

# LEGISLATIVE COUNCIL

Wednesday 2 July 2003

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**The Acting-President (The Hon. Amanda Fazio)** took the chair at 2.30 p.m.

**The Acting-President** offered the Prayers.

## BILL RETURNED

The following bill was returned from the Legislative Assembly without amendment:

Local Government Amendment (Employment Protection) Bill

## BUSINESS OF THE HOUSE

### Precedence of Business

**Motion by the Hon. Michael Egan agreed to:**

That on Thursday 3 July 2003 Government Business take precedence of General Business.

## PETITIONS

### Berowra Valley Regional Park

Petition praying that Berowra Valley Regional Park be reserved as a national park, received from **Mr Ian Cohen**.

### Governor of New South Wales

Petition praying that the House reverse the removal of the Governor from the historic headquarters at Government House and put the role, duties and office of the Governor to a referendum, received from **Reverend the Hon. Fred Nile**.

## BUSINESS OF THE HOUSE

### Postponement of Business

**Business of the House Notice of Motion No. 2 postponed on motion by the Hon. Greg Pearce.**

**Government Business Notices of motion Nos 1 and 2 and Government Business Orders of the Day Nos 1 to 3 postponed on motion by the Hon. Tony Kelly.**

## BUSINESS OF THE HOUSE

### Suspension of Standing and Sessional Orders

**Ms LEE RHIANNON** [11.12 a.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that the House meet at 10.00 a.m. tomorrow, Thursday 3 July 2003, for the purpose of debating Private Member's Business item No. 38 outside the Order of Precedence, relating to the report on "Review of the Office of the Inspector-General Department of Corrective Services", dated May 2003, and tabled in this House on 24 June 2003, for one hour.

Our reason for moving this motion is that the report needs airing in a public forum. Members need to have the right to explore the issues that have been written about in the report on the future of the office of the Inspector-

General of Corrective Services. This matter is urgent and cannot be left over until September, when we sit again, because the Cabinet is meeting in August and will decide the future of the office of the Inspector-General. Therefore, it is important that we have this debate. We would argue that at the moment the Cabinet decision would be based solely on the flawed, one-sided secretive review. Surely members of this House should be allowed to have an input. We put forward this motion, recognising that tomorrow is the last sitting day before September, but that by taking the time from 10.00 a.m. to 11.00 a.m. we are not taking up Government time. I trust that all members will see their way free to support the motion.

**The Hon. MICHAEL EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [11.14 a.m.]: The Government will oppose this motion. The standing and sessional orders provide that the House meets on a Thursday at 11.00 a.m. That means that honourable members make arrangements; no doubt many members have already made arrangements for tomorrow morning before the House is due to sit at 11.00 a.m. This motion is an attempt by the Greens to take the business of the House out of the Government's hands, contrary to protocol and precedent. As I understand it, the Minister has given an assurance to honourable members that this issue will be debated tomorrow or this evening. So the Government will make time within the program for the matter to be debated. However, it is not the policy, and Ms Lee Rhiannon does not own the place.

**The Hon. MICHAEL GALLACHER** (Leader of the Opposition) [11.15 a.m.]: The Opposition was of the view that this was agreed to between the Government and the crossbench. Honourable members might cast their minds back to last week when the Minister gave a strong commitment to bring on debate on this matter this week.

**The Hon. John Della Bosca**: We're happy to do that.

**The Hon. MICHAEL GALLACHER**: As the Special Minister of State interjects, the Government is happy to do that. During the meeting we had with the crossbench this morning we understood that there was an agreement between the Government and the Greens on the time issues before us. The Opposition was not concerned about time—we are not opposed to coming back at 10.00 a.m. However, we are opposed to the one-hour time limit on the debate. When one considers the number of members who may want to speak in the debate, we are concerned about how the debate will be limited to one hour. It does not appear to be a fair allocation of time. I do not know how long the Minister intends to speak; one would think that the Minister will want to speak for a long time.

At least one member on this side of the Chamber will want to speak for more than five to seven minutes, which would be a reasonable period if a large number of members wanted to speak. We are quite happy to start at 10.00 a.m. tomorrow. We would prefer to see two hours allocated for the debate. If the Government brings the debate on today, as has just been intimated by the Leader of the Government, this motion, for the purpose of debating the matter tomorrow, will be superfluous.

**The Hon. John Della Bosca**: How long do we need?

**The Hon. MICHAEL GALLACHER**: We are thinking of two hours roughly. That would be a fair amount of time for a number of members to speak. The debate may be exhausted before that; we do not expect to speak for two hours. In a one-hour debate, if the Minister speaks for 20 minutes and an Opposition member speaks for a similar amount of time, suddenly there will be only a couple of minutes left for other members. I suggest that the Leader of the Government's proposition that the debate be brought on today may be a tidier way to fix the problem, rather than resume at 10.00 a.m. tomorrow. However, the Opposition will support the move for a 10.00 a.m. start tomorrow.

**Reverend the Hon. FRED NILE** [11.17 a.m.]: A moment ago the Minister said that he would allow time for this matter to be debated. Does he intend that to be today or tomorrow?

**The Hon. Michael Egan**: We will do it today, if you like.

**The Hon. Michael Gallacher**: Over the dinner break.

**The Hon. Michael Egan**: No. We will do it today, there will be a dinner break, and we will have sensible sitting hours.

**Reverend the Hon. FRED NILE**: In view of that assurance from the Government, we will not support the motion, although we support the debate. Also, we were given the impression that the Government had agreed to this.

**The Hon. Michael Egan:** No, the Government had not agreed to it.

**Reverend the Hon. FRED NILE:** I know, and I thank the Minister for clarifying that.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [11.19 a.m.]: We also thank the Government for giving that time. It was not our intention to take control of the House away from the Government. That is a right that the Government should have. The Opposition would certainly protect that right. We also were given an understanding that an undertaking was made by the Government to that effect. The leadership of the Opposition was supportive of the motion because we understood that undertaking had been made. Given the undertaking made today, we are happy with the commitment.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [11.19 a.m.]: The Government is big on the tradition that it controls the sitting days of the House. However, it reduces the number of days we sit and then criticises us for not sitting, makes us work physiologically unsafe hours, and takes away private members' days as if they are irrelevant.

**The ACTING-PRESIDENT:** Order! Is the honourable member speaking to the specific motion or in general terms about his opinion of the way the Chamber is conducted?

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I am speaking to the point made by the Treasurer that this motion seeks to take the control of the House from the Government,. If the Government wants to control the agenda of the House, it has to be far more reasonable than it has been. That is why I support the motion.

**Motion negatived.**

## **WORKERS COMPENSATION LEGISLATION AMENDMENT BILL**

### **Second Reading**

**Debate resumed from 1 July.**

**Ms LEE RHIANNON** [11.21 a.m.]: The Greens will not oppose this bill but we will move an amendment. It is a relatively complex amendment that relates directly to the bill and enhances certain aspects of it. I will discuss that amendment in detail in Committee. However, I take this opportunity to speak in broad terms about workers compensation and safety on the job, and where we find ourselves in 2003. This sort of legislation and people's commitment to having a safer workplace is not something that has come suddenly. It has a long history.

Somebody very much associated with that history passed away last week and his funeral was held yesterday. His name is Brian Miller. He started as an apprentice carpenter in the 1950s and ended up as a safety officer for the Construction, Forestry, Mining and Energy Union. Much of the scaffolding and greater safety measures one sees on building sites in Sydney and around New South Wales is due to the dedicated and hard work of Brian Miller. It was so different when Brian was a young man. The union journal *Building Worker* of May 1960 reported the situation on Sydney's largest construction project, the Chevron Hotel.

**The Hon. John Della Bosca:** Do you have the autographed collection?

**Ms LEE RHIANNON:** No, I do not have the autographed collection of *Building Worker*. I am reading from what the Minister would have also received yesterday at the funeral of Brian Miller. I thought it was appropriate that the Minister for Industrial Relations joined about 1,000 friends, family and construction workers at this extraordinary event held at the Convention Centre. The *Building Worker* of May 1960 described graphically the terrible conditions that building workers worked under at that time. It reported:

On three consecutive days ... the ambulance was called five times to remove injured workers off the job ...

Recently when an electrician was nearly killed by a falling wall, the first-aid man had no stretcher, blankets or pillow.

Neither did he have any water, hot or cold, at his first aid station, which incidentally comprised no more than a poorly-lit corner in the basement store-room surrounded by all classes of building gear and unprotected from dust.

The fact that one can now go on to unionised building sites and find sheds for workers to spend time in when it is raining and to have their lunches, and where there are proper safety officers, says a great deal about the extraordinary work that Brian undertook. Another indication of what construction workers had to put up with in those days is that in 12 months 44 building workers were killed in New South Wales. These days about one building worker is killed every week in Australia. Workers and their unions were becoming increasingly angry and militant over safety. On the Warringah Mall job, following 176 accidents and one death, the first workers safety committee in New South Wales was organised.

Brian was there from those early days. He was involved in a safety blitz in the Liverpool area. He also worked far beyond safety issues although that was his chief passion. When natural disasters occurred Brian was often the person organising construction workers to go in and help restore life as we like to live it. At the time of Cyclone Tracy in the 1970s, Brian organised the construction workers. At the Nyngan floods he was there again. Another passion of Brian's was world peace. He was instrumental in having many sites around Sydney declared peace jobs—Darling Harbour, the Queen Victoria Building and the Entertainment Centre. That was in the 1980s, when the threat of nuclear war was very real. During the recent war against the people of Iraq, Brian was out there once again.

Tragically, Brian's long battle with cancer was lost. It is fitting that he be remembered during the debate on this legislation. Although we have heard criticisms of Labor over workers compensation, it is doing some tidying up. Even though the legislation is minimalist, I am sure Brian would be pleased with it. His track record has helped push Labor over the line, at least in this instance. I pay tribute to all of Brian's work colleagues, his partner, June, and his family, Joyce, Maurice, Valerie, Garry, Gail, John and Paul. I thank the House for allowing me to read that. I thank also the huge Maori contingent that gave a death haka at his funeral yesterday. It was one of the most moving things I have ever had the opportunity to participate in.

**Reverend the Hon. FRED NILE** [11.27 a.m.]: The Christian Democratic Party is pleased to support the Workers Compensation Legislation Amendment Bill, which will reform the Workers Compensation Act 1987, the Workplace Injury Management and Workers Compensation Act 1998, the Occupational Health and Safety Act 2000 and the Workers Compensation Act (Dust Diseases) Act 1942. We are pleased to support the bill because reading the bill and listening to the Minister's second reading speech brought back to my mind a number of issues we raised during the inquiry by General Purpose Standing Committee No. 1 into workers compensation. It was perhaps the longest general purpose standing committee inquiry held by this Parliament. It lasted for more than 12 months. The resolution of the House was that General Purpose Standing Committee No. 1 would review workers compensation over a 12-month period. That was part of an agreement the Government made with the union movement, which was concerned that the Government was rushing in a direction it felt was against the interests of workers.

Our committee was given the task of being a monitoring committee on behalf of the workers of this State, including members of the trade union movement. We are pleased that a number of the proposals in the bill were based on recommendations of that committee. We have not yet debated that report in the House but we were keen to facilitate the opportunity for companies to become self-insurers. The bill will ensure the effectiveness of existing provisions allowing companies that become self-insurers to purchase their tail liabilities. We support particularly the amendment to encourage employers to notify injuries on time by providing financial incentives through the claims excess.

I hope that the financial incentives in the bill will help workers by encouraging employers to notify injuries early. It has been shown that the faster an injured worker enters the rehabilitation system—a hospital or medical care—the quicker the worker will recover. If treatment is delayed, the worker will usually suffer longer from the effects of the injuries and their resumption of employment will be delayed. We fully support the new system of notification because it will help to speed up injury treatment and management, and make sure that treatment and support are available for an injured worker as soon as possible after an injury. As I have said, that is a key factor in achieving a quick return to health and the workplace. The bill will remove some of the red tape that previously existed. We believe this is a very positive aspect of the bill. We are pleased to support the bill.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [11.31 a.m.]: Before addressing the provisions of the bill I will comment on the response of the Leader of the Opposition to my interjection last night. He was saying that police and firemen should get a better deal than gardeners. He said that if my house were invaded at three o'clock in the morning I would see the wisdom of that. I must confess that if my home were invaded at three o'clock in the morning I would not be thinking about someone else's workers compensation. But I think it is important that all workers, whatever job they are in, should have a fair deal in workers compensation.

We should not say that the gardener does not get a fair deal but we have to make sure that the policeman and the fireman do. Everybody should get a fair deal. That is what a civilised society is all about. Some should not get a fairer deal than others. Although it is true that in this life there are some who are luckier than others and some get a better deal than others, it should be our objective as members of Parliament to give everyone a fair deal. I must confess that I was little disappointed that the Leader of the Opposition does not see it like that. I think this bill is a missed opportunity, because there are huge problems with workers compensation.

**The Hon. John Della Bosca:** Life is one long missed opportunity.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** For this Government it is, yes. I never miss an opportunity to comment on that, either. The point is that claims are not well-managed. That is the real key to the problem. The insurance companies have been managing claims very badly. Their solution has been not to have to pay, so it does not matter how claims are managed. Effectively, that is the present situation. I will quickly deal with what the bill actually does, what the situation is, and perhaps what might have been done.

The Workers Compensation Legislation Amendment Bill amends four Acts that regulate or attempt to regulate an environment in which employees have a safe workplace and are afforded appropriate compensation for injuries sustained at work. Schedule 1 amends the Workers Compensation Act 1987. Most of the provisions of this Act are mainly procedural and bear little resemblance to the disgraceful denial of rights committed by the Carr Labor Government two years ago. The Government has clarified the ability of self-insurers to purchase their tail liabilities.

Schedule 1 [3] clarifies that the President of the Workers Compensation Commission may delegate functions to a deputy-president if the president thinks the delegation is necessary to avoid apprehended bias by parties in proceedings. This amendment will clarify the de facto officer doctrine that operates in most tribunals. The commission is being asked to take over from the Compensation Court the role of determining workers compensation disputes.

Already the Public Service Association has questioned the commission's ability to cope with current structural deficiencies and procedural problems. In the June-July edition of *Red Tape* it notes that there have already been documented instances of "arbitrators deciding matters without the application of the relevant law to the facts". These amendments are meant to go some way to address these shortcomings. The article entitled "Workers Comp reforms—eighteen months on" in this month's *Red Tape* succinctly sums up what has happened to workers compensation since the Carr Government caved in to the insurance companies. The article, which is by Richard Brennan, a solicitor at Jones, Staff and Co., states:

Regardless of the negligence of the employer, no injured worker can sue for damages unless they have been assessed under WorkCover's medical guidelines as having suffered at least 15% whole person impairment.

The medical profession is of the opinion that very few injured employees will ever reach this threshold which is much higher than the previous hurdle initiated by the Greiner Government.

Damages for pain and suffering have been replaced with a fixed lump sum which is determined by a mathematical formula after an assessment of the degree of whole person impairment suffered.

Damages under the new system are limited to past and future economic loss. In other words, wages.

The recovery of any damages effectively extinguishes all workers compensation entitlements such as payment of medical expenses etc.

Therefore, even in those rare instances where the 15% threshold criteria to claim damages is met, any potential gain may not on balance be worthwhile.

Damages proceedings must also be commenced within three years.

The relevant guidelines for assessment of impairment are of a medical nature and as such lawyers are unable to give advice on any likely outcome.

Any such advice would only be available via consultation with an appropriately qualified specialist who has been provided with all relevant history and treating doctor's investigative reports.

The effect of these amendments has been as strategic as it has been dramatic; it appears that not one person in NSW has commenced damages proceedings under the reforms. The object of the whole exercise.

Previously, hundreds if not thousands of seriously injured workers would have been able to bring damages proceedings.

In essence and most disturbingly, employer negligence is now unlikely to result in an order to pay damages in the event of a worker being injured.

The only threat to a negligent employer is an OH&S prosecution but that is a remote prospect.

The article contains a table of lump sum entitlements giving a comparison of the scheme with the new scheme. It states:

Under the new legislation, lump sums are based on the whole person impairment which mirrors American guidelines.

The table compares the lump sum entitlement based on impairment assessment under the old scale and the new scheme.

Case one involves a serious knee injury. The old lump sum is \$39,100; under the new scheme lump sum it is \$7,500. Case two involves foot and back injuries. Under the old scheme the lump sum would be \$31,750 and under the new scheme it would be \$1,250. Case three involves epicondylitis. Under the old scheme the lump sum would vary between \$5,000 and \$25,000. Under the new scheme no assessment can be made and the lump sum would be nil. Case four involves right arm and leg injuries. Under the old scheme the lump sum would be \$41,500 and under the new scheme it would be \$5,000. In all comparable cases the injured worker is now far worse off.

The author of the article states that he does not know the validity of the appropriately qualified specialists. I have been to a number of workshops on the American Medical Association guidelines. It is regarded as a very lucrative little earner to do the evaluation of disability course, because assessment medicals are very expensive. It is presumed that an external examination of somebody can accurately and consistently quantify disability, but one of the major aspects, pain, cannot be quantified. So the process is appearing to give a precision that it simply cannot give in practice. As such, I say that the American Medical Association guidelines are bunk, and that a better system is needed to assess employee injury and disability. The guidelines are really a dangerous farce. The system is convenient administratively and financially for certain parties but totally abrogates the concept of real justice.

Schedule 3 amends the Occupational Health and Safety Act 2000, and it must now be construed that there will be no right of action in any civil proceedings in respect of any contravention of the regulations, whether by act or omission. The Minister for Industrial Relations said in his second reading speech that the Act provides that an employer cannot be sued for damages for breaching this statutory duty. The question then is: How many prosecutions has WorkCover launched? I would like the Minister to give that figure. I believe there have been insufficient prosecutions to give workers the safety of knowing that the law is being enforced. The Government has introduced many pieces of legislation to increase penalties, but are they enforced? The fact that the penalty may be high is irrelevant if we do not have systemic and well-targeted prosecutions.

The Government also wants to regulate advertising by lawyers and agents promoting their common law claims services. The Australian Plaintiff Lawyers Association has approached the National Competition Council complaining that the guidelines are in breach of national competition policy and that there is no public interest in removing a consumer's right to be informed of his or her legal rights and entitlements. The association has recommended that the New South Wales Government be penalised accordingly. I cannot see why people injured as a result of someone else's negligence or recklessness should be denied the opportunity to make an informed decision about legal representation. Although I am not normally an advocate for plaintiff lawyers or advertising, the lack of understanding of workers' rights in this regard is extraordinary. It is alarming to realise how defenceless they are; they never think about being injured or the legal implications.

I spent nearly as much time in my workers compensation practice giving people basic information about rights as I did deciding which specialist should treat them. That was not my job, but I was filling a gap. Some chose good lawyers and some chose bad lawyers. They tended to choose lawyers recommended by their friends. They also asked me about lawyers, but I was not ethically able to give that advice. However, I did try to point them in the right direction. The huge lack of information available is alarming. Whether advertisements tout for business or simply inform people is a big question.

As pointed out in an interjection, I have not been a great fan of advertising. If people want something they should buy it; advertising merely increases marketing costs and lessens the value of the product. The Government is happy to ban plaintiff lawyers from advertising but is happy to allow gambling advertisements, which can cause great harm. We have seen sufficient of the light to ban tobacco advertising, although the tobacco industry has demonstrated that marketing is more than advertising. It has taken us a long time to catch up. We must recognise and take into account that advertising sets consumption patterns. In the absence of government-provided information, it is a bit rich to not allow advertising to help people through the workers compensation maze.

Some aspects of this legislation are acceptable because it has been drafted to correct minor errors. However, the Government has not grasped the nettle of the problem in New South Wales: better claims management. The Government's approach of removing workers' rights for anything but the most major injuries, and of assessing them according to an arbitrary formula in the Australian Medical Association guidelines or some derivative, is inappropriate. This legislation is a missed opportunity to achieve justice for injured people in New South Wales.

**The Hon. MALCOLM JONES** [11.43 a.m.]: I seek from the Government an undertaking that it will embark upon a public information campaign. The changes to workers compensation legislation are very important. The Government has spent a great deal of money on television advertising that, by and large, is very effective, particularly the advertisements about a mate saving another mate's back or lungs. I applaud that campaign. People either do not know sufficient about workers compensation or are misinformed. They obtain their information from experience with workers' compensation issues. We have moved on and many things have changed.

Workers compensation has two important aspects. First, workers know very little about benefits. They think either that they are entitled to the world or that the Government has removed all benefits. Both impressions are incorrect. Workers need accurate information about benefits. Second, small businesses—that is, businesses employing fewer than 20 employees—need to be educated about workers compensation. Large businesses—that is, businesses employing more than 200 employees—have financial controllers or people in responsible positions who should be on top of changes and who can deal with unions and access reliable professional sources of information.

Small business proprietors do not have the time or resources to do that. Even if they did, they would probably seek information from ill-informed sources. If we were to educate those two groups we would save the community a great deal of time and angst. In its deliberations about the advertising budget relating to workers compensation, the Government should consider embarking upon an education campaign to inform those groups. Such a campaign would be well received by the community and it would be money well spent.

**The Hon. JOHN DELLA BOSCA** (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [11.46 a.m.], in reply: I thank honourable members for their contributions to this debate. The proposals in the bill streamline and improve the administration of the Workers Compensation Commission, strengthen the dust diseases legislation, complement the single notification scheme, and correct various anomalies in workers compensation and occupational health and safety legislation.

The Workers Compensation Act 1987 will be amended to extend the provision that delays the running of time for the purpose of the three-year limitation period on the commencement of common law proceedings. This will ensure that no worker is prejudiced by the procedures. The strengthening of the dust diseases legislation will remove any doubts surrounding the existing arrangements. This will ensure that negligent third parties, such as asbestos manufacturers, reimburse the Dust Diseases Board for moneys the board paid to workers, as Parliament intended when the provisions were introduced in 1998.

The bill also complements the single notification scheme. The Government's initiative means less red tape for employers. Instead of having to make two notifications for many injuries or incidents they will now need to make only one notification, either to WorkCover or their insurer. In addition, the Government recognises that sometimes a financial incentive is needed to encourage businesses to adopt improved practices. Accordingly, the bill provides that employers who notify a claim within specified time frames may pay a lower excess or no excess. The new system of notification will help speed up injury treatment and management for the injured worker. Taking up the point made by Reverend the Hon. Fred Nile, the reform program will be extended.

I thank honourable members for their support of the legislation. I understand that amendments will be moved in Committee. The only amendment I have is from the Greens, and the Government intends to support it. In light of the Hon. Dr Arthur Chesterfield-Evans' comments, I will make a few points about the way the scheme is performing. The new arrangements are working well. About 70 per cent of workers now get weekly benefits within seven days of notifying their injury to their insurer. That is a vast improvement on the old system. The disputes have been reduced by 75 per cent, from approximately \$8,000 per claim each quarter to \$2,000. The average reporting delay for injuries has almost halved from a median of 21 days to 12 days. That again proves the point that superior injury management, more rapid treatment response, and so on will deliver much better results for the scheme and, most importantly, for the workers.

