrs Lillian Eutick. I know that Brian will support my comments. I will read a eulogy about Lillian prepared by Robin Osborne of the Northern Rivers Area Health Service.

The Hon. Dr Brian Pezzutti: Thirty-five years.

The Hon. JANELLE SAFFIN: It is a long time. It states:

"LET US HOLD HIGH THE LAMP OF SERVICE FOR THE WELFARE OF OUR HOSPITALS" you will recognise those words as being the motto of the United Hospitals Auxiliaries and Lillian Eutick epitomised that motto.

The Northern Star recently reported Mrs Eutick as a woman who loved helping people and loved to make friends. It was for this reason that she dedicated more than 53 years to the Lismore Base Hospital Auxiliary.

The Hon. Dr Brian Pezzutti: I think she spent 35 years as president.

The Hon. JANELLE SAFFIN: No, I think it was 27. The eulogy continues:

Lillian took great joy in telling how she went to her first hospital auxiliary meeting with her mother at St George in Sydney, and this was before she started kindergarten and has been doing that ever since.

Mrs Eutick joined the Lismore Branch of UHA in 1948, a membership of which she was rightly proud, and after 53 years, Lillian had only just stepped down as its president after an unmatched 27 consecutive years in that position.

Along the way, Lillian was awarded the Order of Australia medal for her selfless work as well as the unqualified praise of her many co-workers and friends.

From selling tickets to organising stalls, selling hospital linen and running the fortnightly euchre nights, Mrs Eutick has been a tireless worker for our hospital.

Under her guidance and leadership, well in excess of half a million dollars has been raised to buy equipment ranging from fetal monitors to food trolleys.

Lillian's dedication wasn't to the bricks and mortar that form the buildings of Lismore Base, it was to the people who make up the community of Lismore; the everyday families: the mums and dads: the old and the young.

That is the debt of gratitude that we as a community owe to Lillian.

Lillian will be sadly missed.

She certainly will. People like Lillian make a great deal of difference in our community. My son, Ned, has been my greatest blessing and joy, and I look forward to our spending more time together. I thank him for his support, encouragement, ideas and for his lobbying—despite the fact that he sometimes held me personally accountable for all Government decisions. I found it difficult to explain to him that I was not totally responsible for every decision that came out of Government. I must put on the public record one of the many issues about which Ned feels passionately: the criminalisation of young people for smoking marijuana. He asks me, "Mum, how can you put young people in gaol for doing that? It's crazy. What are you people doing down there?" I agree with him: It is crazy.

I have learned a lot in eight years but, equally, I feel that I have just got the hang of it. So I say goodbye for now. I am leaving the New South Wales Legislative Council, but not public life. I will maintain some involvement with the New South Wales Parliament Asia Pacific Friendship Group.

The Hon. Dr Brian Pezzutti: You might come back again.

The Hon. JANELLE SAFFIN: Not here. Madam President, I thank you for your support and friendship. During a meeting last week you introduced me as your political colleague and you said, "But Janelle and I are friends." That was a really nice thing to say. We are friends. Everyone says that it is hard to make friends in politics. I take a different view of friendship. Even though you can make a lot of enemies in politics, you make a lot of friends. I take the Gandhi view of friendship: one does not need to have known people for a long time or to have exchanged deep and meaningful conversations; it can be just encounters and good connections. That is friendship. Madam President, thank you for our friendship, which will continue in the future. I came into this Chamber committed to making a difference, and passionate about human rights at local and international levels and about country people. I have enjoyed and had faith in the political system, and I leave here with the same view and commitment. Thank you to everyone.

The Hon. IAN COHEN [2.00 p.m.]: On behalf of the Greens I join in this worthwhile debate at the end of the Fifty-second Parliament. I appreciate that my eight years as a Green in this House have caused considerable trauma to Lynn Lovelock, Mike Wilkinson, Warren Cahill, and John Evans, the Clerk of the Parliaments. They have done a wonderful job in supporting me, particularly as I am not a great one for the parliamentary process. The last eight years have been very rewarding. From the beginning John Evans had some trouble with me. I remember very early in the piece he told me that the protocol in the Parliament was to wear a tie. I said, "No, it's not, and if there's any argument about it, I'll have to come into the House wearing a dress." He has not raised that issue again. I gave him a very hard time in the early stages but, despite that, he has done an extraordinary job in supporting members, as has the Parliamentary Library.

I acknowledge my office staff, Julia Bastable, who has recently left after five years to take up an appointment with the Department of Community Services; Susie Russell; Jan Barnham, who has worked with me for eight years; and Karla Sperling, who has recently joined my staff. The loss of eight members of Parliament at this time is a huge loss of corporate memory, experience and legal and parliamentary expertise. I do not know how we will make that up in the next Parliament. Certainly, it will have a significant impact on those who are left.

I listened with appreciation to the kind words of Janelle Saffin, who is a good friend. I look forward to that friendship continuing in the future. Janelle introduced me to a wonderful experience when she invited me to go with her to East Timor. Her fantastic contacts landed me right in the middle of a tumultuous and extremely interesting time there. I wonder if the Government fully appreciates the esteem in which Janelle is held in so many parts of the world, in particular East Timor, and the wonderful work she has done.

I have had a very respectful relationship with Ron Dyer. My first impression of him was immediately after my first speech in Parliament in 1995 when he came up to me and quietly said, "Ian, I don't know if you're aware of this, but you cannot put out parliamentary proofs on what you said in your first speech, it'll get you into a terrible lot of trouble." On that occasion I spoke out against the Roads and Traffic Authority, the Macquarie Bank and consortiums on the M2. I thanked Ron for that advice. On other occasions he has taken the same fair, open and honest attitude. I hold him in high esteem and greatly respect him.

Helen Sham-Ho has proven herself to be a true Independent. Many times I have had occasion to discuss issues with her. She has always been open and honest in her approach. On occasions we have not agreed but, nevertheless, she has always carried out her job with a level of integrity and sincerity that has been appreciated by the Greens. Alan Corbett has made his mark on children's issues and I support his stand. I also support his efforts on alternative medicine and giving the practitioners of alternative health modalities the right to practise without the unfortunate vilification and bias that is sometimes displayed in this House. I support calls to change the membership of the committee inquiring into complementary medicine, and I express grave concerns about Professor Dwyer being the chair of the committee. The Greens will continue to campaign against an imbalance in the membership of the committee to assess alternative medical practices.

Richard Jones was my mentor when I first became a member of Parliament. I looked to him for guidance. He took the time to take me through the processes and supported me as the first Greens member in this House. I had little experience of the parliamentary process. Richard is certainly eccentric and mercurial. On issues such as dogs, cats and feral animals we have had differing views but 99.5 per cent of issues dear to Richard's heart are also dear to me and to the Greens. We have worked well together over the years. I guess Richard is best described as a rare bird representing rare birds. He has done a fantastic job and I hope to carry on his good work in the next Parliament, assuming that I am re-elected.

Interestingly, Richard is fiscally conservative but a radical conservationist. He has been able to use his skills as a businessperson to promote conservation, and has done so effectively. Richard Jones has been a great advocate of his many causes and I know that he will continue to promote those causes with the same enthusiasm. Some might call it fanaticism, but I believe that is what is needed, as long as it is done peacefully. Richard believes in peaceful protest. He will be an excellent advocate outside the Parliament and I look forward to being lobbied by him.

The Hon. Richard Jones: And working together on issues.

The Hon. IAN COHEN: And we will continue to work together on issues. I have had many rewarding relationships with both members and staff in the Parliament. Like many honourable members, I came into the Parliament from a sectional background. My background was in the conservation movement, and I had little experience with business and other sectors. Nevertheless, I have made wonderful friends in the oddest of places. Although more often than not I have disagreed with the Hon. Dr Brian Pezzutti, I still have a great regard for him. During committee hearings we have had some fantastic stoushes and I am still in awe of his ability to correct grammatical mistakes throughout the hundreds of pages of parliamentary reports. The Standing Committee on State Development will miss his forensic—I might say "surgical"—expertise in its reports.

The Hon. Tony Kelly: We will have to go back to reading the reports ourselves.

The Hon. IAN COHEN: That is right, it will put a huge amount of extra work on other members of the committee. Brian, you have always been very up front and honest with me. I have enjoyed thoroughly our banter in support and in opposition, both inside and outside the House. I will not invite you to fish at my secret spots because I want to keep the fish. But I look forward to an ongoing communication and friendship. We will miss the expertise, energy, diligence and honesty you brought to this House. Even though we have had plenty of scraps both inside and outside this House, I have been able to speak to you about medical issues. You have been able to step out of one role into another. You have been very supportive, which I have appreciated. I have trusted you. It has been a wonderful working and personal friendship.

The Hon. Jim Samios is someone for whom I have a great deal of respect. I seem to meet him more at ethnic functions than I do anywhere else. I always bump into Jim at ethnic events. I appreciate his untiring work for the ethnic community. The Greens hold in high esteem his aspirations for a flourishing multicultural society. We hope that we can share in continuing success. When dealing with what is often a backward-looking attitude that can well up in our society when people are feeling fearful and insecure it is all the more important that people in positions of responsibility, as he has demonstrated by continuing to attend functions and join with the multicultural community, reassert the highest aspirations of Australian culture: a multicultural society. I thank you for your efforts in that regard.

The Hon. Dr Brian Pezzutti: Jim really enjoys it, as well.

The Hon. IAN COHEN: Indeed, and so do I. It is something we share. The food after Muslim gatherings is fantastic! John Jobling, as party Whip, has done a fantastic job. He has always been very helpful and open to sharing his not insignificant knowledge on process. There has never been a time when John Jobling has been too busy to sit down and explain issues, processes and sequences in the House when it is very hectic, especially at the end of the parliamentary sitting year. John has been patient and always available. I have certainly appreciated that. Both he and I were on the committee considering safe injection rooms. We saw things differently and we disagreed. I respect his point of view, but I will fight it. However, John Jobling has always acted in an exemplary manner. This House will miss his corporate knowledge.

Doug Moppett was a fantastic orator. It is a terrible shame that he is not here today to share with us his wonderful turn of phrase, expressions and deep knowledge of parliamentary process and personalities. I would like to thank Hansard for their patience and forbearance. I would also like to thank Virginia Knox who, again, has been constantly at the cutting edge dealing with the crossbenchers. She has always been very helpful and extremely supportive. It has been an interesting and difficult time: we have had terrorism, drought and bushfires. These are areas in which the Greens may suffer setbacks. We are attacked, vilified and sometimes blamed, yet we continue to grow. We will go into this election with a clear message for the electorate that there is an alternative. Although we acknowledge the conservation advances made by the Carr Government, no matter how many national parks are promulgated we would be happy with one so long as it was relevant and big enough.

There is great sadness for bureaucracies such as the Roads and Traffic Authority and community concerns communicated to our offices, particularly about the M5 East. I am sure that many members are aware

that I have had a long and ongoing difficulty with Minister Yeadon about forestry. I maintain that he has it wrong. Nevertheless, I give him credit for his recent bill dealing with greenhouse gases. It is excellent. It is an example of what the Carr Government can do if it has the will. It can act proactively on greenhouse gas emissions, forests, wind power on the western slopes and solar power out west. The bill is not perfect, but it is a significant step forward. It shows that erstwhile intractable Ministers in their opposition to good green outcomes can come good on important issues such as greenhouse gas emissions. I have now served eight years in this Parliament. I will face re-election in March next year and I expect to be back in this House.

The Hon. Brian Pezzutti: That is arrogant.

The Hon. IAN COHEN: I am sure that both inside and outside the Parliament the likes of Brian Pezzutti will not allow me any arrogance, and that is not the case. I hope that the time spent here as a Greens member of Parliament has opened up debate and added new dimensions to the concept of sustainability and community. I will continue to work on those important environmental and social justice issues. I hope that we will have more Greens in this House in the Fifty-third Parliament, which will enable us to diversify and form portfolio areas to concentrate on issues that are closest to my heart. I thank the House for its forbearance today. I will miss all members who are leaving this House. They have made a fantastic contribution. I have learned a lot from all of you.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [2.17 p.m.]: Seasons greetings to everyone: Hansard, Parliamentary Counsel, the attendants, Building Services, the library—which has done so much useful work—catering, stationary and Patricia, the cleaner, who does a good job on the coffee cups in our office each morning, which is important. I would also like to pay special tribute to parliamentary committee staff: Tony Davies, Julie Langsworth and Merrin Thompson from the Standing Committee on Social Issues who have done a wonderful job most recently on the Department of Community Services report, which will be issued in a couple of minutes; and Bayne McKissock, Julia Martin and Rob Stefanic from the Select Committee on Mental Health.