This has led to substantial cost savings to the scheme. The WorkCover actuary now calculates that the 2001 reforms have reduced future liabilities by \$919 million, largely by minimising disputes. I will repeat the figure for the benefit and education of the Hon. Dr Arthur Chesterfield-Evans, who seems to have left the Chamber. The savings in legal costs alone exceed \$500 million. I think the free trading of such an anxious advocate perhaps shows a little bit of light shining behind the silhouette as to why his friends in the legal profession may be so keen to go back to the status quo.

In contrast, payments to workers have increased substantially. Actual payments for workers in 2000-01 were \$1,645 million, and actual payments to workers in 2001-02, the first full year of operation of the new program, were \$2,046 million—and that is against generally fewer claims. I take on board what the Hon. Malcolm Jones said about the need for workers to be educated about what they are entitled to.

Again for the benefit of the Hon. Dr Arthur Chesterfield-Evans I advise that regardless of any threshold, injured workers are entitled to weekly income support, lump sums for permanent physical impairment, the payment of medical bills, legal assistance to pursue a claim, and intensive rehabilitation. I reiterate that 70 per cent of workers are now receiving that assistance within seven days of the notification of their injury. This critically important change has taken place as a result of the Government's program of reform to workers compensation, which is based on improving the welfare of workers who rely on workers compensation payments to maintain their lifestyle.

I appreciate Ms Lee Rhiannon's comments and echo her sentiments about the funeral service held yesterday for Brian Miller. I had known Brian Miller as a political activist for many years, at least 20 or so. I did not know him well as a political activist, because in some respects he mixed in different circles, though sometimes they overlapped with mine. However, I knew him as a good bloke in what used to be known as the BWIU, now the Building and Construction Division of the Construction, Forestry, Mining and Energy Union [CFMEU].

As stated during yesterday's service, Brian Miller believed in collective work to achieve important goals. I believe that at the core of that was the fact that he was also a highly democratic person in his approach to these matters. Although Brian Miller had some association with a variety of causes, his main focus in life, certainly in his later professional years as a union organiser, was occupational health and safety matters, in which, it is fair to say, he was a legendary figure.

Brian Miller will be sorely missed by his comrades in the CFMEU particularly and by workers in the construction industry generally. Towards the end of Brian's life I became much closer to him and had a lot more professional involvement and engagement with him as a person who often fronted the union movement as an authority on occupational health and safety matters. Apart from his passion and dedication, Brian had a vast technical knowledge of the way in which the system operated. In many ways he took a great deal of pride in the new Act and regulations, and he and the union movement played a key role in negotiating with employers and the Government to bring about perhaps some of the best safety regulations available in the world, to ensure economic efficiency and safety for workers.

**Motion agreed to.**

**Bill read a second time.**

### **In Committee**

**Clauses 1 to 3 agreed to.**

### **Schedule 1**

**Ms LEE RHIANNON** [11.56 a.m.]: I move Greens amendment No. 1:

No. 1 Page 3, schedule 1 [2]. Insert after line 20:

[3] **Section 151DA (1) (a)**

Omit the paragraph. Insert instead:

- (a) while a medical dispute as to whether the degree of permanent impairment of the injured worker is at least 15%, or whether the degree of permanent impairment of the injured worker is fully ascertainable, is the subject of a referral for determination by the Commission or a referral for assessment under Part 7 of Chapter 7 of the 1998 Act (including any further assessment under section 329 of that Act), or



**[4] Section 151DA (1) (a2), (a3)**

Insert after section 151DA (1) (a):

- (a2) during the period of 1 month after an offer of settlement is made to the claimant pursuant to the determination of the claim as and when required by the 1998 Act, or
- (a3) while an assessment under Part 7 of Chapter 7 of the 1998 Act in respect of a medical dispute referred to in paragraph (a) is the subject of a pending appeal under section 327 of the 1998 Act, or

This small but important amendment, which addresses insurers' delaying tactics, is not out of keeping with the spirit of the bill. The Greens apologise for being unable to circulate the amendment earlier, but it is a complex matter and we were seeking advice. The amendment deals with the bill's amendments to section 151D of the 1987 Act, which provides a three-year time limit from the date of an injury in which court proceedings may be commenced. Part 6 of chapter 7 of the 1998 Act provides, from section 313 onwards, that court proceedings cannot be commenced while there is a "threshold dispute". A threshold dispute is a dispute as to whether a worker's injury meets a 15 per cent whole-person impairment level or is not "fully ascertainable".

Before a threshold dispute can be resolved a worker must, under section 281 of the 1998 Act, make a claim for lump-sum compensation on the employer-insurer and wait for it to be determined. Without this provision, time would continue to run for the purposes of section 151D whilst the worker waited, as he or she must, for an insurer's response to the claim. The problem with the bill is that it does not go far enough. It provides for only a two-month period of grace after the "provision of all relevant particulars" by the worker. Unfortunately, if an insurer waits for the two months under section 281 and then makes an offer, as it is entitled to do, the worker must then wait a further one month before commencing proceedings in the commission seeking to have the lump-sum claim determined. The bill does not cover that extra one-month period during which a worker is unable to advance his or her claim.

Further, a worker can only commence proceedings in the commission seeking to have the lump-sum compensation claim determined. It is then up to the registrar to "refer" the medical dispute under section 293 (2) of the 1998 Act to an "approved medical specialist" under part 7 of chapter 7 of the 1998 Act. There is no time in which the registrar is required to refer the dispute. A claim may be commenced on day one and not be referred by the registrar under section 293 (2) for an indefinite period thereafter. Once again, the bill does not cover the period during which a worker is unable to advance his or her claim.

Finally, the bill does not deal with any delay caused by an appeal by a worker in respect of the degree of permanent impairment. Workers have limited rights to appeal from an approved medical specialist's certification under section 327 of the 1998 Act. For example, a worker's treating doctor may assess him or her as having a 20 per cent whole-person impairment, the matter is then referred to an approved medical specialist under part 7 of chapter 7, and the approved medical specialist may make a mistake and assess the worker as having only a 10 per cent whole person impairment. This would prevent the worker from commencing proceedings for common law damages. The worker may then appeal under section 327, and the appeal panel may find the worker to have had a 20 per cent whole person impairment after all. However, time will have continued to run during the appeal process and the worker may then be statute barred from commencing proceedings. Once again, the bill does not cover the period during which a worker is unable to advance his or her claim. I commend the amendment to the Committee.

**The Hon. JOHN DELLA BOSCA** (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [11.59 a.m.]: The Government accepts the Greens' amendment.

**Amendment agreed to.**

**Schedule 1 as amended agreed to.**

**Schedules 2 to 7 agreed to.**

**Title agreed to.**

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

**Pursuant to sessional orders business interrupted.**

## QUESTIONS WITHOUT NOTICE

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### MAITLAND INFRINGEMENT PROCESSING BUREAU

**The Hon. MICHAEL GALLACHER:** My question without notice is directed to the Treasurer. Are claims by Mr Ted Edwards, Director of the New South Wales Infringement Processing Bureau, correct when he says that major teething problems at Maitland's Infringement Processing Bureau have been resolved, leaving minor operating backlogs?

**The Hon. MICHAEL EGAN:** I am not aware of comments that Mr Edwards has made.

**The Hon. MICHAEL GALLACHER:** I ask a supplementary question. Does the Government consider acceptable the current backlog of over 100,000 infringement notices needing correction, resulting in approximately 12,000 infringement notices per month being lost due to the statute of limitations? How many million dollars in revenue was lost last month alone due to infringement notices being determined statute barred?

**The Hon. MICHAEL EGAN:** The question from the Leader of the Opposition, as I understand it, is a question for the Minister for Police. The infringement notices are about to be transferred across. I do not believe that has happened as yet. One of the reasons for the proposed transfer is that the work of the State Debt Recovery Office and the Infringement Processing Bureau should go hand in glove.

### GREATER WESTERN SYDNEY BUSINESS DEVELOPMENT

**The Hon. IAN WEST:** My question without notice is addressed to the Treasurer and Minister for State Development. Will the Minister advise the House what initiatives the Government has put in place to further the development of businesses in Greater Western Sydney?

**The Hon. MICHAEL EGAN:** As members would be aware, Greater Western Sydney is one of Australia's fastest-growing economies, and the Department of State and Regional Development delivers a range of programs to support employment growth and economic development in this region. Last year the department assisted 108 companies from Greater Western Sydney through its Small Business Development programs to the value of almost \$750,000.

From 1998 to 2002 the Department of State and Regional Development provided nearly \$8 million in investment assistance to 10 companies in Greater Western Sydney through the Industries Assistance Fund. The Business Centre in Parramatta delivers the department's business development programs for Western Sydney. In 2002 the centre assisted 326 companies on a one-to-one basis. The centre also has a Trade and Investment Centre, which is the focus for the department's regular training seminars and business briefings. Recent events have included briefings on trade opportunities in South-East Asia, North-East Asia and the Pacific, as well as seminars on human resource management, and workshops on marketing and cash flow management. During 2002, there were 235 functions held at the centre, which were attended by 6,174 people.

The Greater Western Sydney Economic Development Board is one of 13 regional boards funded by the Department of State and Regional Development. Current board projects include assistance for the Hawkesbury Harvest Paddock to Plate agribusiness development and regional branding project, support for the Blue Mountains Advantage business and environmental accreditation project, the Western Sydney Film Industry development and investment attraction project, an Aerospace Industry development project, and the Greater Western Sydney Tourism Industry Development project.

The Government will continue to work with the community of Western Sydney to capitalise on the region's strengths, and create new opportunities for economic and employment growth. I thank the Hon. Ian West not only for his question but also for his great interest in Greater Western Sydney.

### ENERGYAUSTRALIA POWERTEL INVESTMENT

**The Hon. DUNCAN GAY:** My question is directed to the Treasurer. Can the Treasurer inform the House how much EnergyAustralia has spent to date in its dealings with PowerTel? By how much has

EnergyAustralia written down its investment in PowerTel since EnergyAustralia's managing director, Paul Broad, told an estimates committee hearing last year that the investment was down to \$13 million? Now that EnergyAustralia has said that it may sell its stake in PowerTel, can the Treasurer assure the House that this sale will not result in any losses to New South Wales taxpayers?

**The Hon. MICHAEL EGAN:** I believe the House is aware that PowerTel is being sold to one of a couple of fiercely bidding bidders.

**The Hon. Duncan Gay:** The House would only be aware if it had been reviewed. You haven't told us.

**Hon. MICHAEL EGAN:** I do not know what the outcome of that process will be. As the Deputy Leader of the Opposition has pointed out, EnergyAustralia has in its previous financial statements written down the value of its investment in PowerTel. However, Energy Australia is one of the most profitable publicly owned businesses in Australia.

**The Hon. DUNCAN GAY:** I ask a supplementary question. As shareholding Minister, can the Treasurer inform the House what he has done to monitor the investment activities of EnergyAustralia in relation to PowerTel to ensure that the risk to taxpayers is minimised? Can the Treasurer inform the House why he and the other shareholding Minister, the Special Minister of State who is seated beside him, should not be held in part responsible for any losses out of this adventure?

**The Hon. MICHAEL EGAN:** The investment by EnergyAustralia in PowerTel was a commercial decision for EnergyAustralia.

**The Hon. Duncan Gay:** You are a shareholding Minister and so is the Special Minister of State.

**The Hon. MICHAEL EGAN:** I am a shareholding Minister. If The Deputy Leader of the Opposition wants to hold me responsible for those parts of EnergyAustralia's activities that are unprofitable, he also has to give me credit for those parts of EnergyAustralia's trading performance that are very profitable.

**The Hon. Duncan Gay:** You would take the credit for it anyway.

**The Hon. Michael Gallacher:** If you take the credit for the good times, you have to take the credit for the bad times.

**The Hon. MICHAEL EGAN:** I do not think I have ever taken credit for the very profitable performance of EnergyAustralia, but if the honourable member provokes me, I might. It is a utility that returns very significant dividends to the New South Wales taxpayer.

#### **PUBLIC LIBRARIES FUNDING**

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** My question without notice is directed to the Treasurer, representing the Premier, and Minister for the Arts. Is the Treasurer aware that New South Wales has the lowest level of per capita funding for public libraries of any State in Australia? Is the Treasurer aware that the State Government's funding is less than half the national average in terms of the percentage of total library funding? Is the Treasurer aware that this funding amounts to less than one cent per person per day in New South Wales? Why is the level of funding for public libraries in New South Wales so low and does this not reflect very badly on the priorities of this Government, on the Treasurer and, in particular, the Premier, who professes to be a great student of history and is the Minister for the Arts?

**The Hon. MICHAEL EGAN:** I certainly would not concede the accuracy of anything in the question of the Hon. Dr Arthur Chesterfield-Evans. He is not one for accuracy. I recall only a week or two ago that he told us that motor vehicle third party premiums had increased tenfold. What a ludicrous proposition! He had to concede eventually that he made it up. I do not know whether he has made up the figures in his question today but I will check them. I will also refer the question to the appropriate Minister, who is the Premier.

**The Hon. Duncan Gay:** Are you going to attempt to answer the question?

**The Hon. MICHAEL EGAN:** I simply make the point that I do not take at face value any information that the Hon. Dr Arthur Chesterfield-Evans provides in his questions. I will check it.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I ask a supplementary question. Does this mean that the Treasurer will get back to me with the figures and a justification for the Government's level of funding based on those figures?

**The Hon. MICHAEL EGAN:** I think I indicated—correct me if I did not—that it was a question for the Premier. The implication is that having asked the question of the wrong Minister, the question is usually then directed to the right Minister.

### BUS SERVICES

**The Hon. KAYEE GRIFFIN:** I direct my question without notice to the Minister for Transport Services. Will the Minister advise the House of the latest information on the metropolitan bus network?

**The Hon. Greg Pearce:** Looking for a diversion, are we?

**The Hon. MICHAEL COSTA:** Diversion from what? The day that you can perform as well as I do, even when I am stumbling, will be the day when the Opposition has at least a chance.

**The Hon. Duncan Gay:** Point of order: The Minister is misleading the House.

**The ACTING-PRESIDENT:** Order! There is no point of order. The Minister may proceed.

**The Hon. MICHAEL COSTA:** You led with your chin on that one. I thank the honourable member for the question.

**The Hon. Michael Gallacher:** You are not coming back for another one, are you?

**The Hon. MICHAEL COSTA:** I will keep coming back, if that is the best you can give. The Government's priority is to deliver safe, clean and reliable public transport services. That is why I am pleased to inform the House that existing bus services in New South Wales will be overhauled as part of a review to improve public access to the bus network. Former Premier and Minister for Transport, Barrie Unsworth, will head the first complete review of services since buses replaced Sydney's tram network in 1961. Public and private buses move more than 344 million people in metropolitan areas every year. I want to investigate whether taxpayers are getting value for their \$541 million investment through the community subsidy scheme and community service obligations. Bus services have spiralled into a complex network of 350 separate contracts in metropolitan New South Wales that do not always provides services where and when they are most needed. The review will look at the existing bus network and explore ways to deliver better access and services to the community.

Problems with the current bus network include: public and private bus failure to keep pace with rapid demographic and population shifts; a disorganised and non-integrated metropolitan bus network of 25 providers; resulting failure to adequately service key population centres, especially the north-west and far western Sydney; inconsistent services—many buses are contractually restricted from picking up or setting down for significant parts of key routes; lack of transparency in the current School Student Transport Scheme [SSTS]; and the need for the current integrated ticketing project to capture relevant data to assist in improving SSTS transparency while preserving the current eligibility criteria.

I make that last point because as usual the Opposition—and, in particular, the National Party—has been running a scaremongering campaign. There will be no changes to the current eligibility criteria for the SSTS. This is not about that, so I suggest the National Party withdraw its press releases and stop the scaremongering campaign. The Unsworth review will consider: the opportunity provided by integrated ticketing to establish a consistent statewide fare regime; a network of strategic bus regions across the greater Sydney metropolitan area that integrate with rail services and other travel patterns; the network's ability to respond to changes in the future capacity of rail and the future development of the metropolitan area; improved bus priority measures, transitways and other options that may impact on services; resources in regional and rural communities to ensure more flexible solutions to public transport needs; funding, contractual and regulatory arrangements, including realistic enforceable minimum service levels and any relevant legislative changes—

**The Hon. Greg Pearce:** You are not up to the job.

**The Hon. MICHAEL COSTA:** If I am not up to the job, you will never be. You will never have the opportunity because given the last State election result, there is no way the public will trust you lot with transport. [*Time expired.*]

**The Hon. KAYEE GRIFFIN:** I ask a supplementary question. Will the Minister elucidate further?

**The Hon. MICHAEL COSTA:** I thank the honourable member for her request for elucidation. The review will also consider the best mix of recommendations to achieve improvements—and I am sure the Treasurer will be happy with this—in a cost-neutral manner. The review is the next step in developing public transport solutions and ways to get more people back onto public transport. It will require a blueprint and tough decisions—decisions, I might add, that were passed by—

**The Hon. Greg Pearce:** By Scully.

**The Hon. MICHAEL COSTA:** You are wrong—when the former Coalition Government introduced the Passenger Transport Act in 1990. If I remember correctly, Barry O'Farrell was the chief adviser to Bruce Baird, who got it completely wrong in 1990. Many of the problems we are experiencing at the moment go right back to Bruce Baird's failure to properly reform this area when he considered it in 1990. Barry O'Farrell has a lot to answer for because he is partially responsible for the mess it is in. To answer the question, the review will provide an interim report by November 2003 and a final report in February 2004. It will work in co-operation with the Parry inquiry into long-term investment in public transport, which will provide a final report by December 2003. This is an important review, which will look at our bus network, something that has not been looked at since—

**The Hon. Duncan Gay:** Point of order: Even for murder there is a statute of limitations.

**The ACTING-PRESIDENT:** Order! There is no point of order involved.  
[*Time expired.*]

#### NATIVE VEGETATION CLEARING

**Mr IAN COHEN:** My question without notice is addressed to the Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests), representing the Minister for Infrastructure and Planning, and Minister for Natural Resources. Will the Minister inform the House whether the Premier made a commitment in March this year to draw up a plan to end large-scale land clearing after the Wentworth group of scientists and economists recommended that the practice should be stopped? Following revelations in the *Sydney Morning Herald* on Monday that an abnormally large amount of land was approved for clearing in January and February, particularly in the Hunter and Central West regions, will the Minister introduce an immediate moratorium on land clearing in New South Wales to allow the recommended plan of the Wentworth group to be completed? If not, why not?

**The Hon. MICHAEL COSTA:** Clearly, that is a question for the Minister for Infrastructure and Planning. I will get a response from him and bring it back to the House.

**Mr IAN COHEN:** I ask a supplementary question. Will the Minister assure the House that there is no panic clearing occurring in New South Wales in response to the Government's proposed native vegetation reforms?

**The Hon. MICHAEL COSTA:** I indicated that I would get a proper response to the specific question from the Minister for Infrastructure and Planning. The Greens have made a number of allegations about the Government being involved in panic clearing. I simply put it on the record that it is an absurd proposition. The Government is committed to ending broad-scale land clearing; it has made a number of statements to that effect. The Government is committed to a sensible process to deal with this issue. I suggest that the Greens, particularly Ian Cohen—I have respect for him because at least he is a genuine Green—sit down with the relevant Minister and work out the details of this. There is no panic clearing. It is part of a sensible process to deal with land management issues.

### GROUP HOME REFORM

**The Hon. JOHN RYAN:** My question is addressed to the Minister for Community Services. Did the Minister tell the House last week that the Department of Ageing, Disability and Home Care is reviewing the cost effectiveness of the current configuration of its group homes, and that it had prepared a study the Minister referred to as the Group Homes Consolidation Program, which may involve relocating a number of group home residents? How many group homes have been identified in the study as being either underutilised or inappropriately used? How many clients does the study indicate could be relocated to ensure optimum cost effectiveness? What does the study indicate is the best configuration of a group home? Will the Minister release the study?

**The Hon. CARMEL TEBBUTT:** The Hon. John Ryan asked a question about this issue last week, which I responded to in broad terms about group home reform that the department was undertaking. I subsequently added some information about the consolidation of group homes that is occurring. I understand that as part of this continuing program the department has been reviewing the appropriateness of the current configuration of its group homes. While scoping of the Group Homes Consolidation Program has focused on these homes and is under way, implementation has yet to commence. So I do not believe that it is possible to provide the details that the Hon. John Ryan is seeking. Nonetheless I will undertake to get more information and come back to him with a subsequent response.

**The Hon. JOHN RYAN:** I ask a supplementary question. As the Minister said that it was impossible to give details, has she seen and read the scoping report?

**The Hon. CARMEL TEBBUTT:** I am not aware that there is a report. If there is a report, I have not seen it. I indicated that while scoping of the Group Homes Consolidation Program focusing on these homes was under way, I did not talk about a report. However, as I said, I am happy to get more information for the honourable member and come back to him. Implementation has yet to commence. I understand that we are talking about a small number of group homes. The honourable member seems to think that I have some further detail that I am not making available. I am happy to provide further information to the House about the issues that the honourable member has raised.

As I indicated last week, clearly it is sensible to look at issues such as whether a group home is on an appropriate site—for example, a two-storey house or a house on a steep block—whether we can better meet the needs of residents through a different mix of individuals, and whether sometimes there is an inequitable distribution of resources because there is a very small number of residents. Frankly, I would expect a government department to be constantly reviewing those things if we are to meet our charter of using resources in the most efficient and effective way to deliver services to people with a disability. As I said, I am happy to see if there is further detail. My sense is that there will not be because implementation has yet to commence, but if there is I am happy to make it available to the honourable member.

### SEAFOOD INDUSTRY

**The Hon. PETER PRIMROSE:** My question is addressed to the Minister for Agriculture and Fisheries. Will the Minister update the House on the current status of the seafood industry in New South Wales?

**The Hon. IAN MACDONALD:** I have today launched a vision for the seafood industry that will maintain a sustainable industry into the future. Let me say at the outset that it is a vision in which the industry was very much a key player. Indeed, the industry helped us construct this new direction. The industry needs to be applauded for its efforts and recognised for its more than \$500 million contribution to the State's economy.

**The Hon. Michael Gallacher:** Is this a photograph of you in an ordinary seafood restaurant?

**The Hon. IAN MACDONALD:** That is an excellent photograph.

**The Hon. Michael Gallacher:** Macca's takeaway?

**The Hon. IAN MACDONALD:** That is the restaurant I will put the honourable member in. Importantly, after a period of significant change we now need a period of stability for the industry so that it can consolidate around new management requirements.

**The Hon. Jan Burnswoods:** Point of order.

**The Hon. Greg Pearce:** Sit down, you fish wife!

**The Hon. John Della Bosca:** Point of order: I heard a distinctly sexist and unparliamentary remark across the Chamber. The member should withdraw that remark.

**The ACTING-PRESIDENT:** Order! The Hon. Greg Pearce has been asked to withdraw a sexist and unparliamentary remark made about the Hon. Jan Burnswoods. Will he withdraw the remark?

**The Hon. Greg Pearce:** I withdraw.

**The Hon. IAN MACDONALD:** The New South Wales seafood industry is steeped in tradition. It is a proud industry made up of unique individuals with unique skills handed down through the generations. This is an industry whose families know about risks, and tragedy and loss, and it deserves respect for the role it has played in shaping our culture and traditions. Progressively, all commercial fishing practices are being scrutinised through a comprehensive process of environmental assessment, with the community for the first time being given an opportunity to have a say about how our fisheries are managed.

The result is that our fishing industry is being accredited to the highest Commonwealth and State environmental standards. I congratulate the industry on its preparedness to address declines where they occur and impose the necessary environmental controls. Moreover, the quality of New South Wales seafood ending up on our plates today is the best ever, underpinned by food safety standards amongst the highest in the world. All in all, the New South Wales seafood industry generates more than \$500 million of economic activity along our 1,000 kilometre coastline, with about 4,000 people employed in commercial fishing and aquaculture, transport, marketing, processing and retailing, forming a vital part of our State and regional economies.

**The Hon. Duncan Gay:** Point of order: I was listening to the adjournment debate last night when the Leader of the Government took a point of order against the Hon. Dr Arthur Chesterfield-Evans, indicating that he was rushing his speech and Hansard could not possibly take it down. Exactly the same thing is happening now. This is question time. We need to be able not only to listen but to respond to what the Minister is saying. If honourable members cannot understand what the Minister is saying because he is talking too quickly, it is against the rules of the House.

**The ACTING-PRESIDENT:** Order! In the adjournment debate last night the Hon. Dr Arthur Chesterfield-Evans spoke considerably faster than the Minister is speaking today. Further, the Deputy Leader of the Opposition should understand that if he intends to take points of order stating that he would like to be able to listen to answers being given by Ministers, he should not engage in conversation in the Chamber and he should cease interjecting consistently when Ministers are giving their answers. The Minister may proceed.

**The Hon. IAN MACDONALD:** The Government has a role to play in helping to build partnerships between the different sectors, to bring the industry together. In this way we can enhance local products and secure fresh supplies to New South Wales markets, including in the bush. Country New South Wales deserves access to the same high-quality fresh New South Wales seafood that coastal and metropolitan communities enjoy. The whole State can benefit from healthy, wholesome seafood. The involvement of Aboriginal Australians in the industry cannot go without mention. [*Time expired.*]

**The Hon. PETER PRIMROSE:** I ask the Minister a supplementary question. Will the Minister please elucidate his answer by giving the House an indication of his future plans for the New South Wales seafood industry?

**The Hon. IAN MACDONALD:** The Government's indigenous fisheries strategy will attempt to reverse the rate of exit of Aboriginal fishers from the commercial fishing industry. Their traditional knowledge and skills are irreplaceable. We are also encouraging Aboriginal involvement in the aquaculture industry. The industry needs effective support from government and has the right to expect the services it relies on, and for which it helps to pay, to be delivered to the highest standard and for those standards to be comparable with those of other agencies in Australia and overseas. The New South Wales Government's commitment to the seafood industry recognises the industry's true value to the economy of New South Wales, involving a whole-of-chain approach that recognises the significance of the post-harvest sector. With industry input, the Government's focus on research, compliance and policy will address high priority needs across all of industry to provide security for the commercial fishing industry through share management.

We will continue facing up to the tough tasks of managing water quality—which affects all fisheries—through the Government's commitment to create a new Natural Resources Commission, and we will advocate

for the implementation of policies that improve water quality. The Government's objective is to build a confident seafood industry by investigating ways to improve the co-ordination, relevance and availability of seafood industry training, including food safety training, and environmental, legal and occupational health and safety training for commercial fishers before they are licensed. We want an industry that young people want to enter and that the finance sector has the confidence to invest in. The Government will review the consultative structures that support policy-setting processes to ensure these groups have the necessary skills, are representative, are effectively structured and can provide advice independent of New South Wales Fisheries. These structures should also have a whole-of-chain approach to industry liaison that takes into account post-harvest needs in policy decisions.

**The ACTING PRESIDENT:** Order! I call the Hon. John Ryan to order.

**The Hon. IAN MACDONALD:** Some of the Government's key objectives are to develop models for a consensus-based approach for resolving resource sharing issues in the future and to provide best practice to industry. [*Time expired.*]

### PUBLIC HOUSING STOCK SALES REVENUE

**Ms SYLVIA HALE:** I direct my question to the Treasurer. In light of the fact that the 2002-03 budget anticipated a 10 per cent increase in government revenue from the sale of public housing stock, will the Treasurer inform the House how much in dollar terms was actually raised from the sale of public housing stock, and what is the anticipated increase from these sales in the 2003-04 budget, both in percentage and in dollar terms?

**The Hon. MICHAEL EGAN:** I take it that the Hon. Sylvia Hale is referring to the sale of public housing to public housing tenants. I admit I do not know what the revenue from those sales is but I will find out. I assume that all that revenue is reinvested in the purchase of new public housing. That has always been my assumption, but I will find out whether that is the case. I do not know whether the honourable member's question was implying that public housing tenants should not have the option of purchasing the house in which they live. My view is that they should. I do not see why public housing tenants wishing to purchase their own homes should necessarily have to vacate the housing in which they live and purchase a house on the public market.

**The Hon. Catherine Cusack:** Good policy.

**The Hon. MICHAEL EGAN:** It is good policy.

**The Hon. Catherine Cusack:** It was Nick Greiner's policy.

**The Hon. MICHAEL EGAN:** It was much earlier than that. Greiner tried to stitch people up with HomeFund loans. As a result of that, not only did many of those public housing tenants suffer severely, but also the taxpayers of New South Wales lost some \$500 million, which had to be used to bail out HomeFund. The principle of tenants in public housing being able to purchase their homes is a very good one, and I make no apology for it.

**Ms SYLVIA HALE:** I ask a supplementary question. My previous question related to sales to anyone—tenants or otherwise. My supplementary question is as follows: Considering there are at least 96,000 people on the waiting list for public housing, how much, in percentage and in dollar terms, was invested in the purchase or building of new public housing stock in the 2002-03 financial year?

**The Hon. MICHAEL EGAN:** I appreciate that the honourable member is relatively new, but she should be aware that members are not entitled to ask questions about matters that are already on the public record. One only has to look at the budget papers to see how much is allocated for new public housing investment each and every year.

### QANTAS REGIONAL SERVICES

**The Hon. CATHERINE CUSACK:** My question is directed to the Special Minister of State. Is the Minister aware of recent unilateral decisions by Qantas to savagely cut air services to regional New South Wales with dire consequences to regional airport-based business as well as regional business, tourism and health-



related travel? Will the Minister advise how many tens of millions of taxpayer dollars are currently paid to Qantas by way of purchasing tickets for State government-related air travel? Will the Minister review the State Government's business relationship with Qantas and explore ways in which the airline can be persuaded to better understand and manage its responsibilities to all citizens of New South Wales?

**The Hon. Michael Costa:** Not a bad question.

**The Hon. JOHN DELLA BOSCA:** As the Minister for Transport Services interjects, that is not a bad question. I have seen, as most honourable members will have seen, publicity about the closure of certain Qantas regional services. As somebody who has travelled frequently around regional New South Wales during my career, I am conscious of the effect that has on regional businesses and on regional tourism. Obviously the Government shares that concern. The Minister for Tourism and Sport and Recreation has made a number of public statements and canvassed a number of issues in relation to that. I do not have at my disposal the number of dollars expended by the Government on government travel with Qantas. I will endeavour to get the honourable member and the House an answer to that part of her question. It is important to realise that in many places where Qantas services have been terminated alternative services are available from other providers, although it is recognised that sometimes the use of those alternatives creates inconvenience.

**The ACTING-PRESIDENT:** Order! I call the Deputy Leader of the Opposition to order.

**The Hon. JOHN DELLA BOSCA:** There are probably serious competition policy issues relating to the Government using any buying power it has to influence a matter such as the routes a private operator chooses to offer within the market. However, I want to clarify a couple of points implied in the honourable member's question about the Government's policy in relation to Qantas and its regional competitors. The Government Travel Service contract is currently held by Qantas Airways Ltd. That does not mean that flights by government employees or members of Parliament—as any honourable member would know—may be booked only on Qantas. Government travellers have a choice of airlines depending on their needs. Public servants can fly using Regional Express, Virgin Blue, Qantas, Countrylink or any other commercial airline.

The Director-General of the Premier's Department issued a memorandum on 8 May this year reminding all government agencies that the Government has a significant commitment to regional New South Wales and of the need to support the services of the smaller airlines servicing those areas where possible. I recently authorised a similar memorandum to my parliamentary colleagues and that will be distributed shortly. If more than one airline can meet the client's needs, the one that is offering what the memorandum describes as the best fare of the day will get the booking. Honourable members will be aware that Australiawide Airlines, a New South Wales-based consortium—

**The Hon. Duncan Gay:** That is not what happened when you were with Qantas.

**The Hon. JOHN DELLA BOSCA:** I repeat that Government policy is that the best fare of the day should be taken. Australiawide Airlines, a New South Wales-based consortium, purchased both Kendell and Hazelton airlines last year and now trades under the name Regional Express or Rex. As an example, Regional Express has access to work under the New South Wales Government contract. The Department of Commerce monitors its bookings and those of other airlines very closely. Regional Express flies to a limited number of destinations in comparison with, say, Qantas but in a relatively short time has picked up a substantial share of government business. In order to ensure that the Government contract is operating satisfactorily the Department of Commerce recently arranged an independent audit of the contractor's performance. The audit showed that on routes serviced by more than one airline government travellers were always offered a choice of carrier.

#### **DEPARTMENT OF CORRECTIVE SERVICES COMPLAINTS HANDLING**

**The Hon. HENRY TSANG:** My question is to the Minister for Justice. What is the Department of Corrective Services doing to improve its complaints handling processes for inmates?

**The Hon. JOHN HATZISTERGOS:** Honourable members ought to be aware that the department has been trialling a system of handling complaints by inmates at three centres, the Metropolitan Remand and Reception Centre at Silverwater, at Lithgow and at Mulawa. The pilot is using a support line so that telephone complaints, inquiries, requests or comments can be speedily received, recorded and resolved. It also records comments and compliments about departmental services and programs.

**The Hon. Catherine Cusack:** A compliments hotline.

**The Hon. JOHN HATZISTERGOS:** We actually have received some. You would be surprised. The system allows the department to analyse and disseminate the feedback received so that it may be used to improve service delivery to inmates. It maximises the opportunity to resolve inmate inquiries, requests and complaints at the local correctional centre level. Staff have three business days to resolve or determine a matter referred to them from the complaint line. With the exception of those matters that require action by an external agency, all matters have been actioned within 12 to 24 hours of being referred—well within the three business day deadline. Whilst there are other avenues, the support line provides another avenue for quick resolution of inmates concerns.

**The Hon. Patricia Forsythe:** Is this a free call number?

**The Hon. JOHN HATZISTERGOS:** I am glad you asked that question. It is. Calls to the hotline are at no cost to inmates and are in addition to their regular inmate telephone entitlement.

**The Hon. Catherine Cusack:** What number should they ring?

**The Hon. JOHN HATZISTERGOS:** There is a button to press to get through. The Inmate Development Committee at the reception centre has consistently told staff at the hotline that since the introduction of the service inmates in the wings are receiving an improved level of service delivery and many custodial officers in the centre have "lifted their game" and are actively addressing issues when first brought to them. Informal advice from the Ombudsman and the Inspector-General's office is that the level of calls received by them from inmates in the pilot centres has fallen. During the first eight weeks of operation there were 25 calls raising 28 issues, and unless the problem required further investigation all the complaints were resolved within the deadline as I indicated.

Another avenue for complaint resolution is through the official visitors program, an option that the Wran Government introduced in May 1985. Official visitors play an important role in facilitating the local resolution of complaints and grievances from inmates and staff, and their importance is paramount in ensuring the good order of correctional centres. Issues normally of concern to inmates such as buy-ups, personal property, clothing and other matters may be considered trivial by some, but they assume huge proportions to inmates if left unresolved and are likely to fester. Overall, the resolution of these seemingly inconsequential issues goes a long way towards ensuring that tensions do not arise. Recently I spoke to the official visitors at a conference at the academy in Eastwood and thanked those who attended for their tireless and outstanding work. Their efforts are appreciated not only by those within the correctional system; they are also valued by the Government and the community, and by me in particular because I am able to get feedback from the reports on the matters needing attention. It is also important to note that these two measures are internal mechanisms by the department to monitor its own performance and address the concerns raised. A department such as ours needs to be monitored both internally and externally in the ways that I have just reported upon.

#### STOCKTON BEACH PERMIT FEES

**The Hon. MALCOLM JONES:** My question is to the Treasurer, representing the Premier. Given that the ownership of the Stockton Beach area has been vested in the Worimi people, will the Government intervene and insist that Port Stephens Council hand over revenue collected from beach permits to the owners? As the owners have invested time and money in maintenance of the area, surely this is fair and reasonable.

**The Hon. MICHAEL EGAN:** I am not aware of the issue the Hon. Malcolm Jones raises, although I am aware of Stockton Beach. I spent some days doorknocking in that vicinity during the campaign for the Port Stephens by-election. It is a very nice area. I will refer the question to the Premier.

#### CATTLE TICK INSPECTION STATIONS CLOSURE

**The Hon. MELINDA PAVEY:** My question is directed to the Minister for Agriculture and Fisheries. How many tick inspection stations on the New South Wales-Queensland border will be closed following the Minister's announcement last week? Is he aware of significant concerns from cattle farmers that the closure of these inspection stations will effectively spell the end of tick inspections in New South Wales? Will the Minister explain how random checks will provide the same level of protection as permanently manned inspection stations would? What monetary savings is the Minister trying to achieve by closing these inspections stations?

**The Hon. IAN MACDONALD:** Cattle tick inspection along the border with Queensland has been effective over the years but in the past 10 years we have caught one solitary tick—at a cost of a \$12.5 million!

What the Opposition does not understand is that there is a new regime in this country. Under the standard definition of rules that has been nationally rolled out there is heavy inspection of all cattle moving into the protected areas of Queensland, which are the areas adjacent to the 17 stations that the honourable member is referring to. As I said, only one tick has been detected at the border in 10 years. The program in conjunction with Queensland has been very effective in keeping tick infested cattle from getting into the protected area in Queensland and, therefore, across the border into New South Wales.

**The ACTING-PRESIDENT:** Order! I call the Deputy Leader of the Opposition to order.

**The Hon. IAN MACDONALD:** I have received information from Queensland that it has welcomed the closure of the stations as they were unnecessary and involved an overuse of the inspection services along the border in the protected area, where there are no ticks in Queensland. However, we will be enhancing our effort in the tick-infested areas on the northern borders of New South Wales or adjacent to the tick-infested areas of Queensland, and that is where the effort is really needed. We do not need to continue the inspection service along the borders west of Killarney, where there is another inspection service in Queensland in the tick areas. Cattle coming from the tick-infested areas into the protected zones of Queensland are subject to heavy inspection. In fact cattle have to be treated appropriately before they are even presented to the Queensland inspection centres. After inspection they are treated again before they can be brought into the protected area.

The Queensland Department of Primary Industries has welcomed the New South Wales regime. Can we continue to devote enormous resources to an area that has already been inspected by Queensland authorities and that is located at the borders that Queensland has imposed between tick-infested and non-infested areas? The Hon. Melinda Pavey should praise the Government for devoting resources appropriately and, along with Queensland, introducing the new national rules on 1 September. Those rules will continue to ensure that we avoid tick infestation.

**The Hon. MELINDA PAVEY:** I wish to ask a supplementary question. Given that the Minister has put on the record that this measure will save the Government \$12 million, what value does he put on the New South Wales beef industry and what are the chances that transport operators from western Queensland will now travel via the east coast, putting that industry at risk?

**The Hon. IAN MACDONALD:** The honourable member again demonstrates her ignorance about this situation. Cattle cannot be transported along the east coast. An inspection service has been established east of Killarney and it will be enhanced through this program. If the honourable member had read my announcement about this matter, she would know that a flying squad will be established to undertake random inspections

**The Hon. Duncan Gay:** Here he goes; he loves to fly.

**The Hon. IAN MACDONALD:** I am so pleased the Opposition has raised this point. Honourable members opposite appear to have forgotten that the Federal Leader of the National Party, John Anderson, has spent \$196,000 on charter flights to and from Canberra. I will not be building an airstrip on my property so that I can travel to and from work on charter flights. Fancy members of the National Party talking about charter flights! Given their Federal leader's extraordinary spending record they should be more careful about raising such matters. A flying squad will look after the 17 stations mentioned during the harvest. This Government has had the foresight to deal with this situation. When the harvesters travel south they will be inspected for parthenium. This is a good decision. I will send the honourable member a copy of the research and my documentation. I am sure she will agree with the decision after she has read it.

#### **CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) ACT 1998 PROCLAMATION**

**The Hon. JAN BURNSWOODS:** I direct my question to the Minister for Community Services. Will the Minister advise the House of improvements the Government is making to the operation of out-of-home care in New South Wales?

**The Hon. CARMEL TEBBUTT:** I know this is an issue of particular interest to the honourable member, given her involvement in social issues inquiries. As I have previously reported to the House, the ministerial advisory committee has considered the proclamation of chapters 8 and 10 of the Children and Young Persons (Care and Protection) Act, which relate to out-of-home care. Over the past 18 months various debates have been conducted about roles and responsibilities in anticipation of proclamation of this important legislation. The legislation has been the subject of considerable and varied interpretation, which in turn has led

to clarification before progress could be made. Taking into account the advice provided by the ministerial committee and the impact of proclamation on the service providers, the Government will proclaim significant sections of the out-of-home care provisions in three stages from July 2003 to March 2004. The operational dates will be reflected in the proclamation notice.

The first stage, to take effect this month, will lay a new foundation for the out-of-home care service system, with proclamation of key definitions, roles and responsibilities. The Government has been careful to ensure that the functions of the Children's Guardian are proclaimed in the first stage. That will allow the critical roles associated with accrediting designated agencies to commence, resulting in improvement in the standard of service delivered to children and young people. Proclamation of these sections will also serve to minimise the level of risk to children and young people and to protect the rights of children, families and carers. Stage two will be implemented in December and will cover the Act's provisions relating to the rights of children, young persons, carers and parents to participate in decisions and to be provided with specific information. These sections form a natural grouping around the rights of all parties in out-of-home care.

Stage three, the final implementation phase, will occur in March 2004. The sections of the Act proclaimed at that time will provide for the review of case plans and the provision of leaving-care arrangements for children and young persons in out-of-home care. These more complex aspects of case management require additional training of field staff in the Department of Community Services [DOCS] and its funded services. The timing of the implementation will ensure that that training can occur prior to proclamation. Implementation will also require 1,440 working days to be dedicated to staff training in DOCS over the next six to eight months. That is a substantial but necessary commitment.

The decision to stage the proclamation of the legislation was made to ensure that the groundwork was fully laid to enable successful implementation. I am sure all honourable members agree that it is important to have the policies, practices and resources in place to facilitate a smooth transition to the new way of doing business envisaged in this legislation. The ministerial advisory committee's work is important to the Government and it is also vital in ensuring that proclamation occurs in a sensitive and constructive manner. I again thank the members of the committee for their work. The committee is considering other sections of the Act, including the provisions dealing with the disclosure of carers' information and voluntary care. That will include a process of consultation about the impact of the voluntary care provisions to be undertaken by the chair of the ministerial advisory committee, Ms Leonie Manns, and the deputy chair of the Disability Council of New South Wales with people with a disability, parents, carers and disability services providers.

The Government has made a substantial financial commitment to improving arrangements for the care of vulnerable children and families in New South Wales. It is committed to appropriate oversight and monitoring of out-of-home care service providers and to improving outcomes for children and young people in out-of-home care. Proclamation of the out-of-home care provisions will lay the foundation for significant improvements in the care of the State's most vulnerable children and young people and it is crucial that we get it right. The Government's approach is achievable and sensible.

### CARERS FUNDING

**Reverend the Hon. Dr GORDON MOYES:** I direct my question to the Minister for Community Services. Is it a fact that 2.3 million Australians care for chronically ill or frail loved ones, that 79 per cent of primary carers are looking after a person in the same household, and that 40 per cent of carers have provided care for more than 10 years? Is it also a fact that many long-term carers are growing older and working themselves into the grave as a result of the stress of providing care or caring for a loved one who is overweight or generally difficult to move, as outlined in a study recently released by the Ohio State University demonstrating that the stress of nursing a loved one causes premature ageing of their own immune system? As most care support in New South Wales is provided by non-government agencies, what is the Government doing to improve financial support for the non-government sector so that it might provide support for the health of those who are suffering and their carers?

**The Hon. CARMEL TEBBUTT:** I am sure that all honourable members acknowledge that the role of carers is significant. They provide an enormous amount of support to older people and people with a disability. The number of carers has grown significantly in recent years, with one in eight people in New South Wales providing care to friends, family members or others in the community who are frail or who have a disability or an illness. The New South Wales Government is proud of the important role it has played in recognising the role that carers play. It has established the New South Wales Care for Carers Program, which is jointly managed by

the Department of Ageing, Disability and Home Care and NSW Health. An additional \$12.9 million has been allocated over four years to provide further services to carers to strengthen existing measures designed to support carers and to promote the broader community's support for carers.

I also point out that in the recent budget there was a significant enhancement for respite services of some \$11 million over four years, once again to provide additional support to carers in accessing respite services in New South Wales. The issue of carers requires commitment from both State and Federal governments. For example, financial support for carers is solely a Federal Government responsibility. However, the State Government acknowledges that it plays a very important role in supporting carers and putting in place arrangements to ensure that carers can continue their very important role of caring for loved ones, while at the same time having a satisfactory quality of life.

**The Hon. MICHAEL EGAN:** If members have further questions, I suggest that they either wait until tomorrow or place them on notice.

### **WINE MARKETING**

**The Hon. IAN MACDONALD:** On 22 May 2003 the Hon. David Oldfield asked me a question without notice concerning vigneron licensing arrangements. I now provide the following response:

A vigneron licence allows wine to be sold from a winery to the public by way of traditional cellar door sales, or remote orders taken by mail, facsimile, and in recent years, via the internet.

Vignerons have the capacity under the current legislation to make remote sales via the Internet.

The Minister is aware of submissions made by the NSW Wine Industry Association, in terms of the National Competition Policy review.

Consideration is being given to reform of the Liquor Act in the context of the Government's National Competition Policy review.

### **DEFERRED ANSWERS**

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

#### **NEWCASTLE PORT ENVIRONS CONCEPT PLAN**

On 27 May Ms Sylvia Hale asked the Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests) a question without notice concerning the Newcastle Port Environs Concept Plan. The Minister for Infrastructure and Planning, and Minister for Natural Resources provided the following response:

Please see the answer to Question on Notice No. 58 in the Legislative Council.

#### **TANDOU LTD WATER ACCESS LICENCE**

On 27 May Mr Ian Cohen asked the Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests), representing the Minister for Infrastructure and Planning, and Minister for Natural Resources, a question without notice concerning the Tandou Ltd Water Access Licence. The Minister for Infrastructure and Planning provided the following response:

The use of water by Tandou Limited to irrigate its cotton crop during 2002/2003 has been within the scope of the companies water licence and associated water accounting policies.