Today we farewell members who are leaving. I pay tribute to each of them individually on behalf of the Australian Democrats. Ron Dyer had the difficult portfolio of Department of Community Services, which he executed very well. It was such a difficult portfolio that the work and energy he put into it were not recognised as they should have been. His lifetime commitment of service to the people who were deinstitutionalised and disabled was historic. It has been vital in getting a better deal for those people, especially following the development of group homes. The setting up of the Department of Ageing, Disability and Home Care was seminal. His work on committees was extremely valuable.

The Hon. John Jobling is a tyro of parliamentary tactics and knowledge, a walking ways and means committee. At a more personal level, he is a good source of advice in the dining room. The Hon. James Samios—gentleman Jim—is a great advocate for ethnic communities. He has a non-confrontational style and in a taciturn way makes apposite comments, which is unique in this Parliament. The Hon. Richard Jones is a character from way back. As the Hon. Ian Cohen said, he is "a rare bird looking after rare birds". It was unfortunate from the point of view of the Australian Democrats that he resigned from the party three months into an eight-year term. Frankly, I do not believe that the national executive would have expelled the Hon. Richard Jones had he simply ridden through the storm. The Hon. Richard Jones pursued a lot of important issues, many of which were Democrats issues. We usually voted together. The Hon. Richard Jones has championed a lot of issues that are important to us. We have worked together and I hope that we can continue to do so during his retirement.

I refer to the ever meticulous Hon. Dr Brian Pezzutti, whose attention to detail is legendary. He has a strong knowledge of government and his corporate conscience in relation to health was very reassuring. I remember his four-hour speeches when he picked apart every aspect of committee reports. I was impressed by his detailed knowledge and his important and skilful research. He kept documentation of the Government's failings in relation to health. As a person interested in health, I will greatly miss his meticulous manner. The work of the Hon. Dr Brian Pezzutti on General Purpose Standing Committee No. 2—which forced ministerial accountability; a struggle that has to be taken on by other committee chairs in future—and on the Select Committee on Mental Health will be missed. I was glad that the Hon. Dr Brian Pezzutti chaired the mental health inquiry—I knew he would pursue the issue with tenacity and attention to detail.

I am sorry that the Hon. Helen Sham-Ho is leaving Parliament. She has taken a principled and important stand on the Standing Committee on Parliamentary Privilege and Ethics. It was a tough job. It is

always tougher for a major party backbencher who is thrown onto the crossbenches, where one has to think for oneself. It is much tougher than being elected with a major party, where one puts up one's hand and moves to whatever side of the Chamber the party is voting.

The Hon. Janelle Saffin: It is not quite like that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I know—there must be a lot of angst and stress when they have to vote in a way they do not want to. The Hon. Alan Corbett had one objective: to look after the welfare of children. He was somewhat surprised to have been elected. Because he is such a nice fellow everyone gave him the number two position on the ticket, which helped him. The Hon. Alan Corbett achieved his objective by introducing his bill to stop corporal punishment of children. Many people come into this Chamber without a clearly defined objective and are not able to achieve things. To his credit, the Hon. Alan Corbett achieved his objective. His personal life is difficult—his wife has a disease that is inadequately recognised by the medical profession, and it should be criticised for that. It has made it difficult for the Hon. Alan Corbett to juggle his commitment to children with the domestic demands placed on him.

I thank the Hon. Janelle Saffin who has worked wonderfully for a great many causes, including the people of Tibet, Burma, East Timor and West Papua through the International Commission of Jurists. She is, in a sense, one of the last of the true believers. She fights tenaciously for human rights and the decency and dignity of people all over the world. The Hon. Janelle Saffin will be sorely missed in this Chamber. She is perhaps the conscience of the Australian Labor Party and a tireless fighter—

The Hon. Dr Brian Pezzutti: The conscience of us all.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes. I should also remember the late Hon. Doug Moppett, whose judgment, wit, skill and calming influence on committees in recent negotiations is sorely missed. I wish everybody a merry Christmas. I extend my best wishes and those of the Australian Democrats to those who are not returning. To those who think they are returning but are not—well, that's politics, I guess! All the best.

Reverend the Hon. Dr GORDON MOYES [2.24 p.m.]: On behalf of the Christian Democratic Party and as the most junior member of this Chamber I wish honourable members who are leaving every blessing in their future. I extend to the House and to all those who help us in Parliament House Christmas blessings. It seems strange to be wishing people peace on earth and goodwill to men at a time when the face of the earth is feeling the armed foot of the most powerful nation on earth treading over small countries, when terrorism has crossed international bounds, when families are uprooted from their traditional homes and sent across national borders, when people are forced to become asylum seekers, when many live in fear and terror of unprovoked attacks, when costs are rising and so many people do not have the capacity to pay, and when among so many people there is an atmosphere of despair. It seems rather incongruous to wish peace and goodwill among people at such a time.

I am not talking about Christmas 2002; I am speaking about the background to Christmas in the first century. In those days, it was the armoured heel of the mighty Roman Empire walking across little nations of the Middle East, when families were forced to flee across borders for their protection, when terrorism had attacked some of the great cities of the ancient world, when Mary and Joseph and the baby Jesus were forced to flee as asylum seekers down into Egypt for their own safety from the murderous King Herod, at a time when Caesar Augustus was ordering the whole world around in order to increase taxation, and when poverty and despair among people were widespread. The *Bible* says that it was at this time, "When the time was right, God sent forth His son born of a woman."

This is the time when Christmas greetings between people of goodwill need to be at their most sincere. The needs among ordinary people in our community are enormous. Who could possibly decide with any logic that this is a time when the despairing should not receive a word of encouragement, when the depressed should not receive a word of hope, when the fearful should not receive a word of courage and when those who live all of their lives in despondency should not receive a word of life? The whole coming of Jesus Christ into a world of despair, despondency and death was that God might meet us in our need and meet our deepest need with His deepest resources.

Of course, modern centuries have overlaid accretions of religion, culture and commerce. The religious accretions need to be stripped away that we might see ourselves in our personal need and see God's clear

answer. The cultural accretions should be used to help people see the real story behind the events of Bethlehem. The commercial accretions should at least be celebrated for bringing employment and income to so many. Behind the myth of Christmas lies the reality that is needed today. Children, for example, need to be told the real story of St Nicholas—the story of a bishop in Turkey in the fourth century who cared for the poor, visited children and gave them gifts, and encouraged people to provide hospitality for the homeless. In our world every Santa Claus should be used to help people think of underprivileged children, the poor and the homeless. One does not improve society by removing everything that enriches and enables it. We must make sure that it is used wisely for the betterment of people. On behalf of the Christian Democratic Party I wish you, Madam President, and all honourable members the blessings of what we call the real Christian Christmas.

The Hon. PETER BREEN [2.28 p.m.]: I understand that this is an opportunity for me to say something about the retiring members whom I admire and to say goodbye to others. I asked: What do you say in response to a valedictory speech? That was the explanation I was given. I am pleased to say on this occasion that I admire all the honourable members who are retiring and I will take this opportunity to mention each of them briefly. The Hon. Alan Corbett has demonstrated extraordinary persistence in securing government approval for his legislation to ensure that children are protected from assault. In my time in this place I have seen a progressive reduction in the value ascribed to human rights and individual liberties, but the bill of the Hon. Alan Corbett stands out like a beacon to remind us of the direction we might be taking as lawmakers.

The Hon. Ron Dyer, who chaired the Select Committee on Law and Justice for the past four years, on which I was privileged to serve, has been a pillar of strength in the House and on the committee. His departure will be a great loss. I have been amazed by his ability to deal with a wide range of issues and to find a consensus. Indeed, the only law and justice committee inquiry where a dissenting statement was published was my own contribution to the bill of rights inquiry. And it is worth recalling that Ron's efforts on that inquiry secured the enactment of the Legislation Review Amendment Act, which ensures that in the future this House will not be debating bills in a human rights vacuum. I was pleased that Ron mentioned that legislation today as one achievement he is proud of.

I tried to convince Ron that a New South Wales bill of rights would give our judges a legal peg on which they could hang their independence and integrity, as well as a place in history for the chairman of the law and justice committee. Ron would not have a bar of increasing the power of the judiciary or being led astray by base appeals to personal and political ambition. History will now record that the Australian Capital Territory, under its Chief Minister, Jon Stanhope, secured Australia's first Bill of Rights in 2003. None of that diminishes in any way the distinguished service given by the Hon. Ron Dyer to the people of New South Wales since his election to this House in 1979 and for the work he has done on the parliamentary committee system.

In terms of parliamentary service, I am a youngster compared with Hon. Ron Dyer and with the Hon. John Jobling, who has been a member since he was first elected in 1984. One of my ambitions is to acquire just a fraction of John Jobling's knowledge of the practices and procedures of the House and the rules of debate. I am astounded how long it takes to learn about those things, but for John Jobling they simply seem to be second nature. His store of knowledge will be a loss to the House and a loss to me. I have always relied on his guidance as to the direction the affairs of the House are taking. I have served on several committees with the Hon. John Jobling, and I have never seen him ruffled or raise his voice in anger. Most recently I served with him on the mental health inquiry chaired by the Hon. Dr Brian Pezzutti. John Jobling brought compassion and balance to the work of the committee, and he was a good foil for Dr Pezzutti. At the end of his first speech in 1984 the Hon. John Jobling said:

I look forward to participating as a fully active member of this House from today.

He has done that, and he has done it with great distinction. The Hon. Dr Brian Pezzutti is a fellow traveller on the North Coast, and a man who is widely known and respected from Grafton to the Tweed. Indeed, he is known as far south as Fredericktown, as I discovered the other day when I pulled up at a famous pie shop on the Pacific Highway near Kempsey. There in the pie shop window was a page of *Hansard* and a Brian Pezzutti speech extolling the virtues of Fredo's pies. One can also find his photograph neatly framed in the terminal buildings at Lismore and Ballina airports. Brian Pezzutti is a genuine local hero on the North Coast.

Dr Pezzutti's legacy to the Parliament is the great and timely report into mental health which was tabled last week. It was a privilege to work with him on the report and to witness first-hand his compassion and good humour. His knowledge of the subject of mental health is so extensive that sometimes I wondered at the hearings just who was giving evidence, the witnesses or the chairman. For all that, the report is a landmark in the field of mental health, and I hope its recommendations are implemented for the sake of the mentally ill and

as a testimony to the work of the Hon. Dr Brian Pezzutti. Two other fellow travellers on the North Coast are also retiring at the end of this four-year session of the Parliament—the Hon. Richard Jones and the Hon. Janelle Saffin. They also scored photographs in the Lismore and Ballina airport terminals. I admit to great affection for each of them, both politically and personally. Richard Jones had a good old-fashioned hippy party in the Strangers Bar the other night and I loved every feature of it.

The Hon. Ian Macdonald: It reminded me of Nimbin.

The Hon. PETER BREEN: It did. It included glitter, sparklers, mime artists, streamers and a guava punch that tasted like sewage effluent but was guaranteed to keep you up all night. One thing I learnt at Richard's farewell party is that he has had more success in amending legislation in the upper House than any other member. He likes to party but he also has a huge capacity for work, and I wish him and Jo a long and prosperous future. Janelle Saffin is an icon in the human rights movement. I am proud to have known her for the past four years and to see first-hand the work she does. She is an active member of the International Commission of Jurists and she enjoys wide respect in Australia and overseas. Two international bodies have been established as a direct result of Janelle's efforts. One is the Water Research Training Centre set up in Burma in conjunction with the United Nations, and the other is the Aloia Foundation, which sponsors women and young girls in East Timor and whose patron is Mary Robinson. I understand that Janelle will be resuming her legal career. She will make a fine contribution to the work of the legal profession following her experience in this House.

Today the Hon. James Samios said that the transfer of the balance of power from the Legislative Assembly to the Legislative Council has been the most important development in parliamentary democracy during his time as a member of this House. This trend is consistent with developments at the Federal level of government, where many voters are casting their ballots for the major parties in the House of Representatives but voting for minor parties and Independents in the Senate. James Samios also referred to the important part played by multiculturalism in underpinning the social cohesion of Australian society. When he first joined the Liberal Party its policy towards migrant Australians was one of assimilation. Almost single-handedly, James Samios changed that policy from one of assimilation to one of integration according to the principles of mutual respect represented by multiculturalism. Australia is a culturally diverse society that builds bridges between different ethnic communities. This approach to migrants is now a bipartisan policy. In my opinion the Hon. James Samios deserves a good measure of the credit for the success of that policy because of the way he has influenced the attitude of the Liberal Party. In my experience James Samios changed the thinking of the Liberal Party towards migrant groups, and he is to be forever congratulated on that.