**Questions without notice concluded.**

*[The Acting-President left the chair at 1.01 p.m. The House resumed at 2.30 p.m.]*

### **LOCAL GOVERNMENT AMENDMENT (ELECTIONS) BILL**

#### **BAIL AMENDMENT BILL**

**Messages received from the Legislative Assembly agreeing to the Legislative Council's amendments.**

**NATIONAL PARK ESTATE (RESERVATIONS) BILL****Second Reading**

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [2.32 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have my second reading speech incorporated in *Hansard*:

**Leave granted.**

This bill builds on the achievements of this Government in the area of forest conservation and reform.

This bill is part of a package of initiatives the Government is implementing to protect in reserves 65,000 hectares of substantial areas of north eastern New South Wales' high conservation value old growth forest and rainforest.

The Carr Government has added more than a million hectares to national parks and nature reserves in eastern New South Wales through our forest assessment process.

The Government is creating a reserve system.

The new reserves which this bill provides for are the result of this process.

They protect 65,000 hectares of the north-east forest including Wollumbin and Whian Whian State forests. The new conservation reserves have been shown to contain over 500 species of birds and animals and 4,000 plant species.

The areas also contain pockets of rainforest, wilderness and habitat for threatened fauna like the koala, powerful owl, Hastings river mouse, tiger quoll and yellow-bellied glider.

But the decision to include these areas in reserves has only been made after assessment of the implications for timber supplies on the North Coast.

The bill is one aspect of a package of measures that the Government is implementing. Together, these measures allow for the conservation of the areas while maintaining contracted timber supplies.

The Government has calculated that the impact on timber supply is an average of approximately 30,000 m<sup>3</sup> a year.

Measures to address supply issues are being taken to ensure that industry continues to be supplied with contracted volumes and receives a more reliable flow of timber.

The first of these measures was to amend State Forests' integrated forestry operations licence to allow additional timber to be harvested around sensitive areas like streams, old growth forest and threatened species to remove the "buffer on buffer effect".

Studies have estimated that a significant amount of timber is unavailable as a result of these restrictions.

The advent of better technology over the past few years has allowed timber to be harvested without posing a significant risk to the conservation value of these protected areas.

These measures include: a proposal to supply additional timber from productive areas by allowing access to the timber adjacent to filter and riparian buffers and other exclusion zones (called "buffer on buffer").

Amendments to the integrated forestry operations approvals for the north-east regions implementing these changes have been completed and take effect from today. Some additional changes to the threatened species licences to allow for more flexible management approaches are being finalised and will be made as a priority.

Furthermore, we are bringing into production non-loggable forest management zones (FMZ8) that were not initially included in the supply estimates. This is possible following the completion of investigations into these areas.

As part of the package, we are also now bringing into production some further forested areas, known as "priority one" areas.

The House will also be interested to hear that purchases of private land by State Forests of New South Wales, funded through the 1998 decision, have already added about 5000 m<sup>3</sup> to the annual supply and additional purchases will continue to augment supply.

The Government has also undertaken to enter into direct discussions with timber companies that hold wood supply agreements in the region in order to provide even greater certainty to industry.

The Government has entered into a memorandum of understanding with Boral. While this arrangement is still being negotiated, Boral has indicated that by securing long term timber supply it will be able to undertake major investment in mills, value-adding operations and new hardwood plantations.

The Government has secured an MOU for other holders of wood supply agreements in the region to negotiate a similar deal.

Renegotiating contracts will mean that industry will not have to wait until the supply level is confirmed in the timber review scheduled for 2006. Mills will gain greater certainty now, not later.

The measures I have outlined are intended to ensure that reliable timber supplies continue to be available. This will promote investment certainty and protect regional jobs.

It also demonstrates the New South Wales Government's commitment to the regional forest agreement and to the native timber industry in this State.

I turn now to the provisions of the bill before the House.

This bill revokes the dedication of certain state forests and reserves them as national park, nature reserve, flora reserves and state conservation area.

#### **State conservation areas**

I think it is important to firstly 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 with the specific details of the bill.

The object of bill 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 July 2003.

Part 2 deals with land transfers, the details of which are described in the schedules.

I draw your attention to clause 9 of the bill which enables the Director-General of National Parks and Wildlife to adjust the descriptions of land in schedules 1, 2, 3, or 4. These adjustments assist effective management of national park estate land and State forest land.

Any such adjustment must not result in any significant reduction in the size or value of any such land. Adjustments are also authorised in connection with easements.

The Director-General must have the agreement of relevant Ministers to make any changes.

Part 3 of the bill covers a number of miscellaneous matters giving effect to the provisions of the bill.

Clause 13 of part 3 amends the *Native Title (New South Wales) Act 1994* to preserve native title rights and interests in respect of a reservation, or vesting of, or declaration over, land or waters by the operation of the proposed Act.

I now turn to the schedules in this bill.

Schedule 1 deals with State forest reserved as national park, nature reserve, State conservation area.

Schedule 2 deals with certain areas included in schedule 1 whose reservation is delayed.

Schedule 3 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.

Schedule 5 makes ancillary and special provisions relating to transitional arrangements.

Schedule 5 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 5 also contains special provisions with regard to access roads within national parks, nature reserves etc.

The aim of this Government's forest policy has been to create a reserve system which is comprehensive, adequate and representative, protecting and conserving the biodiversity of the State's forests through systematic rather than piecemeal reservation, while at the same time creating viable and ecologically sustainable forest industries.

This is an achievement for the people of New South Wales and for those people, Australians and visitors from overseas, who come to see our State.

It has also resulted in a legislative process for ensuring ecologically sustainable forest management through forest agreements and integrated forestry operations approvals.

I bring up the bill.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [2.32 p.m.]: The Opposition will oppose the National Park Estate (Reservations) Bill—and I know that the Minister would like to do the same. The bill is the culmination of a story that originated with the competing demands for the forests in the north-east of this State. That region was built upon primary industry, with timber-getters exploring the region and establishing townships on the banks of rivers that were close to an abundant timber supply. Towns like Murwillumbah, Lismore, Grafton, Bellingen, Macksville, Kempsey, Wauchope, Kendall, Taree and Bulahdelah were pioneered in this way. The timber industry provided many jobs, with small timber mills increasing, and gradually industries in these areas expanding to include agriculture, such as dairy and beef cattle, and crops such as bananas, sugarcane, fruit and vegetables.

In more recent years the population moved increasingly to the coastal towns, and conservation of forests and wildlife seems to have become a greater priority. National parks have been established for that purpose, and that has meant some hardship for the timber industry, and workers and their families. That pain has continued with the Regional Forest Agreement negotiated in the late 1990s and signed off in 2000 by the Federal and State governments, the timber industry and green groups. Even though timber communities were not happy at the time with the loss of further resources, they thought, as did many of us, that a 20-year agreement signed off by the Premier, amongst others, would provide them with some security. The agreement was initiated, in part, by Premier Bob Carr and signed by him on behalf of the people of New South Wales.

One of the Opposition's main concerns about the bill is that the Government is now reneging on the security that all parties agreed to. In the lead-up to the 2003 State election green groups seized the opportunity to achieve their objective when they drove a hard bargain with the Government. In effect, they told the Government, "If you want our preferences, give us more forests." I do not think the Premier thought about what he was doing when he signed off on that agreement. Having said that, the Opposition does not suggest that all our State forests and national parks should be at the disposal of our timber industries. In fact, some areas of very high conservation value need to be protected. However, it is important that we maintain a balance in managing the State's natural resources. We all thought that was the purpose of the agreement that was signed.

For this reason the Opposition will move in Committee a number of amendments to the bill. The amendments have been produced in concert with the affected communities to give some balance back to the industry. The amendments would not save the timber industry—they would probably not give us the volumes we require, or were granted, under the Regional Forest Agreement—but they would provide a little more surety to the family companies whose businesses are dependent on the timber industry, the 1,872 jobs created by the industry and maintained by it, the families and children who depend on those jobs, and our regional communities.

By way of background, the Regional Forest Agreements were struck between the Government and the timber industry a number of years ago. Their purpose was to determine areas that would be reserved exclusively for conservation purposes, and other areas that would be available for timber production. A notable example of the Regional Forest Agreements was the North-east Forestry Agreement, which guaranteed the timber industry a minimum supply of 269,000 cubic metres a year for the next 20 years. The bill represents a breach of the Regional Forest Agreement, and a breach of trust in our rural communities, by the key signatory, Premier Bob Carr. This does not mean that the Opposition is opposed to the creation of national parks. It is all about giving one's word and sticking to it; it is about creating trust. As my grandfather said—and he has been quoted in this place before—you can only have a gentleman's agreement if there are gentlemen who agree.

The Liberal and National parties agree that bona fide high-conservation value old-growth forest should be preserved for future generations, provided they are properly managed. The Opposition certainly agrees that



some of the forests in question should be preserved. But of the 65,000 hectares in question, more than 10,000 hectares is plantation timber planted by State Forests for future harvesting and includes species that are not endemic to the area. How can that be high-conservation value old-growth forest? There are significant plantation forests at Pine Creek, Whian Whian, Queens Lake and Wollumbin. That is clear evidence that the Premier, in his haste to secure Greens preferences, sadly did not do his homework. It is of some assistance that the Government has listed certain of these plantation forests in schedule 2 to the bill so that they can be harvested until 2006. The Opposition proposes amendments to include further parcels of plantation timber in that schedule, and to extend the time frame for the harvesting, where appropriate, given the current maturity of the timber.

To illustrate the significance of the New South Wales timber industry, the economic benefits of 35 loads of timber per week is the equivalent of \$7.45 million per annum, employs 70 people directly, and uses \$1 million worth of fuel. One does not have to be a genius to work out that if that amount of timber is taken away from the industry, the industry and the communities of the North Coast will suffer a huge economic loss. However, as it appears that the Government has not conducted a rural communities impact statement before introducing the bill, it may not be aware of these problems. Of course, if the Government has conducted a rural communities impact study on this measure, we would like to see it. I ask the Minister this question: Remembering the Government's often repeated election promise of rural, regional and, dare I say, family impact statements on major legislation that went before Cabinet, can he show us the document? Where is the document? If there is a document, table it and show us. Frankly, the Premier was probably too busy with securing the preferences of the Greens and with his own political agenda than to take into account the devastating effect that the bill would have on some of the North Coast communities.

I hope the Government accepts the Opposition amendments to the bill to remove the timber plantations from these new areas and to provide security to an industry that supposedly has had its security guaranteed already. Amongst the many problems inherent in this hastily drafted and introduced legislation is the immediate shortage of timber supply as a result of the drastic reduction in State forest land in the north-east of this State. The Regional Forest Agreement guaranteed long-term wood supply agreement holders a total of 269,000 cubic metres of timber per annum. The Vanclay report, which was commissioned by the Government in October 2002, showed that only 220,000 cubic metres of timber were available. That is 49,000 cubic metres of timber short. With the 15 new national parks proposed by the bill, the estimated timber supply is only 158,000 cubic metres, which is a shortfall of over 100,000 cubic metres from the Regional Forest Agreement that the Premier signed off on earlier. By all indications, a significant amount of timber has been lost.

I also draw the attention of the House to a document presented to Cabinet last year by State Forests entitled "Status of Discussions—New National Parks on the North Coast". The report, commissioned by State Forests from PricewaterhouseCoopers, indicated that the decision last November on a reduction of 82,500 cubic metres would cost the New South Wales Government \$238.3 million. It is interesting to note that the Treasurer is in the House and I know that he hates to let money slip through his fingers. I re-emphasise the figure of \$238.3 million in the PricewaterhouseCoopers report. That was based on 2,500 cubic metres. I am told that the probable loss under this new agreement is over 100,000 cubic metres.

There have been industry claims suggesting that the remaining resource will be as low as 158,000 cubic metres. The industry estimates that up to 1,400 direct timber jobs will be lost. This is a problem not only for the industry but also for the Government, which is liable for compensation to long-term wood supply agreement holders. I wonder how the Government plans to resolve this problem, because it is still the Government—even though it tries to blame the Opposition for all its problems—and if the Government signs off an agreement through the Premier to guarantee a wood supply and then reneges hugely on that agreement, I would have thought that the taxpayers of New South Wales would be liable for the cost of that change. A large amount of money is involved.

The Government has proposed a bandaid solution by negotiating new agreements via a memorandum of understanding, by accessing areas not previously logged by State Forests—including new streams and other environmental exclusion zones—and forest management zones, by utilising new harvesting technologies such as helicopters, and by purchasing private property. Although the Government wants to create national parks by this means, the result will be a worse forestry process in the harvesting of timber. Achieving the intended result will have the opposite effect. The Government is adhering to worse practices to overcome the effects of its promise. There is a degree of illogicality in that approach. However, no reliable assessment of these strategies suggests that the Government can produce sufficient timber volume to ensure a secure and viable timber industry on the North Coast.

The Government says, in effect, "Trust us and it will happen", yet there is nothing concrete. In fact, there will probably be worse practices after this legislation is passed than before. The Government's claims that the industry has not raised any objections are trite. I can show this House submissions from the industry to the Government asking it to stop what it is doing because the industry needs its timber resource. We are not talking about the rape and pillage of national parks; we are talking about the removal of important forestry resources from mainly plantation areas. As I have previously stated, compensation will need to be provided by the taxpayers of New South Wales. That is probably why we paid all these tax increases in the past week.

Out of that we will have a budget black hole of more than \$238 million. The Treasurer obviously signed off on this and he is willing to use taxpayers' money in this fashion. I cannot understand how a self-proclaimed fiscally responsible government can present this sort of legislation to the Parliament and expect every person in New South Wales to accept it. This is not an alarmist scare tactic that the Opposition is using to prove its point, these are facts supported by PricewaterhouseCoopers and by the Vanclay report that the Government commissioned. These are also facts that the Premier has chosen to ignore to gain the Greens preferences and for his own personal agenda. The Opposition will move amendments aimed at ensuring that the Government meets its own wood supply commitment of 269,000 cubic metres, as detailed in the Regional Forest Agreement. In that regard, certain areas of regrowth and plantation forest should be excluded from schedule 1 to the bill.

I emphasise that these are not areas of high-conservation old-growth forests but they are of importance in ensuring the continued viability of this important industry. Timber is needed for houses, frames, trusses, flooring and walls. Everyone lives in houses that are built, at least in part, from timber. Timber can be provided in a sustainable way from properly managed forests. That sustainability cannot be achieved under this bill by including timber plantations in national parks. The real anti-green consequence of continually reducing the size of the national park estate will be a reduction in the time between harvests. In the past forests were left alone for 50 to 60 years to enable them to grow to their full potential, but now the turnaround time is 20 to 30 years—not an ideal environmental outcome.

This bill is the result of an election promise to put pressure on the timber industry, thereby encouraging bad practices. Another impact will be the sourcing of timber from overseas, particularly from those countries that do not carefully manage forests but clear-fell pristine rainforests. That is not good for our balance of payments or for the world environment. The Premier has frequently cited the need to protect the habitat of native animals as a rationale for protecting large areas of our State forests. It is the Opposition's great fear that the remaining forest will be overlogged and the habitat of native animals will be depreciated. I base that statement on the fact that the bill may not meet the terms of the Regional Forest Agreement with regard to ecologically sustainable logging. Last year \$400 million worth of rainforest timbers were imported from Malaysia and Indonesia alone. This has devastated the forest habitat in those areas, particularly the habitat of the orang-outangs.

While ever we continue to overlog our State forests we will create environmental problems. This bill will exacerbate that problem in north-eastern New South Wales and transfer the problem to our northern neighbours. So much for the catchcry of the green movement: Think globally, act locally. That is just hypocrisy. Another matter of great concern relates to the provision in schedule 3 dealing with the vesting of land in the Minister. The term "vesting" means transferring land from Crown title to non-Crown title under the Minister. Effectively, the acquisition of land by the Minister implies legal ownership and, hence, the Crown nature of the title would be abolished. In respect of perpetual leases on some of this land, it is argued that those cannot be transferred from the Crown.

**The Hon. Michael Costa:** The Crown Solicitor's advice is that it can.

**The Hon. DUNCAN GAY:** I will come to that later. Therefore, there may be implications for Western Lands leases arising from those clauses of the bill. I am advised that should those measures be enacted, a legal challenge could result. In any event, should perpetual leases be resumed, the leaseholders must be fairly and fully compensated, including compensation for lost grazing and forestry income as well as for lost land value. I ask the Minister to carefully consider the foreshadowed amendments of the Opposition and to exclude these leases at least until the legal definition is clarified.

If the leases can be sold only to the National Parks and Wildlife Service, the value of the land will be substantially diminished. Those leases have three important values. One is the land value or the estate value of the lease, the second is the royalty value of the timber currently on the land, and the third is the value to the

landowner by way of grazing rights or any other land use that may be excluded under National Parks and Wildlife Service management. Essentially, the Government has removed from landowners the right to manage their land and sell it on the open market.

I have yet to see the Crown Solicitor's advice with regard to this amendment but I am well advised by someone who has seen the advice from the Crown Solicitor's Office, dated 30 June—reference PLN 124.191—that it supports concerns held by the Opposition with regard to leasehold land. I am further advised that the advice from the Crown Solicitor reinforces the Opposition's concern that the value of timber on leasehold land will be lost because it will not be possible to harvest the timber for sale. I am advised also that the Crown Solicitor's advice reinforces the Opposition's concern that although the Forestry Act 1916 did not prevent the sale of Crown land under the Crown Lands Act if the land was gazetted by State Forests, this bill will prohibit the sale of that land taking place. This will diminish the land value of leasehold land.

I am also advised that although leaseholders have a right to apply to convert to freehold—fee simple—it is not possible with these leases as they are currently designated as State forests. Although the bill will remove the designation of State forests, it will still not be possible to convert to freehold because the bill prohibits the sale of land. Therefore, this is an illusory right.

I have been told also that the Crown Solicitor's Office has not seen the entire bill and is therefore unclear whether the intent of the bill is to vest the fee simple in lease areas in the Minister responsible for the National Parks and Wildlife Service or the ministerial corporation constituted under section 150 of the National Parks and Wildlife Act. The National Park Estate (Reservations) Bill is the legislative response to a deal done by the Government for Greens preferences before the State election. The deal involves breaking the Regional Forest Agreement—signed off by everyone—and trading 65,000 hectares of productive forest and up to 1,400 jobs for transfer to the Labor Party of preferences in key seats. The deal also involves the scalps of those who stood in the way of the deal because it would devastate the timber industry, including the former Minister for Forestry and the former director-general.

As usual, the Government is now desperately trying to minimise the political fallout by placing pressure on the timber industry to accept a second-rate deal and by encouraging unsustainable forestry practices in an effort to supplement the timber industry. I find it most offensive that this so-called green Government has created an illusory right that will entrench substandard practices and place pressure on forests to deliver something that will only be a mirage. Although the Opposition does not agree with the Government proposal, I urge the Government to agree to the foreshadowed amendments in order to give the industry some security. The Coalition does not oppose the creation of these national parks, but it seeks to ensure that areas are properly included and properly managed.

It is ironic that this legislation will create an extra 65,000 hectares of national parks, yet the Minister has not provided any real money to the National Parks and Wildlife Service to manage the additional areas. Indeed, total expenses for the National Parks and Wildlife Service have decreased by \$37,135—from \$342,440 in 2002-03 to an estimated \$305,305 in 2003-04. So in a year when all these extra forests are being transferred to the National Parks and Wildlife Service to be managed on our behalf, the service's total expenses have dropped by \$37,000.

**The Hon. Michael Costa:** It's called the efficiency approach.

**The Hon. DUNCAN GAY:** Efficiency? Hello! Over the past few years mismanagement and climatic conditions have caused devastating fires. Poor management of our national parks could mean a possible loss of national resources and heritage. The sensitive areas have already been protected by logging protocols and prescriptions under forest management zones, so I regard much of this bill as mere window-dressing. The Opposition cannot accept what the Government has put to us. We cannot accept the Minister's assertion that the bill demonstrates the Government's commitment to the Regional Forest Agreement. I urge the Government to accept the Opposition's amendments, which will address the devastating impact of the Government's politically motivated sell-out of timber communities and their families. Remove areas that should not be included, and include areas that should be included.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [3.01 p.m.]: On behalf of the Australian Democrats I congratulate the New South Wales Government and the North East Forest Alliance.

**The Hon. Michael Egan:** Oh no, he's going to talk us out of it!

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** The Treasurer will continue to complain, whatever I say. I congratulate the Government and the North East Forest Alliance on getting together and working out a compromise, and transferring approximately 65,000 hectares of icon areas from State Forests to the National Parks and Wildlife Service. I congratulate John Pile, the Pine Creek Koala Support Group, and the Bellingen Environment Centre on the success of their long campaign to protect the koala population in Pine Creek.

The Greens have taken much credit for forcing the Government to incorporate these icon areas in national parks. Indeed, the Coalition made a great deal of noise and jumped up and down in claiming that this was a deal done to get Greens preferences. That may be so, but that is how the Greens operate, and the Coalition should not be surprised. One important and serious aspect of this preference deal for the Greens is that under this bill the amount of timber extracted under the North East Regional Forest Agreement will not decrease. In the other place the Minister said in his second reading speech:

I stress that the decision to include these important areas in reserves is matched by steps that reaffirm the Government's intention and capacity to maintain timber supplies on the North Coast ...

Furthermore, we are confirming for timber production the interim forest management zones—that is FMZ 8—that were not initially included in the supply estimates. This is possible following the completion of investigations into these areas. This package is designed around the principle that there will be long-term sustainable logging of all available areas of State forests ... To underscore our commitment to the timber industry we propose to enter into direct discussions with timber companies that hold wood supply agreements in the region to provide even greater certainty to industry. At present these agreements subject the mills to a timber supply review in 2006.

The Government is seeking to remove the uncertainty that this may pose by offering to enter into fresh supply agreements. The Government has entered into a memorandum of understanding with Boral, one of the region's largest millers, to provide for new investment and new jobs for the North Coast. Boral has indicated that by securing long-term timber supply it will be able to undertake major investment in its timber mills, value-adding operations and new hardwood plantations. To remove the potential uncertainty for other millers the Government has invited, via its representative body, the Forest Products Association, other holders of wood supply agreements in the region to negotiate similar arrangements to meet their individual needs and timber availability. The Minister Assisting the Minister for National Resources (Forests) has written to the Forest Products Association seeking its views on the option of entering into memoranda of understanding with its members.

The Democrats are concerned about this increase and such memorandum. It is one thing to be all things to all men in the media. While this is a fine strategy for the media, one must remember that in this case the timber supply is finite. We have a reality check here. A signature now means problems later. If we are talking about jobs, what is needed is value adding. Why is New South Wales not the timber furniture capital of the world? It must be said that providing logging jobs in competition with South America will never give the Government big returns.