Like the Hon. James Samios, the Hon. Helen Sham-Ho has also been a bridge builder with the ethnic communities of New South Wales. In her final speech today Helen mentioned that she was the first of 10 people of Asian background elected to parliaments throughout Australia—I did not know that—and she is to be commended for that effort. Today she explained that the Asian community was outraged by the lack of political leadership in response to Hansonism and she took a difficult decision to resign from the Liberal Party. She compared the way that people of Asian background were treated with the demonisation that is being directed towards the Muslim community and people who subscribe to the beliefs of Islam.

I am not in a position to make any judgment about Helen's decision to resign from the Liberal Party but I note in passing that more than half of the members on the crossbenches were once members of the Liberal Party. In the four years I have worked with the Hon. Helen Sham-Ho I have found her to be intelligent, hard working and committed to the ideals of multiculturalism and cultural integration. I vividly recall in the early days of my membership of this House when the Hon. Helen Sham-Ho gave a speech that preceded the Hon. David Oldfield's first speech. The gallery was packed with Pauline Hanson supporters who clapped and cheered when an interjector called Helen a rat. I was shocked by that display, which had several layers of meaning, but Helen pressed on courageously and with dignity. I congratulate her on her courage, personal integrity and hard work for the Chinese community. Like all trailblazers, Helen has suffered much for her beliefs and ideals, but many people hold her in high esteem and I am one of them. I agree with the Hon. Ian Cohen that the loss of eight members is a great loss of corporate knowledge in this House, and I thank each of those members for their contributions over the years.

Amendment agreed to.

Motion as amended agreed to.

STANDING COMMITTEE ON SOCIAL ISSUES**Report**

The Hon. Jan Burnswoods, as Chairman, tabled report No. 29, entitled "Care and Support: Final Report on Child Protection Services", dated December 2002, together with minutes of proceedings, transcripts of evidence, submissions, tabled documents and correspondence.

Report ordered to be printed.

ADJOURNMENT

The Hon. IAN MACDONALD (Parliamentary Secretary) [2.42 p.m.]: I move:

That this House do now adjourn.

CONSTITUENTS CORRESPONDENCE PRIVACY

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [2.42 p.m.]: On 23 April my colleague George Souris, in his capacity as the honourable member for Upper Hunter, made representations to the Premier on behalf of the Mudgee District Environment Group Incorporated. The environment group had written to Mr Souris on 19 April expressing its concerns about the possible impact of the proposed Lake Cowal goldmine near West Wyalong. Without backing the group's concerns or making any comment on the validity of its concerns, Mr Souris proceeded to make representations to the Premier, as would be normal practice for any member of Parliament who received such a letter. I am sure honourable members would agree that this is an appropriate course of action. Members of Parliament are elected to represent their constituents, and sometimes that involves making representations on behalf of individuals or groups with whom one may not agree.

Mr Souris was expecting a response from the Premier. What he did not expect, but received, was a media release issued by the self-styled bad boy of the so-called Country Labor faction, Gerard Martin, the honourable member for Bathurst, claiming that the National Party is against the proposed Lake Cowal development. This was, and remains, a gross misrepresentation of the National Party's position on Lake Cowal which has been spelt out on several occasions during meetings with Barrack Gold and its consultants, Hawker Britton. Mr Souris was understandably concerned that correspondence from a local environmental group, accompanied by his covering letter to the Premier, could find its way to the honourable member for Bathurst to use in a media release. It has nothing to do with the electorate of the honourable member for Bathurst. But I digress. That is an issue for another day. Mr Souris wrote to the Privacy Commissioner expressing his concerns. In part, that letter reads—and I can quote this because, unlike the honourable member for Bathurst, I have the permission of Mr Souris:

My key concern is that until now I have believed that representations made by MPs on behalf of constituents generally were considered not for use in the political media domain.

Constituents of any electorate need to have full confidence that representations made on their behalf by their local MP will not be misused by the Government of the day and that their views will remain a matter between them and the relevant Government agency or Minister.

That is the key point. I am sure that people who write to me do not expect to find their concerns and my representations on their behalf at the centre of a political bun fight caused by the release of the correspondence. The Privacy Commissioner responded to Mr Souris in October advising him that he had discussed the matters raised with the Director-General of the Premier's Department, Col Gellatly. Dr Gellatly also wrote to Mr Souris, stating in part:

It appears from my inquiries that your representations were provided to Mr Martin by staff in the Premier's Office. Clearly staff were under an incorrect assumption as to their entitlement to pass on information they considered to be in the public domain.

The letter continues:

Given what I perceive to be failings within the Premier's Department of wish to apologise for the transmission of your personal representations on behalf of the Mudgee District Environment Group.

I raise this matter today because I am concerned, as are many of my colleagues, that the Government is prepared to play fast and loose with the representations of honourable members in order to provide its own members with

some sort of media release. This case highlights a distinct flaw in the current system and the fact that the Government will go to any length to abuse the power that it has to misrepresent the position of members of Parliament. I note that Dr Gellatly has indicated that the Premier's Department is taking steps to develop an appropriate code of conduct for ministerial staff. That initiative is to be commended. We need to nip this practice in the bud. However, we cannot overlook what I believe is the connivance of the Premier and his staff member Walt Secord in taking private correspondence from constituents and giving it to the honourable member for Bathurst to use in a political manner. That most appalling disregard for the process of government in this State was instigated by the head of the Government—no less than the Premier.

FIREARMS OWNERSHIP

The Hon. DAVID OLDFIELD [2.46 p.m.]: As 2002 closes, Australians face many terrible issues—drought, bushfires and terrorism are some of the more prominent. This morning the front page of the *Sydney Morning Herald* reported some specifics of the long-term plan by Muslims to turn Australia into an Islamic State—something all real Australians will oppose by whatever means necessary. Another significant issue for hundreds of thousands of Australians, including approximately 200,000 in New South Wales, is the dark cloud of further nonsensical gun laws and confiscations.

I do not detract from the many other matters of great importance, but through a dishonest assault law-abiding firearm owners have been treated like criminals and have suffered unjust penalties through the illogical and unsustainable policies of Prime Minister Howard. Shooters are workers, professional people, self-funded retirees, housewives and husbands, pensioners and teenagers—indeed, shooters come from all walks of life and every age bracket in society. Some are hunters, others are collectors, target shooters, western action and black powder enthusiasts—many shoot multiple disciplines. A significant number have spent years honing their skills and earning considerable acknowledgement by winning local, State and international titles. A few have even made history through Olympic success.