In 1995 Bob Carr promised to stop woodchipping native forests by 2000. It is now 2003, yet the Carr Government has not delivered. Elected on the preferences of the Greens, the Carr Government continues to log and woodchip our forests. On 5 March 2003 Bob Brown moved a motion in the Senate congratulating the New South Wales Government on its announcement to protect a further 15 areas of forest in the North East of New South Wales in addition to those already protected under the Regional Forest Agreement. It is worth noting that New South Wales Democrat Senator Aden Ridgeway sought to amend the motion so that it congratulated Carr but condemned the fact that under this commitment the same area of forest will still be logged under the New South Wales Regional Forest Agreement. Surprise, surprise: the two Greens and the Australian Labor Party voted together against the amendment!

The Carr Government has failed to show the same level of commitment to the south-east forests and the Pilliga. I congratulate the Government, the Greens, and the numerous conservation groups that have long campaigned to incorporate icon areas into national parks. I will support the bill but it would be improved by the amendments to be moved by Ian Cohen, and I urge my fellow members of the crossbench, the Government, and the Opposition to support the bill with those amendments.

**The Hon. MALCOLM JONES** [3.07 p.m.]: This bill amends the National Parks and Wildlife Act. Before I commence I clearly state for the benefit of new members—as I have said many times before—that I really love being out in the bush. National parks are a paradise for me, and I am sure many will agree. However, I practice what I preach, and I spend a lot of time out in the parks camping. I especially love camping. I have always been a camper. I believe that the values that camping teaches are of great benefit to young people. The planning, self-reliance, handling difficulties, and looking after both yourself and often others in inclement weather and remote circumstances afford a wonderful attitude and skills to young people.

Members will remember that the National Parks and Wildlife Act was amended in December 2001—the amending bill was probably the last bill debated before the Christmas break. That bill transferred the whole emphasis of national park management and land classification from its previous criteria to one of conservation, conservation and more conservation. Everything became secondary to conservation New South Wales style. I opposed the bill, and I moved an amendment to have the word "enjoyment" written into the "management principles of a nature reserve", but I had to fight the Minister for support for it.

Since the passing of that bill we have had the worst environmental tragedies this State has ever faced. The summer fires of 2001-02 and 2002-03 burnt out more than a million hectares of national parks—more than 750,000 hectares in 2001-02, and some more in 2002-03. The fire seasons were predicted as per the 2000 report of General Purpose Standing Committee No. 5 on the Rural Fire Service. I predicted the fires in a dissenting report, together with comment on the National Parks and Wildlife Service's preparation for such catastrophes. During the estimates hearings into the Emergency Services portfolio in 2002 I spoke with Commissioner Koperberg about the southern oscillating index, its predictions about El Niño and its likely effects last summer. The heat of last summer was not a surprise to those who knew what to look for.

The Minister for the Environment wants to shun criticism of critics of the National Parks and Wildlife Service fire preparations with comments like "You will only be happy when Mt. Kosciusko is covered in tarmac" or similar inane remarks. National Parks and Wildlife Service personnel are generally philosophically opposed to hazard reduction, as proven by the massive reduction in hazard reduction over the past decade. The Minister has said that large-scale hazard reduction is not necessary as the parks burn "strategically". Super greensies like the Nature Conservation Council or their like either keep absolutely silent while fires burn, or praise nature's wonderful recuperative abilities following fires. Nobody mentions the death of wildlife. Nobody talks about the millions, perhaps billions, of animals, birds, reptiles or insects killed in the most unbelievably painful way, being burnt to death.

**The Hon. Michael Costa:** I do not mind if it is insects.

**The Hon. MALCOLM JONES:** I am sure lots of Greens do. This issue is like an elephant sitting in the family lounge room that nobody talks about. Everybody is painfully aware of its existence, which is obvious to everyone, but nobody talks about it, hoping it will go away. Can any honourable member recall the Premier or the Minister, at any time over the past two summers, mentioning the million upon million of deaths of animals, or giving that issue a mention?

Honourable members may ask what that has to do with the bill. Everything! The bill amends a very flawed piece of legislation—the National Parks and Wildlife Act. To National Parks and Wildlife Service staff, the tenure of the Act and the way it places emphasis on conservation in the form it has, has legitimised neglect. To a large extent it has discouraged well tried and tested management practices such as keeping tracks open and practising hazard reduction. For the benefit of the Minister or anyone else who refutes these claims, the figures prove I am right. The destruction of National Parks and Wildlife Service land compared with other lands shows I am right.

The bill gives more land to the National Parks and Wildlife Service to neglect, just as it neglects the vast majority of the land over which it has custody. This bill provides for 65,000 hectares of land. The Deputy Leader of the Opposition referred to the Crown Solicitor's advice. I do not have a copy of that advice, but I have received advice from outside this place, which I will refer to now. Thirty-eight per cent of New South Wales comprises perpetual lease tenure including western, central and eastern land. Many coastal villages such as Corindi, Red Rock, Minni Waters, Brooms Head, et cetera, plus industrial estates in larger towns, also comprise perpetual leases. This type of tenure can be willed or bought and sold on the open market and has always been considered "as good as freehold". The owner of the title deed has exclusive rights to the land.

This latest proposal of the National Parks and Wildlife Service involved 6,000 hectares of perpetual lease in schedules 3 and 4, and 10,000 hectares of plantation, including a plantation containing a percentage of Gympie messmate, a species that is foreign to the area. There are legal impediments to the inclusion of perpetual leases, and the very notion is discriminatory to the holders of this type of perpetual lease, who are graziers. Perpetual leases, despite the dedication of State forest over them, are still leases within the meaning of the Crown Lands (Continued Tenures) Act 1989. Their use rights are not diminished and the Torrens title so held confers on the holder quiet enjoyment and exclusive possession. Documentation from the Department of Lands states:

The State's interest in Crown land held under perpetual lease is limited. The concept of a "perpetual lease" was first introduced into NSW in 1894 in the form of a "homestead selection". Since then some 18 different forms of perpetual lease have been created. A perpetual lease confers on the holder a right to the exclusive possession of the land in perpetuity and has on many occasions been categorised as being "as good as freehold".

Most of the perpetual leases have been typically held within families for many generations, and a substantial number were not even gazetted as State forest until the mid-1980s, when foresters suffering from identity crisis, particularly after the Washpool decision, felt they had to rebuild their land base, despite many of the dedicated leases not meeting the base criteria for State forests. Furthermore, due process was not followed in many cases: notices of intention to dedicate were not forwarded to lessees, so they were not given the opportunity to object. Instead, they were simply notified that the deed had been done.

A perpetual lease confers on the holder exclusive possession in perpetuity. In the event of a State forest dedication being revoked, the administration of that lease reverts back to the Department of Lands. The National Parks and Wildlife Service, and more particularly the Minister administering the National Parks and Wildlife Act 1974—the "National Parks and Wildlife Minister" as referred to in the bill—has no power under the law to take over the administration of a perpetual lease unless it has been purchased through voluntary sale or compulsorily acquired as per part 4 of the National Parks and Wildlife Act 1974. The dedication of a State forest over a perpetual lease does not alter that. Therefore to pursue vesting in the "National Parks Minister" as proposed in schedule 3 of this bill is unlawful.

Even more outrageous is the status of land vested in the "National Parks and Wildlife Minister" in clause 7 of schedule 5. The land so vested will be taken to have been acquired by the Minister under that part, and may be dealt with by the Minister as if it had been so acquired. Quite frankly, that is theft. Should any of the affected perpetual leases be of unrestricted conditional title, the situation is even worse, and even more embarrassing for the Government. The only government departments that can, by law, have any involvement in the administration of said leases are the Department of Lands and State Forests. This is because these leases hold a statutory right to convert to freehold.

In the event of holders of a perpetual lease exercising their right to apply for the freeholding of their title, such application is normally referred to all government departments, including State Forests, Mines, and National Parks, to determine if any of them have a valid reason for refusal. However, in the event of the lease in question being an unrestricted conditional lease, only State Forests has any right of veto. Therefore if any leases affected by this bill are unrestricted conditional leases, the bill is even more unlawful.

The bill repeatedly states that this land will be vested in the "National Parks and Wildlife Minister". Considering that these perpetual leases are currently vested in the Crown and administered by the Minister administering the Forestry Act 1916, I believe that any alteration of the vesting triggers other considerations, not least of which is native title. It is further interesting to note that one of the affected lessees is an Aboriginal person whose family has held that land under deed for many generations, and has held the land under the right of indigenous occupation for many thousands of years. He can certainly prove connection to the land.

Schedule 4 provides for the declaration of special management zones over certain parts of State forests, and enables the Minister administering the Forestry Act 1916 to place all sorts of conditions and restrictions on activities on that land. It has come to my attention that parts of some land are subject to perpetual lease. However, there is no available map from the Resource and Conservation Assessment Council [RACAC] at a scale that is sufficiently legible to determine the boundaries. Apparently RACAC's advice to the NSW Farmers Association is that it does not know exactly where they are and which lessees are affected. That is not good enough. Furthermore, a State forest dedication cannot alter the existing legal entitlements of the lease. Therefore the declaration of special management zones over a perpetual lease, with any conditions that impact on the legal rights of the lessee, is also unlawful. If State Forests no longer have a timber interest as per the Forestry Act 1916, parts 17A and 19 of that Act should be invoked and the dedications over those lands lifted.

Royalties are also of major concern. These lands were allegedly dedicated for timber purposes and the lessees hold an entitlement to royalty payments for timber and products taken from the lease. These lessees hold correspondence regarding the economic expectations from these leases with regard to timber. There is no reference to compensation for royalty forgone as a result of decisions made by State Forests and the National Parks and Wildlife Service in exclusion of the involvement with the lessees so affected.

It is obvious that a perpetual lease has been negotiated by government employees in State Forests, the National Parks and Wildlife Service, and the former Department of Urban Affairs and Planning at the insistence

of sections of the environmental movement but with no consideration for the legal entitlements attached to that land. That is what has placed the Government in this awkward position. Just because these lawful entitlements are inconvenient does not diminish them in any way.

Moreover it is nothing short of disgusting that these negotiations have taken place without any discussion with the affected parties, namely, the lessees. Considering that the affected portions of these leases, some 3,033 hectares, have been zoned forest management zone 3B, which excludes timber harvesting while allowing for the legal entitlements of the lessees to continue, why is the Government pursuing the transfer of the administration and effective acquisition of these lands to the Minister responsible for the National Parks and Wildlife Service other than to circumvent the need to act in accordance with procedures as set out in part 4 of the National Parks and Wildlife Act to purchase the land?

It should be noted that any such action to undermine the title of perpetual leases affects not only rural property but also shopping complexes, industrial sites and housing. Should the bill continue without amendment, legal proceedings will of necessity eventuate. Clause 8 allows for the delayed transfer for five years of certain lands that are currently plantation. The plantation will be logged and the forest "allowed to grow back naturally". As members would be aware, regrowth forests need management as regrowth comes up and the whole forest will develop into a beautiful forest only if there is ongoing management and thinning programs over the early growth years. None of the forests included in these additions met the irreplaceability criteria during the regional forest assessments in 1998, and all areas were included on the harvesting schedule under State Forests in 2000.

The Greens and the Government have a right to do deals over preferences but they do not have a right to include private property in their deals. Perpetual lessees have not even been notified that their land is included, or that they are in jeopardy of losing the exclusive rights to their land. Given the devastation borne by our wildlife during horrific bushfires in the north and south of the State, it is grossly irresponsible and unjust to place another area containing any biodiversity at risk of annihilation through the lack of management and hazard reduction. The NPWS has failed in its duty of care in relation to the environment. It has been entrusted with the custody of the biodiversity on behalf of the people of New South Wales. It has failed on all counts.

In addition, the Government cut funding to the service in the budget released on 24 June 2003, whilst continuing to further expand the national parks estate. I will move an amendment in Committee. However, due to the issues I have mentioned regarding perpetual leases, if my amendment is not adopted the Government should withdraw the bill and address the issue in an appropriate way. Leaseholders will resort to litigation now that the genie is out of the bottle; they will not have their land stolen from them by this means.

I will be interested to see in Committee whether the Government accepts the Greens amendments. If it does, I suspect that what has been dished up to Parliament for consideration is the bare bones for honourable members to consider. The crunch will come with the Greens amendments, just as in December 2001 the National Parks Bill was turned from tough to horrendous by agreed Greens amendments.

**Reverend the Hon. FRED NILE** [3.24 p.m.]: The Christian Democratic Party has misgivings about the National Park Estate (Reservations) Bill, which will provide for the creation of 15 new national parks and conservation areas in the north-east of New South Wales. The areas have been selected on the basis of forming a co-ordinated system of reserves based on scientific assessment of ecological and other values of particular forests. Rather than native animals being cordoned into certain areas, the bill will allow their movement through land corridors. The bill is part of a package that will protect 65,000 hectares under a reserve system. The areas will be protected as national parks, State forest reserves, and State conservation areas. I will not go through all the areas that the bill identifies as being of high conservation value. The areas listed for protection include the habitats of 500 bird and animal species and 4,000 plant species. The new reserves include prime habitat for threatened species including koalas, quolls and gliders.

One of the main issues about the foreshadowed amendments is the rights of the holders of perpetual leases. Thanks to the Minister I have a copy of the advice from the Crown Solicitor's Office, which was provided by the Assistant Crown Solicitor, Chris Searle, on behalf of the Crown Solicitor. The advice identifies the six Crown leases affected by the legislation. One settlement lease apparently is in a completely different category. The Crown Solicitor was asked by the Minister: Will the bill, if enacted, change the native title status of the land the subject of the leases? And, in particular, will it increase the capacity for a native title claim to be made on the land?

There is no indication in the advice about why there was a requirement to answer the second question but I have been told that at least one of the Crown leases is in the name of an aboriginal family. I do not know which one, but that is in the information I have collected, which I assume to be correct. If it is correct, I imagine that is why the Government wants to know how the bill will affect the native title status of the land. It is ironic that an aboriginal person with initiative got a perpetual lease way back, probably in the late 1800s.

As the Crown Solicitor said, the taking out of a perpetual lease cancels native title rights. So it could be said that, sadly, the aboriginal family cancelled its aboriginal title rights. If that is how the law is to be interpreted, that is grossly unfair. If an aboriginal family had been asked in the 1800s whether it wanted native title or a perpetual lease, it would have chosen native title. But native title did not come into existence until a recent decision by the High Court. Even at this late state I hope the Government will look more closely and compassionately at that issue and recognise the plight of that aboriginal family. It should not be tricked, by some legal device, out of having ongoing right to its land.

**The Hon. Dr Arthur Chesterfield-Evans:** The Government would be required to help the family under your Family Impact Bill, Fred.

**Reverend the Hon. FRED NILE:** That is correct. I hope the Government responds to that family, assuming it is only one family. It may involve an extended family, which often occurs with Aboriginal communities.

The other question posed was whether the legislation would change the rights of the lessees with regard to the land. Apparently that is a very complicated question and the Crown Solicitor has provided a lengthy reply. Some lessees have written saying that they are upset because they believe this legislation will reduce their rights, that they will not be able to sell their land and that they will not get the timber royalties they were getting. According to the Crown Solicitor, those rights were conditional on ministerial approval. In other words, they had the right to apply, but even before this legislation was introduced the Minister was under an obligation to reject their applications. It is confusing for those who believe that their rights have been removed. If the Minister was obliged to reject the applications, the rights did not exist in the first place. They had the right to apply, but the applications would be rejected even under the previous regulations dealing with Crown leases. This legislation maintains that position. One could argue that though they still have a right, it will never be exercised or recognised.

The other question still to be decided is whether a Crown lease has a commercial value. If forestry activity ceases, will these people lose something that has a commercial value? If it does, should they receive compensation? The royalties are not large, but the Government should determine whether compensation should be paid. Given that situation, the Christian Democrats will support the National Party's amendments. Although they are minor amendments to put Crown leases in a certain category, I understand the Government will not support them.

Reference is also made to the right to harvest in the forest plantations until 2006. The plantations were established for that purpose, so harvesting is a logical outcome. The amendment should be supported. Between now and then, whatever harvesting is to be done will be completed and that will be the end of it. These are moderate amendments to the Government's legislation. They have some value and should be supported.

**Mr IAN COHEN** [3.34 p.m.]: This bill transfers from State Forests tenure to National Parks and Wildlife Service tenure special management zones of some 65,000 hectares of forest. These forests are jewels in the conservation crown. It has been acknowledged in many circles that they are of outstanding conservation significance. I have obviously failed to convince many honourable members, but society at large acknowledges that these areas are of national and international significance.

**Reverend the Hon. Dr Gordon Moyes:** They are iconic.

**Mr IAN COHEN:** I thank Reverend the Hon. Dr Gordon Moyes for recognising that fact. My experience of him suggests that he would recognise important items in our world and beyond. He acknowledges that these are iconic areas that deserve conservation. I would have liked to debate this legislation last night because yesterday was a significant date in the conservation calendar. Some honourable members may be aware of the segment on the television program *7.30 Report* last night about the High Court declaration stopping the damming of the Franklin River in Tasmania—another iconic area. The Franklin River is magnificent. I spent six months in Tasmania during the campaign and about five of those months up river working with the



conservationists in the forest. We instituted a successful and historic blockade. Yesterday was the twentieth anniversary of that court decision. The High Court stopped the dam building vandalism of the then Tasmania Government under Premier Robin Gray.

We all have our points of view in this House and no doubt we all believe in our various causes. However, I predict that in 20 years when the Labor Government's application to the High Court to stop the damming of the Franklin River is extolled, the Carr Government's measures to save the icon forests of northern New South Wales will be recognised as equally important.

**The Hon. Duncan Gay:** Do you mean the plantations?

**Mr IAN COHEN:** The honourable member plays the politics of reductionism, stuck as he is in an old dynamic of land usage. He fails to recognise that society's—

[*Interruption*]

I did not expect the Deputy Leader of the Opposition to understand. Society's attitude to these forests is changing. This is an auspicious occasion. I am proud that I have spoken consistently and frequently for eight years on these issues in this House. I have taken the arguments to the Government, often being ignored—

**Reverend the Hon. Fred Nile:** You have been very consistent.

**Mr IAN COHEN:** I thank the honourable member for his acknowledgment of that. I ran with this issue in the campaign leading up to the 1995 election, at which I was elected to this place. The then Carr Opposition recognised the importance of these issues and acknowledged that for the green movement. The Greens also ran with this icon issue during the last election campaign. We will continue to highlight the significance of these forests in New South Wales. My being denigrated in this House is nothing compared to the denigration that the green movement has suffered for many years from many quarters. Conservationists have risked their lives for what they believe in. Society has changed and someone has been listening—perhaps not honourable members. It is heart-warming to witness the broadening of acknowledgment of the importance of these issues in our society. The old adage that rainforests are the womb of life has prevailed and we are now examining all the old-growth forests in New South Wales.

**The Hon. Duncan Gay:** And the plantation forests.

**Mr IAN COHEN:** If the honourable member were to review the issues that I have raised in the past, he would note that as a member of this House and as a member of the Greens I have never supported a total ban on native forest logging. I stand by that record. We have always said that when it is sustainable—

**The Hon. Duncan Gay:** You'll be supporting my amendments then?

**Mr IAN COHEN:** No, I certainly will not. I am talking about an industry that is sustainable and certain areas of plantations—not the practice we have seen over the last several generations. As I was saying, I do not expect to convince members of this House, but I draw to their attention the broadening of society's ecological awareness. In January 2001 Pope John Paul II said:

Humanity has disappointed divine expectations ... humiliating that flower garden that is the earth, our home.

It is necessary, therefore to stimulate and sustain ecological conversion.

That is the sort of thing that is being spoken about in our society. I am very mindful of members of this House who have religious convictions. Given that religious arguments often dominate debate in this place, I sought assistance from the *Bible*, and I now quote Genesis:

God said to Noah and his sons with him, "As for me I am establishing my covenant with you and your descendents after you and with every living creature that is with you as many as came out of the ark."

So we have failed. As the society with highest rate of mammalian species extinction of any other society in the world, we have something to look at here.

**The Hon. Duncan Gay:** Did you check in Genesis to see what the ark was built out of?

**Mr IAN COHEN:** One would imagine that the ark was a work of art and, indeed, a one-off—I might say also that it significantly supports the Greens argument for value adding. I thank the Deputy Leader of the Opposition for his comment. Over the last eight years I have spoken on these issues and researched the many scientific, spiritual, philosophical and ecological aspects of them. Certainly the issues have inspired me, and I know that they inspire many thousands of others. They are important in terms of their value for future generations and also for the troubled people of our generation.

Many people turn their backs on the established Church, but from the quotes I have just read to the House, and another I am about to read, obviously people recognise that we need to work together in acknowledging that many young people in our society are not being fulfilled by the values of society, and those values are therefore being abandoned. The Greens movement acknowledges the importance of these forests and ecosystems. A new ideal has come about with respect to people working with these forests. We are showing another way—a more sensitive perspective is taken of the world and how we treat it and, as a result, the way we treat each other and how we will survive as a healthy society. Once again I quote Pope John Paul II:

It is the duty of Christians and all who look to God as the creator to protect the environment by restoring a sense of reverence for the whole of God's creation.

**The Hon. John Ryan:** Hear! Hear! No problem.

**Mr IAN COHEN:** I am glad to hear that the Hon. John Ryan has no problem with that. Very often it is the community that leads and we, as politicians, who follow. I ask members to give some thought to that, because the community's feeling for the conservation of these icon areas is running very hot.

**Reverend the Hon. Dr Gordon Moyes:** Does Lee approve of what you're saying here?

**Mr IAN COHEN:** Of course she does; this is the Greens position. Importantly, this bill protects almost all of the remaining identified old growth on public land in north-east New South Wales. It is recognition that significant old-growth forest areas were not put off limits to logging in 1998. Indeed, the Regional Forest Agreement statistics for north-east New South Wales acknowledged that many old growth forest ecosystems had not even met their protection targets. The struggle to save old-growth forests from destruction continues to be at the forefront of social change movements around the country. It is, indeed, shocking and embarrassing for all Australians that the wholesale slaughter of irreplaceable old-growth forest and rainforests is continuing unabated in Victoria and Tasmania. It is uplifting to see more and more prominent Australians protesting at this outrage.

The struggle to save these unique and special places has been a part of my life for more than 20 years. I was involved in what were some of the earliest direct action protests to save the rainforest in northern New South Wales at Night Cap in 1982. That was an education for many of us. We started to think about this planet of ours as a living entity that needed to be nurtured and protected. It is fortuitous that at this historic point a ground-breaking article was published in the *Good Weekend* magazine last week. Members may have read it.