Shooters are not abnormal. They are simply Australians dedicated to their chosen competition or recreation. Yet each of them has been made to feel like a criminal by John Howard. John Howard's current gun grab centres on pistols, but all shooters should recognise that this man, for whom many of them voted, will not be satisfied until the only people legally in possession of firearms are the military, police and security forces. John Howard's position is clear: he awaits any excuse to act on taking guns, be it a few at a time or all at once. We would accept his agenda if law-abiding firearm owners posed a genuine risk to society. But that is not the case. All the evidence is clear: law-abiding firearm owners are decent, responsible, disciplined people who are not by any reasonable evaluation contributing to firearm-assisted crime.

In 1996 John Howard's gun buyback had a direct cost of around \$500 million, with countless millions more in indirect costs. John Howard claims his gun grab has succeeded in saving lives, but any accurate evaluation of Australian Bureau of Statistics or Australian Institute of Criminology statistics shows his claim to be out-of-context bunk being used deliberately to deceive people. Neither the overall murder rate nor the firearm-assisted murder rate has been positively affected by Howard's spending spree on guns. The last thing John Howard wants Australians to find out is that he spent \$500 million of taxpayers' funds, collected through the Medicare levy, and arguably has not saved a life.

It is not an unreasonable argument that the time, energy and money poured into Howard's firearm policies have actually allowed deaths rather than saved lives. How many lives would that \$500 million from the Medicare levy have saved if it, along with the accompanying time, energy and media effort, had been appropriately directed at issues where differences could have been made? Regional health, cancer research, suicide prevention and road safety all would have turned in life-saving results if the money had been fed their way. Even putting more nurses back into hospitals would have saved lives. But Howard chose to spend \$500 million on guns and, as a result, taxpayers have nothing to show for their money.

I have no doubt there are those who would be alive today if John Howard knew how to appropriately spend public money. John Howard's actions on firearms, his threats against duly elected State governments, including cursing them publicly for not immediately bowing to his edicts, are nothing short of dictatorship. If John Howard stays in office long enough there will be more than a few who will be unsurprised if he uses the excuse of terrorism to start arresting Australians who publicly disagree with him. Howard's gun grabs will not get terrorists or other criminals' guns. And let us not forget that other despicable dictator who reportedly registered and then took every law-abiding citizen's firearms. That dictator was Adolf Hitler.

CHILD SEXUAL ASSAULT PROSECUTIONS

The Hon. RON DYER [2.50 p.m.]: I take this opportunity to make some brief remarks regarding the Standing Committee on Law and Justice report on child sexual assault prosecutions. These prosecutions have markedly lower success rates than other criminal offences. Conviction rates for child sexual assault where the accused pleads not guilty and contests the trial stand at approximately 20 per cent. The committee's inquiry set out to investigate the causes of the low conviction rates for child sexual assault, and to determine what factors were increasing the stress and anxiety experienced by complainants. The committee sought to identify means of improving success rates for prosecutions and removing the causes of distress.

According to studies, child sexual assault victims consider seeing or being seen by the perpetrator in the court room as the most disturbing aspect of pursuing a complaint. Children are particularly distressed when a lack of alternative waiting areas requires them to wait in close proximity to and in view of the defendant. Two of the committee's recommendations aim to eliminate the possibility of the child and defendant crossing paths in the course of the prosecution, that is, with pre-trial recording of evidence and the pilot project for a specialist court.

The use of intimidating and confusing questioning of child sexual assault complainants is another cause of stress. While the mechanism exists to enable judicial officers to intervene in unfair, intimidating or confusing questioning, such intervention rarely occurs. This highlighted a need for the training of judicial officers to increase their understanding of children's development, language and memory, and so overcome the disinclination to intervene to prevent harsh or confusing cross-examination of children. Such training would be a vital part of the trial specialist court. The committee also advocates a new provision of the Evidence Act that would make clear the role of judicial officers in controlling inappropriate questioning of children.

Court delays were uniformly seen as a significant source of distress for child sexual assault complainants. Court delays can also have an impact on the success of the trial, since a long delay can result in the diminishing of the complainant's memory of the details of the offence. This situation can be exploited by the defence during cross-examination, so the delay often contributes to prosecution failures. A provision to admit pre-recorded evidence of child complainants, as recommended by the committee, would be an effective means of overcoming the disadvantages created by court delays.

It was disturbing to hear that, despite their value in reducing the anxiety of child witnesses, special measures such as closed circuit television [CCTV] are not universally employed in child sexual assault trials in New South Wales. For example, in committal hearings some two-thirds of children required to appear were denied the use of CCTV. For cases that went to trial, 43 per cent of children were refused the use of CCTV. The reasons for not using special measures are unsatisfactory and include faulty equipment, court staff being unable to operate the equipment, double-booking of equipment, and judicial officers being unaware of the provisions relating to the use of special measures. The introduction of a specialist court, with judicial officer and court staff training and high-quality electronic facilities, would overcome a great deal of the identified problems.

A final obstacle to conviction that I wish to mention is the provision of judicial warnings. Several specific jury warnings are particularly relevant in child sexual assault trials: the Crofts warning, relating to the credibility of delayed complaints of sexual assault; the Longman warning, focusing on the difficulties for the accused in cases of delayed, uncorroborated complaints; the Murray warning, concerning uncorroborated evidence; and the warning under section 165B (2) (a) of the Evidence Act, relating to the reliability of child witnesses. These were the subject of criticism during the inquiry, largely because they do not reflect current research about typical responses to child sexual assault and the reliability of child witnesses.

The committee recommends a number of changes to the jury warnings that may be given in child sexual assault trials. These changes seek to ensure that warnings are based on current scientific knowledge, rather than on the misconceptions and prejudices that have been the basis of jury warnings in the past. It is the committee's belief that the reforms to the criminal justice system recommended by the committee in this report can be implemented without undermining the legitimate rights of the accused. I thank Ms Tanya Bosch, the committee director, for her outstanding legal research and drafting of this technical and detailed report. I wish her every success in her future career.