**The Hon. Melinda Pavey:** This one?

**Mr IAN COHEN:** Yes, that one. I thank the Hon. Melinda Pavey; obviously she has been doing her homework.

**The Hon. Melinda Pavey:** You've had a haircut?

**Mr IAN COHEN:** Yes. Like the old-growth forest, sentient beings lose leaves. As a reflection of the dying forests, yes, I have lost my hair—but, I might say, not my spirit. It is fortuitous that at this historic point the ground-breaking article entitled "Tree Amigos" by Janet Hawley featured in the *Good Weekend* segment of the *Sydney Morning Herald* last week, 28 June. It tells an important story, about how North Coast forests were protected by the people. It tells the story of the North East Forest Alliance, whose purpose it was to protect the forests of the north-east. In the article Janet Hawley quotes Dailan Pugh, whom I have known for many years now and who is truly reflective of the spirit of our forest activists. Dailan Pugh, who was a patient, determined and forthright advocate for the forests, said:

I take my hat off to the people who went on blockades, and spent months in forests in often very primitive conditions. They underwent huge traumas about loggers coming in and bashing them up, police dragging them off to be arrested, fined or jailed. They weren't a rabble—they were committed to making a difference. Some might have been on the dole, but they were working as hard as in any job. I reckon they've repaid more than they got, by saving all those forests.

John Corkill, a renowned forest activist, said:

One of the last things Milo Dunphy, that pioneer conservationist, said to me before he died was: "Please thank the ferals." Milo's era of conservationists had campaigned in their own, more polite way, but he knew the old ways were no longer effective. He laughed and said: "Thank God for the ferals."

The story that Janet Hawley told deserved to be told. It shows that often the people lead the politicians, and sometimes people will take it into their hands and forgo their own future to protect something valuable for future generations. This is such a case. I hope all members took the time to read the article. If not, I urge them to do so, and to think about some of the prejudices that may exist and about how important this decision will be for the future. We do not know the full value of our forests, and if we do not save them we could lose so much—perhaps even something that is crucial to our survival. The treasures of nature have not yet been properly considered. At least we will now have the opportunity to know, by saving them. As my speech is lengthy, by agreement of members of the House I seek leave to have the remainder of my speech incorporated in *Hansard*.

### **Leave granted.**

It was in 1990 that an organisation specifically dedicated to protecting old growth forests in the north-east was formed. The North East Forest Alliance brought together diverse groups and individuals with the common aims of protecting our old growth forests, establishing a reserve system that was truly comprehensive, adequate and representative, and for ecologically sustainable forest management. This bill sees the achievement of that first goal. The path has been long and tortuous. In 1990 members of the North East Forest Alliance legally challenged the right of the New South Wales Forestry Commission to log old growth forests at Mount Royal, without having done any kind of environmental impact assessment. Other court challenges quickly followed. The most well known being that of John Corkill in his defence of the old growth forests at Chaelundi in 1990 and 1991.

I was one of the hundreds of people who were arrested at Chaelundi as we found ingenious forms of non-violent direct action to keep the loggers at bay. Day after day a wave of police would work their way down the road, clearing our tripods, bipods, monopoles and pipes and night after night we would rebuild them. Direct action in the forests has been the community's way of buying time. You stop the logging for a month, a year or two and you hope that by the time it's back on the logging schedule society has come to its senses and seen the value of what is about to be lost. And again I use the word irreplaceable here, because once these forests are gone it will be many generations before anything quite like them will have grown back. It will not happen in our lifetimes or those of our children or our grandchildren.

I turn now to the forest icons that will be protected by this bill, starting in the far north of the state:

### **Whian Whian and Wollumbin**

The Whian Whian area was the subject of the first forest protest in New South Wales. The historic Terania Creek protest in 1974 was situated in Whian Whian State Forest and much of the protest and activism at the time was related to the wider Whian Whian area and the curtailment of logging operations throughout the entire State Forest. Terania Creek was protected but logging continued in the remainder of Whian Whian State Forest. Whian Whian has exceptional biodiversity values. This was underscored when local ecologist Rob Kooyman discovered a new species of tree. Commonly known as the Nightcap Oak, the tree hails from the dinosaur era and its discovery is as significant as that of the Wollemi Pine. Whian Whian is also the water catchment for six major regional centres including Lismore, my home Byron Bay and Ballina. Byron Bay and Ballina in particular, are experiencing serious growth and increasing demands on their water supply.

Allowing the catchment of the Rocky Creek dam to return to an old growth site will eventually lead to an increase in available water in the dam. An end to logging will see the opportunity to deal with the siltation problems that have resulted from previous logging. Whian Whian and Wollumbin, are recognised as two of the most exceptional and outstanding biodiversity hotspots in Australia. They are part of the Mount Warning Caldera system and they contain remnants of many ecosystems and species which have been cleared almost to extinction. Their significance to the regional nature based tourism industry is likely to continue to grow. Wollumbin also is of special significance to the Bundjalung people. In fact Wollumbin serves a similar purpose to Aboriginal tribes on the East Coast, as does Uluru to Aboriginal tribes in central Australia.

For Aboriginal people the whole mountain—which we know as Mt Warning and they know as Wollumbin—is sacred, and that includes the forest. Many ceremonial sites surround Wollumbin, they are evident of a lifestyle rich in tradition and of movements between the mountain, the forests and the coast. The Bundjalung have actively supported the protection of this forest and have worked for several years now with the Save Wollumbin campaign to see this forest no longer threatened from logging. Dave Gleason has been the backbone of the Save Wollumbin Forest Campaign and has been supported throughout by the good folk at the Caldera Environment Centre.

### **Bungawalbyn**

Bungawalbyn is near Casino and is widely recognised as the centre of the most important habitat for species of the drier forest types in north-east New South Wales. It is known habitat for the nationally endangered Regent Honeyeater and nationally vulnerable Bush Stone Curlew. It contains one vulnerable ecosystem and three poorly reserved ecosystems that are a high priority for reservation. I want to recognise here the work of Karen Bailey, who for many years lived adjacent to Bungawalbyn and who has advocated fiercely in its defence. It is extremely difficult to be an outspoken environmentalist in an area where there is little understanding of conservation issues. I know that Karen was subject to threats and intimidating behaviour and I acknowledge her bravery in refusing to be silenced.

**Butterleaf**

Butterleaf is near Glen Innes and it is entirely old growth forest. It is partly comprised of remnant ecosystems of the New England Tablelands which have been extensively cleared, including two vulnerable ecosystems. Remarkably it contains a significant disjunct population of the Common Wombat. That wombat population exists in a tiny island of forest amid a sea of cleared land. I want to acknowledge the work done by the Gibraltar Range Residents Action Group, in particular Jo Sparkes. Jo has been one of the few people who have been defending the Butterleaf wombat population from the encroachment of the bulldozers.

**Chaelundi**

Chaelundi is near Dorrigo. The fight for the protection of Chaelundi has been truly historic. As I mentioned earlier there were four successful court cases and two legendary blockades in 1990 and 1991. The first protest action and simultaneous legal challenge started in 1990. The legal action was successful and logging was stopped until the Forestry Commission of New South Wales produced an Environmental Impact Statement (EIS). Legal recognition that logging old growth was having an environmental impact forced the then Liberal Government to place large areas of old growth forests throughout New South Wales in interim protection areas. The Forestry Commission came back with an inadequate EIS and began logging in three forest blocks in the area in 1991. A blockade was set in place and lasted for over three months. More than 230 people were arrested and as I said earlier I am proud to count myself among them.

The logging was forced to stop again when further successful legal action established that 22 endangered species would be taken or killed if logging continued. The logging was in breach of the National Parks and Wildlife Act 1974 and Chaelundi was described in the judgment as 'a veritable forest dependent zoo'. This caused major political turmoil and resulted in the first endangered species legislation, the Endangered Fauna (Interim Protection) Act 1991, being passed by parliament against the Greiner Government's wishes with the four Independents in the Lower House voting with the ALP. The outstanding values of Chaelundi were again recognised when it was protected as part of the Deferred Forest Areas (DFA) in 1995.

Chaelundi is part of one of the largest areas of tall old growth forest left in north-east New South Wales. It has outstanding conservation and wilderness values, and some of the highest densities of arboreal mammals, large forest owls and tiger quolls ever recorded in Australia. To all those thousands of people who, over more than a decade have been actively involved to save Chaelundi, I salute you. This bill revokes several State Forest areas and vests them in the Minister for the Environment for the purposes of Part 11 of the National Parks and Wildlife Act 1974. These are areas that cannot be reserved under the National Parks and Wildlife Act 1974 because they are impeded by existing leases. The Chaelundi blockade site in the Chaelundi icon is one of these areas. It is important that funds are provided to enable these leases to be purchased where the leaseholder chooses to sell. It is also crucial that a formal process is agreed between NPWS and SFNSW to facilitate these purchases and to ensure that both agencies contribute financially, since they both stand to gain from this process.

However, I want to stress that what is being talked about here is a voluntary acquisition process for such leases and I believe the claims made by the Member for Coffs Harbour on this matter in the other place are unfounded. While on such matters, I note that many of the claims made by various parties about Occupational Permits and their cancellation have been incorrect. Occupational Permits are annual licences. They have been open to non-renewal by the lessor on an annual basis. Anybody who bases their entire business on annual licences is clearly not a serious enterprise, and there is obviously no case for compensation simply because an annual licence is not renewed. That being said, I encourage the Government to adequately fund the Occupation Permit Taskforce to enable it to purchase residue lands from Occupation Permit holders who suffer hardship from any Occupation Permit terminations and to assist with other aspects of the implementation of these changes. This process should be applied to both icon areas and Special Management Zones.

**Sheas Nob**

Sheas Nob is just south of Nymboida. The North East Forest Alliance has continually resisted the logging of the old growth at Sheas Nob. In 2001, because of the introduction of serious penalties for forest protests and the implementation of large restricted areas around logging, there were only a couple of dozen people who were able to enter the logging area. Several people incurred several fines and a number of people were arrested and charged. Among those who were prepared to risk fines and enter the closed area were Hugh and Nan Nicholson and their daughter Elke. I know Nan and Hugh from the Terania Creek protests, it was their property that the protesters used as a base-camp. Now, more than 20 years later they again set an example of being prepared to engage in non-violent direct action to save some unique places. They witnessed the treatment of one protester suspended on a tree platform that was also attached to some logging machinery. His life was put in serious jeopardy by gung-ho behaviour of the police rescue squad.

Following those incidents there were solidarity protests around the region over several weeks. People who could not go to Sheas Nob took action locally. Last year when a new area of old growth was scheduled for logging, protests resumed. After several days, State Forests agreed to exclude from logging 20 hectares of majestic old growth. The trees were largely hollow and fortunately for that area- there was a downturn in the salvage log market at the time. To the Earth Rescue crew, Glider, Steve, Valerie Thompson and all their supporters at the Clarence Environment and Social Justice Centre—Sheas Nob thanks you. I believe Sheas Nob also supplied the old growth stump for the third incarnation of the Stump Truck. "Stumpie" has been a symbol of resistance and has taken the message about the need to protect our old growth forests, to numerous coastal towns and villages.

**Sherwood (is part of Conglomerate State Forest near Coffs Harbour)**

I was fortunate enough to visit this wonderful stand of old growth forest last year. It too has been actively defended for more than a decade. In 1991 roading for this area had commenced. A group of activists from the North East Forest Alliance—including Dailan Pugh—went to the area and met with the District Forester on site. I am told that they made it clear to the forester that logging old growth forest without an EIS was illegal and that they would not hesitate to initiate legal action if logging began without one. The forester acknowledged the concerns and work ceased. The area was not re-scheduled for logging until 1999. Again NEFA went into action to defend it. However during the time of the blockade hundreds of people visited the area. NEFA was overwhelmed by the response to their first "come and have a look" tour. They expected half a dozen cars but they got about a hundred.

The local conservation group the Ulitarra Society got involved and the walks were continued over about six weekends by popular demand. Alongside the blockade crew they led people down muddy paths to see some of the biggest trees left in the Coffs Valley. In time I expect that a walk through Sherwood National Park will be one of the more memorable tourist experiences for visitors to the Coffs Harbour area. It is one of the best remaining examples of old growth blackbutt left in north-east New South Wales and is vital for the survival of the hollow dependent fauna in the region. Sitting around in a log-dump in a moist eucalypt forest, waiting for the police to come is no fun. After a week or so, when all the clothes you own are wet and you are sick of lentil mush for dinner you really do wish you were somewhere else. I want to thank those people who stuck it out at Sherwood in 1999. Winn, Ingrid, Alex, Jorge, Zac, Phil, Johnno, Selina, Rouge, Beth, Glider, Tas and many others. You held the line.

### **Pine Creek**

Pine Creek is just south of Coffs Harbour. It is not an old growth forest but it is renowned for having the highest density of koalas in any New South Wales coastal forest. The koala was once common, there was almost one for every tree and they were easy pickings for white fellas with guns looking to make a quick penny or two from the skins. Hundreds of thousands of koala skins were exported from the coastal forests of New South Wales. Today the koala in New South Wales is threatened with extinction. Most people have never seen one in the wild. The remarkable thing about Pine Creek which will be an addition to Bongil Bongil National Park, is that it is possible to see a koala. The day I visited we had about half an hour to walk through the forest. I was accompanied by Anne Coyle and John Pile who live nearby and who have engaged in numerous koala rescues over the years. As if on cue the mother koala with a joey on her back moved and caught my eye.

The tourist value to the Coffs Harbour region of protecting this forest is immeasurable. It has enormous potential. I find it incredible that one of the most vocal opponents of this bill is Andrew Fraser the member for Coffs Harbour. And yet two of these icons with enormous tourist potential are within half an hour's drive from Coffs. The economic return to his electorate from these areas being protected in perpetuity will far outweigh any negative impacts. No wonder Mr Fraser nearly lost his seat—we live in hope. Steve Allen, Kirsty Blood, Anne Coyle and John Pile and all the other Friends of Pine Creek have done a wonderful job raising the profile of this issue in the Coffs Harbour region. It is wonderful that they can now see the fruits of their labour.

### **Little Wonder**

Little Wonder is in the Nambucca Valley. In 1993 the forest of Little Wonder was protected from logging by a major forest blockade which lasted several months. There were two successful court cases conducted in the early 1990s to seek recognition of the high conservation values and to protect the area from logging—both were successful. One case found that SFNSW had polluted a waterway on an adjacent property and another found that logging could not proceed without an EIS. In 1994 the Nambucca Valley Conservation Association engaged several environmental consultants to conduct surveys in the area, including the Australian Koala Foundation. Extraordinarily high densities of koalas were found, along with many other threatened species and important conservation features. The area was again formally proposed for reservation as part of the Dunggir national park proposal in 1994.

Parts of the reserve proposal were protected in reserves in 1996 and 1998, although the final part of the proposal, which represented the final link in the wildlife corridor, remained available for logging. It was vetoed for protection in 1998 by DMR because of an antimoney deposit. It was put on the list of areas for "further consideration" after the 1998 forest decision although it was not reserved through that process. Logging was scheduled for mid-2001 and deferred through negotiation and the threat of further blockades. Lynn Orrego, Paula Flack, Joy Vanson and all the good folk of the Nambucca Valley Conservation Association never gave up. Little Wonder is recognised as a critical elevational gradient and corridor running from the escarpment to the coastal foothill forests. It is notable for the diverse mosaic of old growth forests, rainforests, rare rainforest suballiances and threatened fauna and flora which it contains.

### **Tuggolo**

Tuggolo is near Walcha. Anyone who has driven through the New England Tablelands will understand the importance of these forest areas. The landscape has been extensively cleared and the remnants affected by die-back. This area provides habitat for a large number of poorly reserved, old growth dependent fauna species. At this point I want to acknowledge the work done by the many branches of the National Parks Association. NPA members are hardy souls who spend their spare time either walking through some remarkably difficult country or writing letters and submissions in support of its protection. NPA branches in places like Armidale and Tamworth play a vital role in the social debate on land-use that is just coming into its own.

### **Queens Lake**

This area was first proposed for reservation by the National Parks Association in 1976 when it was put up for reservation as part of the Three Brothers reserve proposal. It was again proposed for reservation in 1990 in a Queens Lake Nature Reserve proposal put again by the National Parks Association. The area was protected in the IDFA and in 1998 the area was identified by the Regional Assessment process as High Conservation Value but was vetoed for inclusion in the reserve system by DMR. It is currently subject to a minerals exploration licence. It seems that if the entire area is cleared and the top 20 metres dug up and processed there may be economic amounts of scandium. A metal used in space technology—hopefully not in the Weapons of Mass Destruction that the United States is so famous for.

Queens Lake was listed in the 1998 decision as an 'area for further consideration'. In the years since there have been several protest actions by the local community forest protection group "Forestwatch" to try and stop logging in the area. Unfortunately they were unsuccessful and some of the forest adjacent to the Lake was logged in 2001. Queens Lake provides a critical forested core to the reserve network in the region by forming a link between Lake Innes Nature Reserve and Queens Lake Nature Reserve. It is a diverse area which is notable for the variety of ecosystems, species and poorly reserved coastal habitats which it contains.

**Copeland Tops**

Copeland Tops is near Gloucester. It is a biodiversity hotspot of outstanding regional significance. It provides known or predicted habitat for more than 40 threatened and significant fauna species and includes a centre of endemism for high elevation vertebrate fauna. It is a mosaic of old growth forests and rainforest. Special thanks is due to Marg McClean for her tireless work to save Copeland Tops and many other areas in the Barrington/Gloucester area. Marg has made a truly remarkable contribution to forest preservation in north-east New South Wales over more than a decade. Marg epitomises the great gifts which women bring to the environment movement. Without fanfare and mostly without thanks, Marg has been the camp mother, the camp cleaner and the camp counsellor at innumerable blockades. She is courageous, kind ferociously determined and completely committed to direct action. She is a prolific letter writer, self-taught amateur biologist, and notorious green policewoman. Thank you Marg.

**Myall River**

Myall River is near Bulahdelah. It contains four poorly reserved forest ecosystems, a predicted 53 threatened and significant fauna species and rainforest and old growth forest remnants in a mosaic which joins Myall Lakes National Park to Ghin-doo-ee National Park to the north. A significant difference between the north east and the south east of New South Wales is that the National Parks in the north-east are smaller and less well connected. In 1998 one of the criticisms of the Premiers National Park announcement was that they were confetti parks, small isolated parks. While these new parks do not completely remedy that situation they do improve it. Fragmentation of habitat is recognised as one of the key reasons for biodiversity decline.

The challenge for us all is to ensure through the range of mechanisms available to us as a society that we try and connect our national parks through voluntary conservation measures. I very much appreciate the work of Linda Gill over many years, who has kept Myall River and the Bulahdelah forests in the spotlight. More than a decade ago Linda and Greg Gill worked to expose what Boral's woodchipping was doing to our forests in the north-east. As a councillor on Great Lakes Council, Linda has worked for the last 12 years not only for responsible management of public lands, but also to stop the desecration of private land before the altar of greed and profit.

**Black Bulga Range**

The Black Bulga Range is near Dungog. It contains magnificent old growth forests in a mosaic of rainforest, tall moist eucalypt forests and dry spotted gum forests. It is an outstanding catchment area of high importance to many species including the koala and several glider species. The importance of this area was recognised many years ago by John and Vicki Lloyd. More recently they have been joined by their neighbours, the Crane family who have worked hard to rally support for the protection of this area. Mary Crane, in particular, has made an incredible contribution to the protection of not only Black Bulga Range, but all the other icon areas. She is a very talented person who can turn her hand to any challenge, from tree-climbing, to banner painting, to media spokesperson and wordsmith. Her efforts are justly rewarded in the protection of this beautiful place near her home, for all future generations to enjoy. Congratulations, it is a magnificent achievement.

**Jilliby**

Jilliby jilliby jilliby. It has such a beautiful ring to it. This area is in the Watagan Mountains between Sydney and Newcastle. It is to be protected as a State conservation area owing to the coal deposits found in the region. Many hundreds of people have been directly involved in the campaign to have this area protected from logging. Of all the forests on the lower north coast, it was the Jilliby area which stood out as the hole in the reserve system after the 1998 decision. The Government's own conservation data identified it as the principal centre of unreserved biodiversity in lower north-east New South Wales. It contains 8 poorly reserved coastal forest ecosystems and 40 threatened and significant fauna species.

As well as their conservation significance, the forests of Jilliby are an important component of the water catchment for the rapidly growing urban centres of the Central Coast. It is now well known that there is a direct connection between the uptake of water by a regrowth forest and that released into the river system. Young trees are thirsty. What is worse, young trees are at their most thirsty during dry times, which means that trees are directly competing with towns for water. As the forests of Jilliby are allowed to age they will release more water into the river system and this will be most notable during dry times. I understand that the mayors of Gosford and Wyong were fully behind this reserve proposal. They understood the competing interests and could see the clear advantages to all of protecting the water catchments of major population centres. If it is good enough for Sydney it is good enough for the rest of the State.

I want to acknowledge here the fantastic effort put in by NEFA Hunter. They were undaunted by the odds against them and have campaigned creatively and energetically to see all of these icons protected. They have done so with optimism and enthusiasm which was contagious to all who worked with them as I am sure my colleague the Hon. Arthur Chesterfield Evans, who visited Jilliby with me last year will agree. It was a tremendous group effort, but the efforts of Clare Dunn and Daniel Beaver require special acknowledgement. Clare was always calm, courageous and articulate. She earned the great respect of all those who had dealings with her. Her humble, no-nonsense approach to getting on with the job and doing it to the best of her ability has made a huge impact on the outcomes. Daniel has worked tirelessly over many years to build a movement of young people committed to social and environmental justice. He has nurtured interests, made connections, educated, encouraged and inspired a new generation of young environmental activists to emerge. It is a great credit to him, and it gives hope for the future.

Many young people are depressed by the injustices of the world we live in. Their efforts to bring about social change often fall on deaf ears. It is easy to be overwhelmed by the enormity of the problems. So it is a wonderful thing that the dozens of young people who worked so hard to have these iconic forests protected have had a success. They can see something very tangible for their efforts. This decision is an inspiration to stay involved and active knowing that by working co-operatively and engaging the community support that is out there it is possible to bring about change. The final icon is of course the scattered patches of old growth forest which were until now, available for logging. The protection of the remaining old growth forest on public land is a landmark decision of outstanding conservation significance. It formally recognises all old growth forests and their unique contribution to the social and environmental character of north-east New South Wales. It stops playing the game that some old growth is not high conservation value.

Old growth forests have repeatedly been demonstrated to be of particular community value. It has been the emotional appeal of old growth forests that has stirred people into direct action and ignited the conservation blockades of recent history, such as Chaelundi and Mummel Gulf, and which have now ultimately led to their protection. Old growth forests pre-date the arrival of European settlement and are significant in terms of the evolution of Australian flora and fauna. They have significant wilderness and aesthetic qualities, represent critical refuges from European disturbances and are also a major gene pool. Old growth forests provide habitat for a range of plants and animals that is either unavailable or greatly diminished in logged forests. Some plants and animals are restricted to the old-growth stage or are dependent on old-growth forest for some of their habitat requirements.

Approximately 20 per cent of the Australian bird fauna, 75 per cent of arboreal marsupial fauna and an undetermined proportion of the bat, reptile and invertebrate fauna are dependent on the hollows provided by old trees. Tree hollows take at least 130 years to form and much longer for many tree species. Old growth forests and the remnant old trees which they contain are critical to the survival of possums, gliders, cockatoos, parrots and many of our other unique animals. Given the reduction in the extent of old growth forests in the last 200 years, and the intensification of impacts upon many species, remaining old growth forests now encompass many uncommon, rare or endangered aspects of this State's natural history. Old growth forests are, by definition, the least disturbed remnants of the original forests. As such they represent important sites for assessing natural processes and systems (and natural population dynamics and species interactions) where they have not been significantly altered by the impacts of modern technological society. They also provide benchmarks from which to gauge such impacts.