GARIE BEACH SURF CLUB HOUSE

The Hon. PATRICIA FORSYTHE [2.55 p.m.]: I draw to the attention of the House the state of the surf club house at Garie Beach. I thank the Liberal candidate for Heathcote, Peter Vermeer, for drawing this

issue to my attention and for his efforts on behalf of the club to get government action. Garie Beach is in the Royal National Park. The Garie Surf Life Saving Club, which was formed in 1938 after a drowning incident, has performed thousands of rescues and since 1964 has been the sole first-aid body in the area. In addition, club members have been involved in cliff rescues and searches for missing bushwalkers. The club faces possible disbandment because the clubhouse is in a state of total disrepair. It has been in that state for some time. Concern for the safety of clubhouse users is so great that it may have to be abandoned.

In 1996 the club approached the National Parks and Wildlife Service to build a new clubhouse incorporating the National Parks and Wildlife Service kiosk, ranger's quarters, public toilets and showers. The club had sponsorship, but the National Parks and Wildlife Service rejected the offer. Over the next three years, 22 meetings were held between the club and the NPWS to resolve issues. In 1999 Liberal members of Parliament for Sutherland and Georges River, Lorna Stone and Marie Ficarra respectively, took up the cause and the then Minister for the Environment, Pam Allan, provided a cheque for \$50,000 and directed the National Parks and Wildlife Service to co-operate with the club. A site for a clubhouse was agreed upon, although the National Parks and Wildlife Service later proposed a shift to accommodate a sand dune.

In April 1999 the National Parks and Wildlife Service wrote to the club stating that the Minister for the Environment did not have power under any legislation regarding national parks to independently approve a building. When the club later found out about that, it had lost its sponsorship. The club agreed in 2000 to the new site, and plans were drawn up. A consultant was engaged to prepare and submit a review of environmental factors [REF]. The National Parks and Wildlife Service insisted on its own consultant. In January 2001 a new consultant was approved. Over the remainder of 2001, 11 meetings were held and the completed REF went on public display for four weeks. No adverse comments were received. Following further delays by the National Parks and Wildlife Service, approval was finally granted in May this year. In late May the club held talks with Royal National Park officials and reached an agreement on a new lease. That lease was sent to the Hurstville office of the National Parks and Wildlife Service. To date it has not been sent back.

So despite the Minister's agreement in 1999 to the club getting the go-ahead, and the approval in May this year, still no action has been taken on the clubhouse. Meanwhile the existing clubhouse remains in a dangerous condition. In recent weeks local media coverage in the *St George and Sutherland Shire Leader* has drawn comments from the National Parks and Wildlife Service. In response, the club's President, Alf Taylor, stated:

The NPWS claim they have supplied most of the funding to get the Garie SLSC clubhouse building proposal to its current stage. Garie SLSC has contributed \$57,685 in cash and donated professional services.

The \$35,000 committed by the NPWS was for the services of a consultant to submit a Review of Environment Factors for the complete Garie Valley. Garie SLSC's proportion of this REF was worked out to be 18%. Taking into account the previous funding that our club has already put toward this project, NPWS actually owes Garie SLSC for a portion of the REF.

Failure to help this club is bureaucracy gone mad. In 1999 Pam Allan got it right, and it is time that someone in the Carr Government directed the department to get on and get this clubhouse built. It is a disgrace that the National Parks and Wildlife Service can ignore the needs of the local community. It is a disgrace also that throughout the entire term of this Government, no-one has cared enough to require action to be taken.

YOUNG ACHIEVEMENT AUSTRALIA SILVER NATIONAL AWARDS

TRIBUTE TO Mr SAM FISZMAN

The Hon. AMANDA FAZIO [3.00 p.m.]: On 3 December 2002 I had the pleasure of representing the Premier at the Young Achievement Australia [YAA] Silver National Awards evening. I was greatly impressed by both the organisation and the young people involved in the YAA. The program, which was commenced in 1977 by far-sighted Australian business people, has grown beyond the expectations of those involved. Since 1977, 150,000 students have been through YAA programs. This year alone 11,000 students participated in the program. Young Achievement Australia is affiliated with Junior Achievement International, which has a presence in 111 countries. The YAA facilitates advisers and mentors from business and the community, developing business enterprise and entrepreneurial capabilities, capacities and enthusiasm in young people through running a real-life company.

The awards this year were very special as 2002 is the twenty-fifth anniversary of the YAA. It was interesting to note that some of the awards' sponsors have been involved with the YAA since its inception. The good work of the YAA was recognised by the international governing body at the recent Junior Achievement

International and bi-annual conference in the United States of America in categories such as the media, in promoting business enterprise and entrepreneurial education; innovation, for the development of an enterprise company program that caters for tertiary students and indigenous Australians and for the development of the business enterprise program for students in years 6 through to year 10; and quality, which recognised the YAA's world's best practice which is backed by formal research. This year the YAA had a record 335 business skills student companies and it was also a record year for business enterprise programs Australiawide, with 152 schools having signed an annual licence. This success was achieved through the commitment of 600 schools, 22 universities and TAFE colleges, 1,600 volunteer mentors, and over 600 partners and sponsors.

It is pleasing to note that many government organisations also assisted the YAA program in this successful year. In an attempt to expand and provide even greater opportunities for students, the organisers are calling for additional support from the business community. They are seeking new partners, both big and small, and volunteer mentors and organisations to use the YAA program as in-house training to develop communications internally or a project to ensure that enterprises give something back.

The New South Wales winner of the Cochlear Innovative Product or Service Award 2002 was Yamble from Penrith High School for a pen that both writes and whites out. The YAA Business Plan Award 2002 and the IBM e-Commerce Award 2002 were both won by Yakas—which involves students from the University of Sydney, the University of Technology, the University of New South Wales and the University of Western Sydney—for an innovative rage of shot glasses. The YAA Company of the Year Award 2002 was won by Y-Axis for a collaborative effort by a group of government and non-government schools—Loreto, North Sydney Boys High School, North Sydney Girls School, Shore, Sydney Grammar School, and Wenona—which imported and sold a combined wristwatch/TV remote controller. The Computer Associates Enterprising School, Volunteer and Community Award 2002 was won jointly by Wyndah College at Quakers Hill and the community of Forbes. I strongly believe that the YAA program is worthy of support and I urge businesses in New South Wales to get behind it. I also thank the Chair of the YAA, Philip Holt, and the Chief Executive Officer, Dennis Doyle, for the hard work they have put into the program.