When we get serious and dedicate resources to studying old growth forests we may find, as they have in America, that they hold the key to understanding many other components of the world around us. Old growth forests may be dominated by trees hundreds or in the case of slow growing species such as brushbox, thousands of years old. As well as their visual appeal the sheer age and/or majesty of individuals or stands of such trees can evoke feelings of veneration and awe. Old growth epitomises the concept of natural heritage for forests. Results from numerous social studies indicate that more than 70 per cent of the community believe that the loss of old growth forests and threatened species habitat is more important than the loss of jobs and they are in favor of forest protection. This was demonstrated yet again in the fabulous response to the Endangered Species Roadshow put together by John Seed, Ruth Rosenhek and friends, from the Rainforest Information Centre in Lismore. The roadshow toured the State and was warmly received everywhere it went. The video "On the Brink" which was the feature of the roadshow, featured the forests of north-east New South Wales and the plight of some of our endangered species. This was just one of the many outstanding contributions which Ruth, John, Binnie and associates made to the forest campaign over the last 3 years. An incredible impact through the unique combination of energy, creativity, passion and commitment which they have applied to all aspects of saving forests, from blockades, to media, to music, to video productions, to exploring new ways of non-violent direct action. Many thanks.

The fact that people such as Jack Thompson, Olivia Newton-John, Dr David Bellamy, Dr David Suzuki and Sir David Attenborough were prepared to put their names to a heartfelt plea for the protection of vital forest habitat for species such as Koala, Masked Owl, Yellow-bellied Glider and Tiger Quoll, tells me we are on the right track. I want to talk now about the social and economic impacts of this decision. This decision reserves about 40,000 hectares of 'loggable' State forest. Approximately 25,000 hectares was already in a Forest Management Zone that was excluded from logging. Estimates by conservationists, which I understand are similar to those generated by Government agencies show that this decision will remove about 30,000 cubic metres of wood from the annual wood supply. What has the industry got back to counter balance this decision? Firstly there is an extra 15,000 cubic metres of annual timber allocation which State Forests purchased from a sawmill in lieu of unpaid debts. This information is publicly available in the reports of the Public Accounts Committee.

Secondly there is approximately 30,000 hectares of FMZ 8 which has been transferred into the general logging zone since 1998. This is expected to yield approximately 12,000 cubic metres annually. Since 1998 State Forests have spent between \$9 and \$18 million dollars buying land to log. This is estimated to yield about 3,500 cubic metres annually. These estimates are based on State Forests own timber modelling software, and inaccuracies will only arise if State Forests own figures are flawed. These two measures alone, plus the repurchased 15,000 cubic metres, would meet the shortfall of timber involved in protecting these icons. And yet on top of this the Government has relaxed the protocol relating to streamside harvesting to ensure that State Forests get access to all the timber adjacent to stream buffers. State Forests claimed that this alone was worth 50,000 cubic metres of additional timber.

So if there is a shortfall in timber volumes it is not as a result of this decision. This decision has been well and truly compensated for and the timber industry, despite all their belly-aching, have gained considerably from it. I would like to address briefly the claims made by the timber industry, the member for Coffs Harbour Andrew Fraser, and the Federal Government about the impact of these reserves on timber supply. They have claimed that these reserves would cost 1400 jobs and cost the Government \$238 million in compensation. These claims are as absurd as they are unfounded. The National Party appears to have based all their estimates on a leaked document by State Forests of New South Wales which Mr Fraser referred to in his speech in the lower House. It is titled 'Status of Discussions—New National Parks on North Coast'. It was this document which they used to claim that there was \$238 million in compensation payable as a result of the reservation of 65,000 hectares on the North Coast.

However, the estimate of \$238 million of compensation in that document is quite clearly referring to the reservation of 386,871 hectares of forest in north-east New South Wales (the last row in the table), not 65,000 hectares. It is a completely different proposal. A proposal to reserve 6 times as much as was actually reserved. The estimated impact of reserving NEFA icons and old growth is actually not included anywhere in the table. A proposal to reserve six times as much as was actually reserved. A proposal to reserve 386,871 hectares of forest, not a measly 65,000 hectares. That is where the National Party got their ridiculous \$238 million figure from, that is where they got their farcical 1400 jobs from. The entire campaign by these groups against the reserves is based on a falsehood. To generate such community concern, by feeding inappropriate and misleading information to the public and the media, is reckless and irresponsible.

To emphasise the magnitude of the blunder by these parties, let us consider a few facts. The overall number of jobs in the timber industry on the North Coast is somewhere between 1800—as recently claimed by Mr Fraser—and 2500—as reported in various socio-economic reports in 1998. Mr Fraser and his allies have been claiming that 1400 jobs are going to be lost a result of this decision. They are in effect saying that 55 per cent to 77 per cent of all jobs in the industry will be lost. Yet, the area reserved is only 65,000 hectares out of a total of 1 million hectares of State forest in the region. It is less than 7 per cent of all State Forests in

fact. Less than 7 per cent, and yet they claim it will cost 55 per cent to 77 per cent of jobs. It is a joke. Their claims are pure fantasy, without a single fact to base them on. The National Party should be ashamed of themselves for such baseless scare-mongering and for peddling falsehoods to try to whip up fear and hysteria in the community. It is a disgrace.

They have misled the Parliament and the people of New South Wales. In fact the Federal National Party member Luke Hartsuyker perpetuated these falsehoods in the Federal Parliament. He too has misled that Parliament and the people of Australia. I hope they now go out to the media and the public and admit that they got it wrong, horribly wrong. That is the least they can do. National Party claims about plantations in the icon areas are also incorrect. They have said that there are 10,000 hectares of plantations that are going to be lost to the industry as a result of these new reserves. However, even State Forests own mapping includes only 1,519 hectares of plantations in all the icon areas. I would be happy to provide the National Party with this mapping, if they want to check it, and then apologise to the public for once again getting it completely wrong. Again, the area claimed by the National Party in the media is 10 times the actual area.

However, State Forests mapping of plantations is not reliable or accurate and it has been shown to be completely flawed. Field inspections by members of the North East Forest Alliance have shown that vast areas mapped as plantations by State Forests are in fact native forests. And State Forests of New South Wales have still not managed to have one single plantation accredited as such, not one. We are dealing with an agency that does not even know where its own plantations are. So, National Party claims that reservation of plantations in the icon areas sets a bad precedent for agro-forestry simply do not hold up. These are not accredited plantations. These are very doubtful, highly dubious plantations, many of which will be native forest. It would be a much worse precedent to allow the clearfelling of native forests in the new reserves under the guise of plantations. That would be a disaster. And that is what the National Party are effectively proposing.

It is no secret that the Greens have serious misgivings not only about the overall wood volumes which were allocated in 1998, but in the ability of State Forests to comply with licence provisions. Furthermore we believe our forests are not being and have never been, managed in an ecologically sustainable way. That is why the second reading speech by Minister Knowles in the Legislative Assembly raises major concerns for the conservation movement and the Greens. The Minister has effectively promised a further 16 to 20 years of wood supply agreements at near current volumes. It appears the Minister is planning to make these commitments before a review of timber availability is conducted. This wood review was inserted into supply contracts in 1998 because there was some uncertainty about the size of the timber resource in the region and the ability to meet contracts after 2006. The wood review enables the Government to reduce contracts after 2006 without paying compensation, if the review finds that the resource is not as large as previously estimated by SFNSW.

Therefore, the wood review was set down for 2006 to provide a safety net to protect taxpayers against excessive compensation payouts and to protect the forests against massive over-cutting. There has been no such review, and yet the Minister suggests that the industry will be given further security regardless. The only real security for the industry will be if they finally decide to start logging on a truly sustainable basis. The only real security for the industry will be if State Forests are finally forced to get the figures right. Otherwise, any such security will be an illusion. The State Forests of north-east New South Wales are a public resource and a public asset. The Government has a responsibility to manage them for the good of all the citizens of New South Wales, not just the timber industry. There are no grounds for taking unacceptable financial risks or degrading this resource contrary to the wishes of the people of New South Wales. The wood review is absolutely required to protect the public interest in forests. To drop this review now would be irresponsible.

The timber industry, like many resource extraction industries, is hit and run. Across the state there are hundreds of former sawmill sites, probably thousands. Mills set up, logged out the surrounding forests and then packed up and left. Until recently it was the policy of the state forestry agency "to liquidate the old growth". Little consideration was given to the forests that had been logged. However it was clear by the 1960s that the old growth would run out by the end of the century and that there would be insufficient regrowth to keep the industry going. This was the basis of the decision to put in extensive pine plantations. The pines grow faster than the eucalypts and would provide a wood supply when the hardwood ran out. The 1960s forestry policy assumed that the pine logging would replace the hardwood logging, not that both would continue indefinitely.

Let me be quite clear here. The Greens believe there is a role for a native timber industry in New South Wales. But the scale and practices of that industry have to change. Finally, there has been much talk by the New South Wales Government of this bill ending the forest debate in north-east New South Wales. They are claiming already that these are the last forest reserves we will see in the north-east. I reiterate that these reserves are a tremendous outcome for biodiversity, and they are a very important step for conservation. However, they do not deliver a Comprehensive, Adequate and Representative reserve system in the region. They do not finish the job. It is the scientists and the community who must decide when that job is done, not the Government. And eminent scientists such as the three Davids- Bellamy, Suzuki and Attenborough, agree with our New South Wales scientists, that despite this excellent decision there are still many animal species with insufficient quality habitat protected to ensure their long-term survival.

Agreed minimum targets for the protection of 15 per cent of each forest ecosystem and viable populations of threatened plants and animals have still not been achieved in north-east New South Wales. Ancient trees greater than 2m diameter are still being logged. I measured one myself last year at Bellangry State Forest that was 2.3m diameter. The prescriptions under the threatened species licence conditions are still inadequate. Major issues such as bellbird dieback and the spread of invasive weeds are being ignored -as a result of logging they are spreading through our forests at a terrible rate and they represent an unfolding disaster for biodiversity. High conservation value areas remain available for logging.

Let us take a few examples. The Spotted-tailed Quoll is the largest marsupial carnivore left on mainland Australia. It is in decline nationally, with the forests of north-east New South Wales representing its national stronghold. Its best remaining populations are associated with the more extensive areas of productive old growth and wilderness along the Great Escarpment. In 1998, the expert panel of scientists identified the need to reserve habitat for four populations encompassing 354 to 1500 breeding females each. Even with the icon areas, only 25 per cent of the areas required have been protected. The story is similar for so many other species. The Masked Owl has only 23 per cent of the areas required for its long-term survival protected. The Yellow-bellied glider only 17 per cent. The job will never be finished while unique Australian species like this remain threatened with extinction.



We all understand that the Government is trying to juggle competing interests. Unfortunately they have been left with a legacy of decades of mis-management and ignorance.

We are just starting to recognise the interconnectedness of nature. But there is still much we do not know and there are patterns emerging to suggest that radical steps need to be taken if we are to protect our biodiversity, save our river systems and increase the productivity of the land. It is a long path and we have only taken the first steps... we are a long way from being able to claim that the job is done. The real task is to create the economic environment that not only protects the remaining habitat of our unique flora and fauna, but that also makes it economically viable to allow tracts of land to regrow into habitat for the future. If our biodiversity is to survive the pressures of the future then we must create an environment that sees isolated national parks connected via green corridors. Many of these corridors will be on private lands, where participating landholders will be acknowledged both socially and economically for their stewardship.

There are two people who stand out for their outstanding and tireless efforts to save forests, particularly over the last 8 years, in north-east New South Wales. Susie Russell and Dailan Pugh. Their respective contributions to conservation in this State are significant. They have made sacrifices that few have seen and most of us could never understand. They have shown an unswerving commitment to the greater good through long days of never-ending work, genuine hardship, occasional despair, and all the challenges that face full-time voluntary conservationists who seek to shift the power balance back towards the planet. Since 1999 they have been joined by Carmel Flint. Carmel had previously worked for the NPWS but resigned in disgust after the 1998 decision on the North-east Forests. She has since thrown her all into seeking justice for the forests and their creatures. Carmel's genius and attention to detail is impressive. In many ways she knows more about what is happening in our forests than the State Forestry agency.

These individuals have earned the respect of people from all walks of life, from the young blockader on the frontline, to the media, and the bureaucrats, and the academics, and the politicians. They are extraordinary people, who inspire others, and undertake and achieve extraordinary things. They have each shown outstanding leadership qualities, great integrity, searching intelligence, courage, selflessness, and good humour. In so doing, they have provided a role model for voluntary conservation at its best—inclusive, consensus based decision-making built on respect for each other and the environment, an incredibly thorough and detailed knowledge of issues, and a lot of hard work. I thank them for their unique and outstanding contribution to forest conservation, and for being who they are. One of the spectacular aspects of the north-east forest campaign has been the role played by so many wonderful women. While in the early years it was seen to be male terrain, in the later years the women have come to the fore. Their passion, endurance and practical down to earth approach provided a new burst of energy when many were too burnt out to continue.

Finally I would like to thank Jan Barham, who worked tirelessly on the 1995 election campaign which focused on forest protection as the priority issue and resulted in the election of the first Green to the New South Wales Parliament and the ALP's commitment to save our precious forests. Jan has worked with me in my office on forest issues since I was elected in 1995. Her advice, tenacity and encouragement has given me strength and the ability to stick with the issue. She like many other Greens across the state have continued to raise forest protection as a priority issue when standing as candidates in elections and continued to confirm the community's support for this outcome. There are many other people who deserve thanks and acknowledgement for their efforts. You know who you are. If I have not mentioned you by name it is not because your contribution was any less important. This is a collective achievement. So, I congratulate the Government on the reservation of these important areas. I encourage them to continue in the spirit of this decision in addressing other conservation issues, including outstanding forest issues, in north-east New South Wales. I encourage them to view the preservation of our outstanding biodiversity as an ever evolving and on-going challenge, not as a task that starts and finishes on a political whim. I commend them on this vital step along that path.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [3.50 p.m.], in reply: This is a passionate debate on both sides of the argument, and I certainly have my personal views about some of the issues.

**The Hon. John Ryan:** What are they?

**The Hon. MICHAEL COSTA:** I think most members of the House would know what they are; I do not need to articulate them. It seems to me, given the division that is emerging in terms of the amendment, that the Government has got this issue just about right in the sense that it has balanced the views reflected by Mr Ian Cohen and the views reflected by the Opposition and other members of the crossbench. It may well be that we have got this right. I think some of the comments made during the debate are ill-informed. Firstly, the proposition that somehow this is going to cost \$230 million—

**The Hon. Melinda Pavey:** The amount is \$253 million.

**The Hon. MICHAEL COSTA:** That is even more wildly exaggerated, as are the reports of different estimates of wood supply. I believe the bottom line in all of this is that the Government has operated from the basis of the Regional Forest Agreement. There were approximately 260,000 cubic metres that were indicated would be the basis of that agreement, and that is what we are moving forward on.

**The Hon. Duncan Gay:** You are only moving forward on 158,000.

**The Hon. MICHAEL COSTA:** That is not right. Let me make the point. The bill is not solely about transferring forest to National Parks; it also includes a range of propositions with which I know the Greens are

not comfortable. They relate to changes to buffers on buffers and environmental conditions. Some of the Greens amendments are directed at reducing some of those provisions or at least the impact of some of those provisions. Looking at the bill in toto, it seeks to strike a balance between the Greens perspective and that of the timber industry, and also a broader community requirement in terms of exposure to the taxpayer. Clearly, the changes in environmental conditions, particularly the buffers on buffers, have to be factored into the analysis before one comes up with a wildly exaggerated figure of \$253 million. The other issue that was raised related to leases. I have circulated the Crown Solicitor's advice relating to that.

**The Hon. Duncan Gay:** I haven't got it.

**The Hon. MICHAEL COSTA:** We have provided it. I am happy to make a copy available. It is not a secret document. In dealing with the second concern the Crown Solicitor stated:

I have advised that I have not been able to identify any rights of the lessees under the Perpetual Leases (as perpetual leases under the current provisions of the CLCTA) that the Bill, if enacted, will take away or adversely affect. I confirm that advice—

There is a range of commentaries associated with that advice. We are operating on the advice of the Crown Solicitor that these matters are dealt with. I know some amendments have been proposed by the National Party relating to these matters but it is the Government's view, having regard to the advice of the Crown Solicitor, that they are not necessary. There has also been some cheap political points scoring along the way. I shall not refer to them all, but I pick up one that relates to National Parks funding in terms of the budget. I am advised that funding was increased in the budget. Indeed, funding to National Parks over the term of office of this Government has been 140 per cent more than was provided in the last Coalition budget. So with those few words I commend the bill and advise that it is not the Government's intention to support any of amendments that will be proposed in Committee, given that I believe we have struck the right balance with this bill.

**Question—That this bill be now read a second time—put.**

**The House divided.**

**Ayes, 20**

Mr Breen	Mr Della Bosca	Ms Rhiannon
Mr Burke	Ms Griffin	Ms Tebbutt
Ms Burnswoods	Ms Hale	Mr Tsang
Mr Catanzariti	Mr Hatzistergos	Dr Wong
Dr Chesterfield-Evans	Mr Kelly	<i>Tellers,</i>
Mr Cohen	Mr Macdonald	Mr Primrose
Mr Costa	Mr Obeid	Mr West

**Noes, 15**

Mr Clarke	Reverend Dr Moyes	Mr Tingle
Ms Cusack	Reverend Nile	
Mrs Forsythe	Mr Oldfield	
Mr Gay	Ms Parker	<i>Tellers,</i>
Mr Jones	Mr Pearce	Mr Harwin
Mr Lynn	Mr Ryan	Mrs Pavey

**Pairs**

Dr Burgmann	Mr Colless
Mr Egan	Mr Gallacher
Ms Robertson	Miss Gardiner

**Question resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time.**

### In Committee

#### Clauses 1 to 3 agreed to.

**Mr IAN COHEN** [4.05 p.m.], by leave: I move Greens amendments Nos 1, 2, 3, 4, 6, 7, 10, 11, 12, 13, 14 and 15 in globo:

- No. 1 Page 3, clause 4, line 6. Omit all words on that line.
- No. 2 Page 3, clause 5, lines 27 and 28. Omit "and (subject to section 6) schedule 2".
- No. 3 Page 3, clause 5, line 33. Omit "or 2".
- No. 4 Page 5, clause 9, line 20. Omit "2,".
- No. 6 Page 9, schedule 1. Insert after line 23:
  - (2) An area of about 95 hectares, being the part of Pine Creek State Forest No 537, within the land shown by the brown tint on map catalogued MISC R 00245 Edition 3 in the National Parks and Wildlife Service, and labelled D002 on the face of that map, subject to any variations or exceptions noted on that map.
- No. 7 Page 13, schedule 1. Insert after line 27:
  - (3) An area of about 5 hectares, being the part of Burrawan State Forest No 181, within the land shown by the brown tint on map catalogued MISC R 00258 Edition 3 in the National Parks and Wildlife Service, and labelled D001 on the face of that map, subject to any variations or exceptions noted on that map.
  - (4) An area of about 17 hectares, being the part of Queens Lake State Forest No 475, within the land shown by the brown tint on map catalogued MISC R 00258 Edition 3 in the National Parks and Wildlife Service, and labelled D003 on the face of that map, subject to any variations or exceptions noted on that map.
- No. 10 Pages 21 and 22, schedule 5, line 29 on page 21 to line 4 on page 22. Omit all words on those lines. Insert instead:
  - (2) A reference in the *National Parks and Wildlife Act 1974* to the publication of a notice under Division 1 of Part 4 of that Act is, in relation to a reservation effected by this Act, taken to be a reference to the enactment of this Act.
- No. 11 Page 22, schedule 5, lines 18 to 26. Omit all words on those lines. Insert instead:
  - (a) affecting any of the lands described in schedule 1 that are reserved as, or as parts of, national parks, nature reserves or state conservation areas by this Act, and
  - (b) current and in force immediately before the commencement of this Act,
- No. 12 Page 23, schedule 5, lines 9 to 11. Omit all words on those lines.
- No. 13 Page 23, schedule 5, line 17. Omit "or 2".
- No. 14 Page 24, schedule 5, line 4. Omit "the relevant date". Insert instead "1 July 2004".
- No. 15 Page 24, schedule 5, lines 10 to 12. Omit "In this subclause, **relevant date** means 1 July 2004 or (if the access road is situated within land described in schedule 2) 1 July 2007."

These amendments remove schedule 2 to the bill, which calls for delayed transfer of some areas to the national park estate. The areas in schedule 2 are supposedly plantations, but none of them has been accredited as such under the Plantations and Reafforestation Act. These amendments will mean that all the areas will be transferred to the national park estate immediately. The amendments are necessary to ensure that logging of these areas claimed as plantations is managed in such a way that it does not compromise the values of the park. The establishment of these areas as national parks or other reserves will not prevent trees from being harvested for rehabilitation purposes.

These practices are acceptable under the National Parks and Wildlife Act and have occurred in various national parks in the past. The amendments will ensure that the primary motive for any such harvesting will be to assist ecological recovery, rather than to make a quick buck before abandoning the area. The amendments will give the National Parks and Wildlife Service, rather than State Forests, responsibility to regenerate these areas to a natural condition. The National Parks and Wildlife Service has the appropriate expertise to ensure that ecological restoration is the overriding principle applied to the work. This approach will also ensure that any timber extracted will be sold commercially to fund the regeneration program. In its current form the bill does not provide royalties to fund regeneration and is likely to result in increased degradation and weed invasion of the national parks in waiting. The amendments will address these problems. I commend the amendments to the Committee.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [4.07 p.m.]: The Government opposes the amendments because it is the Government's intention to maintain its longstanding balance of forests policy with commitments to both the timber industry and the conservation movement. Harvesting of these plantations up to mid-2006 will both supply timber and allow rehabilitation after logging to a more natural condition. The Government opposes the amendments.

**The Hon. MALCOLM JONES** [4.08 p.m.]: These amendments seek to immediately transfer all plantations to the national park estate. The plantations are still the property of someone, even without an examination to ascertain whether they are covered by perpetual or some other title. To transfer them immediately would be pure theft— Theft of stock and probably theft of land title. The moving of such comprehensive amendments, without allowing the opportunity for close examination, is fraught with danger and the potential of future litigation. Therefore, I cannot possibly support the amendments.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [4.09 p.m.]: The Opposition also opposes these amendments. I was bemused to hear Mr Ian Cohen say in the second reading debate that he is in favour of people creating a renewable resource. What is the incentive to establish plantations to have a renewable resource when as soon as those plantations are established they are locked into a national park? Where is the incentive in that?