On Wednesday 3 December 2002 in this House a cowardly and unjustified attack was made on the reputation of a man who contributed greatly to his adopted country, Australia. Of course, I refer to the late Sam Fiszman. In recognition of his contribution to tourism, he was made an Officer of the Order of Australia. The life of Sam Fiszman was remarkable. He fought in the Warsaw Ghetto uprising and in the Russian Army and worked as a political and economic correspondent for the Polish, Russian and Eastern European Press in Paris before coming to Australia in 1948. In 1976, following the election of the Wran Government, he was appointed to the New South Wales Tourism Commission and then seconded by the Australian Tourism Commission. Premier Carr appointed him as the Chair of Tourism New South Wales in 1995 and he subsequently became the chairman of major events in the Premier's Department.

As well as contributing so much to promote tourism, especially in New South Wales, Sam Fiszman was a founding director and Life Governor of the Hakoah Club and a major supporter of many Jewish charities. He was also a great supporter of the Australian Labor Party. I assume that it was this association that led to the scurrilous attack on the reputation of a man who contributed so much to New South Wales and Australia. I place on the public record my appreciation of his contribution. I know that all other decent and fair-minded members will agree with me in condemning the comments made on 3 December 2002.

CAMDEN ALUMINIUM EXTRACTION PLANT

Ms LEE RHIANNON [3.05 p.m.]: Camden residents are working hard to safeguard their community and the environment. Capral Aluminium Ltd is attempting to build an aluminium extraction plant in the local area. Once again the planning instrumentalities of this State have failed a local community. If this plant is built it will have an enormous impact, but only a few local residents have been informed. I thank Leone Kelly from Macarthur Green for the information she has provided to the Greens' office about this issue. Community concerns are considerable. Air emissions, noise, dust, traffic and visual amenity will be affected if the project goes ahead. It will also adversely impact on local employment opportunities. We should all thank the Camden community for its work in alerting us to the potential impact of this project on not only the local environment but also the air quality of the entire State.

Capral Aluminium reports that the overall attitude of residents consulted during the environmental impact study [EIS] was positive and that the importance of the facility as a major employer in the region was emphasised by residents, businesses and other key stakeholders. That is arguably the most unwarranted of the

claims in the EIS. Only 30 residences and 21 businesses were selected for consultation in a densely populated and rapidly growing area. As such, there is little justification for claiming that public participation has taken place and even less for asserting that the proposal has been embraced by the community.

Public outrage was demonstrated by capacity crowds at the Camden council meeting held on 25 November and at the Curran Hills community meeting on 21 November. Those attendances were testimony of the considerable public disenchantment with Capral's community consultation process, which can best be described as token and, more realistically, as contemptuous. To notify only 30 residences and 21 businesses is extraordinary and it is not the way that an environmental impact statement [EIS] should be conducted. The EIS is replete with poorly substantiated assurances about the lack of adverse impacts of the proposal. The EIS is poorly put together and is made difficult to decipher by its inadequate labelling of the figures and tables.

It is interesting that Capral considered it appropriate to calculate the smog-generating potential of nitrous oxide emissions in kilograms per annum over a 3,600 square kilometre area. If that were the case, why were people in that area not informed about the proposal and invited to attend the information evenings? It is significant to note that Capral's EIS main report devoted only three pages to the documentation of its community consultation. This, it could be argued, accurately reflects the level of importance it places on this component of the environmental impact assessment process. Therefore, it is up to concerned members of the community to dissect the EIS and inform local residents.

The truth is that a significant proportion of the community is anxious about the perceived nature of this project and is working very hard to ensure that there is proper consultation, and that the project does not go ahead. I refer now to employment, which is a very controversial matter. Capral claims that its proposed development will employ a large number of people, yet it has admitted that of the approximately 207 people employed most would be transferred to the facility from existing Capral operations outside Minto. This project is not the employment generator that had been suggested. I congratulate local residents on the work they are doing to expose this project.

TREE HOLLOWS

The Hon. IAN COHEN [3.09 p.m.]: According to that learned organisation the CSIRO, there is a housing shortage among Australia's birds and animals. More than 300 species of Australian birds, frogs, reptiles and mammals use tree hollows for breeding and shelter, and there are fewer and fewer tree hollows to go around. Small hollows suitable for small animals form in eucalypts of about 120 years of age in coastal forests. Larger animals such as owls, cockatoos and the great glider need bigger hollows. A tree might be 250 years old before it forms hollows big enough for these species. For members who are not aware, hollows are mainly formed when older branches of the tree fall off and, over time, the branch stump is hollowed out, often by insects. Hollows sometimes form when a tree is struck by lightning, or as a result of fire or termites.

Many of the species that use tree hollows are threatened or rare. The shortage of hollows makes their plight much worse, especially when they have to compete with introduced pest species, such as feral bees, for nesting and breeding places. Right across the landscape tree hollows are disappearing. Dieback on rural lands is killing many old trees, their corpses windrowed and burnt. Logging on both public and private lands continues to allow trees with hollows to be cut down, despite the evidence that these trees are absolutely vital to the survival of not just individual animals but entire species.

In coastal State forests available for logging there is a requirement to leave only 10 trees with hollows per two hectares. However, even this inadequate logging condition is not being met. It turns out that the wording of the licence condition is impossible to police, so important hollow-bearing trees continue to fall. Furthermore, the hollow-bearing trees of the future are also being destroyed with impunity. In coastal forests if there are no hollow-bearing trees there is no requirement to protect smaller trees. The significance of this should not be understated. We are sterilising our coastal forests. We are turning them into plantations bereft of biodiversity. Many birds and animals that depend on tree hollows would find no home there for 200 years, if we were to reverse such a policy today.

The loss of hollows is a process that is not easily reversed, and the repercussions persist for the several hundred years it may take for replacement hollows to develop. The only way to protect our biodiversity, and particularly our threatened species, is to protect their habitat. That means we need to take immediate steps to protect all trees with hollows. We need to ensure that for every hollow-bearing tree there are several large recruits to take its place, and in the meantime we probably have to think about getting tens of thousands of nest boxes or artificial hollows into the areas where the hollow-bearing trees have been taken out.

As with so many environmental issues the solutions are simple, but they require political will and a strong education campaign in order that affected communities can understand the decisions. There is no time to waste. Many species, particularly woodland birds, may enter a rapid decline in the next decade as a result of tree clearing 40 to 50 years ago. For example, on my property we put small, relatively inexpensive boxes in the trees to create artificial hollows for birds—a requirement that can easily be avoided with a better management program. I believe that the maintenance of adequate hollows in habitat trees is essential.

[Time for debate expired.]

Motion agreed to.

The House adjourned at 3.12 p.m. until Tuesday 25 February 2003 at 2.30 p.m.