**Mr IAN COHEN** [4.09 p.m.]: I understand and appreciate that at this point in time these amendments will not be accepted and are doomed to failure. One must deal with the real politics of the day. However, I ask the Minister Assisting the Minister for National Resources (Forests) to give the Committee an undertaking that the rehabilitation process currently provided in the bill, which will be under the auspices of State Forests New South Wales, will be appropriate, adequate and befitting for the areas eventually to become part of the national park estate. Inadequate processes have been undertaken in the past.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [4.10 p.m.]: I have been out on the ground with New South Wales forestry workers. They do a first-class job; indeed, they are regarded internationally as the best foresters. The fact is that a number of these foresters now work overseas precisely because they have world-class skills. So it is a bit insulting to the people involved for Mr Ian Cohen to seek that assurance. We take care of our foresters. That is why they are able to be transferred across to national parks. What the Greens and Mr Ian Cohen have described as first-rate conditions and pristine—

**Mr Ian Cohen:** They haven't got to them yet.

**The Hon. MICHAEL COSTA:** That is absurd. I do not mind having a genuine discussion about these matters, but let us be sensible. We are dealing with irreconcilable views, in a sense. The Government has tried to find a way through. Each of us has a personal view about whether this is the right balance, but it is a balance. To insult the skills of dedicated forestry workers is not the way to advance an argument in this debate. I have seen first-hand what they have done on the ground, and I have nothing but admiration for their skills, as has the rest of the world. I assure the Committee that they will apply their skills in the way they have in the past in maintaining these forests. To argue for something beyond that and to belittle their skills is not something in which I will partake.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [4.12 p.m.]: I did not intend to speak again on these amendments, but Mr Ian Cohen's request for new protocols to protect practice if he cannot get extra areas included leaves me gobsmacked. This bill, which the honourable member is partly responsible for, will result in a lowering of standards of the current practices by the Forestry Commission. Under this bill, the standards by which the commission protected areas in the past to provide a resource will be lowered. If anyone kids themselves that this is an all green bill, they are having a lend of themselves. The hypocrisy of Mr Ian Cohen to ask for an agreement on something for which he is partly responsible leaves me gobsmacked.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [4.13 p.m.]: I must comment on that. I do not accept the proposition that standards will be lowered. Talking on the ground to forestry workers—

**The Hon. Duncan Gay:** You are going into buffer zones that you were not in before. It is in the bill.

**The Hon. MICHAEL COSTA:** There are changed conditions. I have talked to forestry employees on the ground and they want these changes. They believe that some of the practices currently in place are overly restrictive, and that they can harvest more timber with appropriate sustainable practices without necessarily degrading or lowering standards. So let us be fair about this. The forestry workers support some of the changes proposed in this bill. They think they can manage the forests in a professional way. So rather than lowering standards, the Government's position is that these changes are appropriate.

**The Hon. Dr PETER WONG** [4.15 p.m.]: I simply congratulate the Government. I think it has got this just about right.

**Reverend the Hon. FRED NILE** [4.15 p.m.]: The Christian Democratic Party does not support the amendments, mainly because we have debates time and again about protecting old-growth forests, with the understanding that plantations will be available for harvesting and will allow the timber industry to plan for the future. These amendments would prevent that from happening, so we do not support them.

**Amendments negatived.**

**Clause 4 agreed to.**

**Clause 5 agreed to.**

#### **Clause 6**

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [4.17 p.m.]: I move Opposition amendment No. 1:

No. 1 Page 4, clause 6, line 7. Omit "earlier". Insert instead "other".

This amendment deals with the forests that this bill will allow to be logged and, specifically, the transfer date. Clause 6 (1) states:

In this section:

*delayed transfer date*, in relation to any land described in Schedule 2, means:

- (a) 1 July 2006, except as provided by paragraph (b), or
- (b) such earlier date as is appointed by proclamation in relation to the land.

The Opposition is proposing the use of "other date" instead of "earlier date" as the forests clearly defined in the bill are plantation forests consisting mainly of gympie messmate and flooded gum. Frankly, it would be a waste of valuable resources if this timber was partially logged through to 2006 and other timber in the forests could be logged while the forests are being regenerated. The timber industry would lose the opportunity to harvest the timber. At the same time a planted species would be locked up in a national park. Basically, this amendment seeks to reserve plantations as State forests, rather than transferring them into a national park too early. The amendment provides for another date, but still leaves the control in place, rather than a specific date. We do not think the amendment is of huge consequence. It is sensible. It will not take in resources that should not be included.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [4.19 p.m.]: The Government opposes this amendment for precisely the same reasons that it opposed the Greens amendment. The Greens sought to transfer at an earlier date. The National Party seeks to transfer at a later date. We have to draw a line somewhere.

**The Hon. Duncan Gay:** It is plantation.

**The Hon. MICHAEL COSTA:** A lot of them are plantations. The real issue for the Government is that it needs to draw a line, follow the middle course and stick to it. We believe the appropriate middle course is the one we have announced and legislated for.

**Reverend the Hon. FRED NILE** [4.20 p.m.]: The Christian Democratic Party supports this amendment. It is a minor one but it provides flexibility for the Government. It does not stop the transfer being

earlier, it just means it is on a different day. It can be earlier or later. The bill as drafted provides it has to be before 1 July 2006, and that is not far away at all. That is not a long time gap as far as the timber industry is concerned. To give some certainty the Government may decide to extend it by 12 months, and this amendment will provide that flexibility. It can still be earlier but it can be later. The other point is, if the earlier date is left, there may be some suspicion that, under pressure, the Government could decide to make the day much earlier than 1 July 2006—perhaps 1 July 2005 or 2004. That is the danger. All of us understand that there has been an agreement and the date should be 1 July 2006 and not earlier than that date, to allow adequate planning time.

**Mr IAN COHEN** [4.21 p.m.]: The National Party amendments increase the area of so-called plantations, which are included in schedule 2 and thus have a delayed transfer to reserves to enable them to be logged in the meantime. They add a total of 1,480 hectares to the amount in schedule 2, which currently refers only to 117 hectares of plantations for delayed transfer. These amendments also allow the date of transfer to be extended beyond 2006 by proclamation. National Party Amendment No. 1 refers to the delayed transfer date for the plantations in schedule 2 to be transferred to national parks. It allows the transfer date to be extended beyond three years by proclamation. The Greens oppose this amendment, because it will mean these areas are national parks in waiting potentially indefinitely.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [4.22 p.m.]: I am surprised that the Government opposes this amendment, because it does nothing more than allow the Government to make the decision. It frees up the Government. It can make it earlier if it wants to. It also allows the Government a little extra time if things have not gone as intended. There may be a wet season or something else may happen. The Government has indicated it has the ability to come through the middle. If it believes that, why does it not support this amendment, because that would allow it to use its so-called good judgment?

**Question—That the amendment be agreed to—put.**

**The Committee divided.**

**Ayes, 16**

Mr Clarke	Mr Lynn	Mr Ryan
Ms Cusack	Reverend Dr Moyes	Mr Tingle
Mrs Forsythe	Reverend Nile	
Mr Gallacher	Mr Oldfield	<i>Tellers,</i>
Mr Gay	Ms Parker	Mr Harwin
Mr Jones	Mr Pearce	Mrs Pavey

**Noes, 21**

Mr Breen	Mr Egan	Ms Tebbutt
Mr Burke	Ms Fazio	Mr Tsang
Ms Burnswoods	Ms Hale	Dr Wong
Mr Catanzariti	Mr Hatzistergos	
Dr Chesterfield-Evans	Mr Kelly	
Mr Cohen	Mr Macdonald	<i>Tellers,</i>
Mr Costa	Mr Obeid	Mr Primrose
Mr Della Bosca	Ms Rhiannon	Mr West

**Pairs**

Mr Colless	Dr Burgmann
Miss Gardiner	Ms Robertson

**Question resolved in the negative.**

**Amendment negatived.**

**Clause 6 agreed to.**

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [4.32 p.m.], by leave: I move National Party amendments Nos 2 and 3 in globo:

No. 2 Page 5, clause 7, lines 6 to 11. Omit all words on those lines.

No. 3 Page 5, clause 8, lines 16 to 18. Omit all words on those lines. Insert instead:

- (2) This section does not apply to any lands described in Schedule 4 that:
  - (a) are within any areas of State forests whose dedication is revoked by this Act, or
  - (b) a person holds under a perpetual lease, a special lease or a term lease within the meaning of the *Crown Lands (Continued Tenures) Act 1989*, or
  - (c) is comprised in an incomplete purchase within the meaning of the *Crown Lands (Continued Tenures) Act 1989*.

These amendments would exclude the lease areas set out under clause 7 of the bill, and any land described in schedule 4. The shadow Minister for Rural Affairs has informed me of advice from the National Parks and Wildlife Service [NPWS] to Minister Knowles's office indicating:

... some of the State Forest areas included in forest reserves are perpetual crown leases with State Forests gazetted over them. In these cases leasehold rights will not be affected by the Premier's announcement although the administration of leases is likely to be under part 11 of the National Parks and Wildlife Service through the Minister for the Environment. These areas will not be gazetted as National Park Reserves unless the lease has been offered for sale and acquired voluntarily.

If this is the case the only person able to purchase the perpetual Crown lease will be the Minister responsible for the National Parks and Wildlife Service. The Opposition is concerned that that situation will reduce the economic valuation of leasehold land. These leases have three important values. One is the estate value of the lease. The second is the royalty value of the timber currently on the land. The third is the value of grazing rights or any land use that may be excluded under NPWS management.

Over many years the NPWS has insisted that there be no cattle grazing on national parks. The change of status of the areas will mean that leaseholders will lose forever the ability to obtain an income from grazing. I also remind the Chamber that farmers and graziers in New South Wales are still battling one of the worst droughts on record and need every valuable fodder resource that is available. If these perpetual Crown leases gazetted as State forests become vested in the NPWS, two incomes will be lost: timber royalties and grazing. However, a leaseholder will also lose the value of the land because the lease can only be sold to the NPWS.

On that basis the Opposition would like an assurance from the Government that if the Opposition's second amendment is not accepted, it will settle any of these leases if the owners wish to sell on the basis of just terms. I remind the Chamber that just terms compensation was introduced by a considerate Coalition Government. The fact that State forests were gazetted over Crown leases and will now be turned into a national park is important to this debate. We have doubts about whether this can be done either morally or legally.

I am aware that the Minister and officers of his department had previously asserted that a precedent was set in 1998. However, a precedent is valid only if it has been tested. If the precedent is tested in a court of law and the court finds that the precedent is wrong, the precedent is no longer valid. Frankly, it is a grey area in the bill that warrants very careful attention of the Government. As I said in the second reading debate, I am yet to carefully consider the Crown Solicitor's advice regarding the amendments. The advice was given to me only a moment ago, but people who have read it tell me that the advice supports our concerns about leasehold land.

I urge the Government to proceed with caution because it could set a precedent. If the precedent is upheld we do not know what might happen to the western leases and any other form of lease or land title in New South Wales. As the economic and legal implications of vesting Crown leases in the Minister responsible for the National Parks and Wildlife Service are not yet known, the Opposition believes that these leaseholdings should remain Crown land for the time being. I urge honourable members to support our amendments.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [4.38 p.m.]: The Government opposes these amendments. The Government has already indicated that the Crown Solicitor's advice does not sustain the position being put in support of the amendments. In fact, I have taken further advice based on the comments made by the mover of the amendments and it has been confirmed to me that vesting in the National Parks and Wildlife Service does not preclude the general selling of these leases. So the proposition on which the amendments are based is sustained neither by the legal advice nor by the advice I have received from the Minister's office.

**The Hon. MALCOLM JONES** [4.39 p.m.]: I support the amendments moved by the National Party. I have not seen the Crown Solicitor's advice, because it was made available to me only a few minutes ago. However, let us assume that it says that the Government is right and can do what it proposes to do. Notwithstanding that, changing the tenure in this way without any consultation with the lessees is tantamount to swindling them out of their property. The Government is taking away their assets, though they are the people the Government vowed to serve. The bill incorporates 65,000 hectares of land, of which possibly 10 per cent is held under a lease. Only 10 per cent of the land—6,000 hectares out of 65,000 hectares—is affected. If after the legislation is enacted, taxpayers—whom we are sworn to serve—have to go to court to fight the Government, the Government will fight them with taxpayers' resources. This is tantamount to a swindle. It is simply unfair and immoral.

**Mr IAN COHEN** [4.50 p.m.]: Amendment No. 2 is one of a number of amendments that stop icon areas that are encumbered by existing perpetual leases from being vested in the Minister responsible for the National Parks and Wildlife Service. That means that icon areas that are subject to perpetual leases will remain as State forests available for logging. Amendment No. 2 relates to perpetual leases, special leases and term leases. The Greens cannot support the amendment because its intention is not clear. Amendment No. 3 requires the Government to enter into long-term, binding wood supply agreements at current volumes until the end of 2023. The Greens oppose the amendment and are surprised and disappointed that the Opposition has moved it. It flouts the policy it espoused prior to the election: that there must be a review of timber volumes. The Greens oppose these amendments.

**Reverend the Hon. FRED NILE** [4.51 p.m.]: The Christian Democrats support these amendments. As I said, we are concerned about the impact on those who have longstanding Crown leases. I note that the Crown Solicitor's advice clearly states:

In consequence the Bill will remove any possibility of the holders of the Perpetual Leases from obtaining a lease or licence under Pt.3 of the *Forestry Act* to harvest trees, timber or other forest products on the Lease Areas...

These provisions should be deleted from this legislation; they should be part of the old regime.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [4.51 p.m.]: We have not heard from the Government.

**The Hon. Michael Costa**: I made my contribution. The Government opposes the amendments.

**The Hon. DUNCAN GAY**: I did not hear the Minister. The Government has belatedly indicated that it will oppose these amendments.

**The Hon. Michael Costa**: I have already spoken. There was nothing belated about it.

**The Hon. DUNCAN GAY**: If the Government opposes these amendments, we will divide on them, though I suspect the numbers will not change. Given the harm this legislation will inflict on people, will the Government undertake to justly treat those affected?

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [4.54 p.m.]: I do not know what happened, but it appears that the Deputy Leader of the Opposition did not hear my response. I made the point that under the vesting arrangements, leases can be sold generally to people or to bodies other than the National Parks and Wildlife Service. Therefore there is no problem. The undertaking is not necessary because lessees will be able to sell their leases generally.

**Question—That the amendments be agreed to—put.**

**The Committee divided.**

**Ayes, 15**

Mr Clarke  
Ms Cusack  
Mrs Forsythe  
Mr Gay  
Mr Jones  
Mr Lynn

Reverend Dr Moyes  
Reverend Nile  
Mr Oldfield  
Ms Parker  
Mr Pearce  
Mr Ryan

Mr Tingle

*Tellers,*  
Mr Harwin  
Mrs Pavey



**Noes, 20**

Mr Breen	Mr Della Bosca	Ms Rhiannon
Mr Burke	Ms Fazio	Ms Tebbutt
Ms Burnswoods	Ms Hale	Mr Tsang
Mr Catanzariti	Mr Hatzistergos	Dr Wong
Dr Chesterfield-Evans	Mr Kelly	<i>Tellers,</i>
Mr Cohen	Mr Macdonald	Mr Primrose
Mr Costa	Mr Obeid	Mr West

**Pairs**

Mr Colless	Dr Burgmann
Mr Gallacher	Mr Egan
Miss Gardiner	Ms Robertson

**Question resolved in the negative.****Amendments negatived.**

**The Hon. MALCOLM JONES** [4.52 p.m.], by leave: I seek leave to move Outdoor Recreation Party amendments Nos 1, 2 and 3 in globo. I understand that my amendment No. 3 is in conflict with a National Party amendment, but the Leader of the National Party has indicated to me that he is happy to defer to my amendment No. 3.

No. 1 Page 5, clause 7, line 7. Omit "perpetual lease,".

No. 2 Page 5, clause 7. Insert after line 11:

- (3) Subsection (1) does not apply to any land described in Schedule 3 that a person holds under a perpetual lease within the meaning of the *Crown Lands (Continued Tenures) Act 1989*.

No. 3 Page 23, schedule 5, line 1. Omit "perpetual lease,".

The amendments would remove references to "perpetual lease" from the bill. The National Party amendment referred to Crown leases, whereas my amendments refer to perpetual leases. I admit that I may be hair-splitting here but, as I said earlier, the Government's failure to hold discussions with lessees prior to the preparation of the bill is very bad. Notwithstanding the Crown Solicitor's advice, the Government's actions are tantamount to theft. The tenure of the land is being changed in such a way that the asset is being devalued considerably. Once a national park is declared over the land, I cannot imagine anyone, other than the Minister administering the National Parks and Wildlife Act, being able to purchase the land. The basic tenet of supply and demand would devalue the land to such an extent that, as I said in my comments on similar amendments, the bill would be tantamount to a swindle of the people whom the Government has vowed to serve.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [4.56 p.m.]: The Government opposes Outdoor Recreation Party amendments Nos 1 to 3. Our concern is that the purpose behind the amendments is not only to circumvent the purpose of the legislation but to confuse people. The Government strongly opposes amendment No. 1 because it would extinguish any perpetual leases on land vested in the Minister administering the National Parks and Wildlife Act. It would be an extremely unjustified attack and an impost on these leases. Through the bill, the Government has been careful to preserve affected perpetual leases, and the Crown Solicitor's advice confirms that.

The Government also opposes amendment No. 2 because it is contrary to the announced intention to vest the land in question. I stress that vesting the land does not affect the perpetual leases, a point I have emphasised many times during this debate. The Government has ensured that the interests of lessees are safeguarded. Under the amendment, the areas of State forests listed would be revoked and vested in national park. In turn, the forests would revert to Crown land, without State forest dedication. This is a very strange consequence of the amendment. I do not know whether it is the intended consequence, but it actually makes it even worse for those who are affected—if one accepts the proposition that they are affected. The Government opposes amendment No. 3, for reasons similar to those expressed in relation to amendments Nos 1 and 2. I reiterate that this legislation has been crafted in a manner that seeks to balance competing and often irreconcilable conflicts about land use issues.

**Mr IAN COHEN** [4.58 p.m.]: Outdoor Recreation Party amendments Nos 1, 2 and 3 would stop perpetual leases within the icon areas being vested in the Minister administering the National Parks and Wildlife Service Act on behalf of the Crown for the purpose of part 11 of the Act. They will therefore stop the icon areas that are encumbered by existing perpetual leases from being vested in the Minister. This means that parts of Chaelundi, Copeland Tops and Tuggolo icon areas that have perpetual leases over them will remain available for logging as State Forests. The Greens strongly oppose the amendments.

**Reverend the Hon. FRED NILE** [4.59 p.m.]: The Christian Democratic Party supports the amendments, for the reasons I espoused earlier. The Crown Solicitor's Office has provided the following advice on the position of Crown leaseholders:

It may be that by using the word "taken", Sch.5 cl.(7)(2) only intends to create a statutory fiction for the purposes of an application to purchase by the holder of the lease and not to operate as an actual reservation of the land for any purpose by the Bill, if enacted. That is how I read the clause.

I have never seen that before. This bill contains a statutory fiction relating to leases. Does it not add to the confusion as to how the bill will affect these Crown leases when the Crown Solicitor advises that the bill contains a statutory fiction?

**The Hon. MICHAEL COSTA**: I have seen legal advice before that creates fictions. It is a legal term. I am sure the lawyers in the House would be able to explain why they create these circumstances. Its purpose is to enable things to occur because there is a pre-condition or a requirement for them to occur. The term is not strange to us at all. However, the substantive part of that advice is that the leases will not be affected by the bill.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [5.00 p.m.]: The Opposition supports these amendments. Once again it is a matter of interpretation. Obviously, the Government does not care about those who will be affected by the bill. The Government will say and do anything. It is quite clear having regard to the interpretation of the Minister what the Government is doing. Interestingly, the interpretation that Reverend the Hon. Fred Nile gave makes it even clearer.

**The Hon. MALCOLM JONES** [5.00 p.m.]: I was interested to hear that the Minister is quite used to statutory fiction. It must be quite common in the advice that the Government receives. I take exception to the Minister's statement—and I made a note of it—that the change of tenure will not affect the leases. That is just rubbish.

**The Hon. Michael Costa**: That is not what I said.

**The Hon. Duncan Gay**: How would you like it if it happened to you?

**The Hon. Michael Costa**: That is not what I said. I said, "in terms of these things being sold". Don't put words in my mouth.

**The Hon. MALCOLM JONES**: You did not say, "in terms of these things being sold". *Hansard* will verify my point when it is published. You said the change will not affect them. The leases will be drastically affected and altered by the land tenure over them being changed. I, and the lessees, take exception to this proposal. To add insult to injury, the Government did not consult with people prior to introducing the bill. At the risk of repeating myself, this bill is tantamount to a swindle. The assets of people will be devalued to such an extent that the Government will pick up their land for next to nothing because the Government will be the only purchaser when people are put into a forced sale situation.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [5.02 p.m.]: Rather than being verbally by the Hon. Malcolm Jones, I will clarify what I said so that the position is absolutely clear. In relation to trading rights—and that is what we are talking about; the ability to sell—the advice I have received is that it is not affected by these propositions. Let us be very clear on what we are talking about. There are concerns about whether the vesting arrangements with National Parks will affect trading rights—that is, the ability to sell the particular leases or change the ownership of the leases. The advice we have received is very clear: they are not affected. Rather than resort to emotion, members should be very clear about what I am saying: in terms of the legal position, based on the advice that we have received, they are not affected.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [5.03 p.m.]: If the Minister had a house, not in the Hunter Valley, but in Canberra, that was on lease—

**The Hon. Michael Costa:** I wouldn't be silly enough.

**The Hon. DUNCAN GAY:** The Minister says he would not be silly enough to do that, but many people, in good faith, have houses in that area. If the Minister wanted to leave that land or if he had an asset that he knew could be advertised and sold to almost anyone, with the agreement of the Minister responsible and the Western Lands Commission, what would be his view if, all of a sudden, he was able to sell it to one person only rather than to a great number of people?

**The Hon. Michael Costa:** You could sell it to anybody.

**The Hon. DUNCAN GAY:** You cannot sell it to anyone Minister, that is the point. If people can only sell to one person, they are disadvantaged. That is the point we are trying to get over, but the Minister does not seem to want to understand.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [5.04 p.m.]: Again, rather than resorting to emotion and engaging in a substantive argument, I advise honourable members once more that we have provided the Crown Solicitor's advice, and that advice makes it clear—and I have just been advised again—that you can sell it to anybody you like and, secondly, that the just terms legislation does apply.

**The Hon. Duncan Gay:** It will apply?

**The Hon. MICHAEL COSTA:** It does apply.

**Amendments negatived.**

**Clause 7 agreed to.**

**Clauses 8 to 10 agreed to.**

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [5.06 p.m.]: Before I move any further amendments I wish to ask the Minister a question relating to the previous amendment. The Minister indicated that just terms will apply. Will the Minister answer my concern? I have been informed that the National Parks and Wildlife Service is excluded from just terms. Is it the Minister's understanding that in this case the National Parks and Wildlife Service will not be excluded?

**The Hon. Melinda Pavey:** That's good news.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [5.06 p.m.]: The Hon. Melinda Pavey said, "That's good news." But that was always the intention. People are now operating on advice that is either dated or ill-conceived. The fact of the matter is that the advice I have received is that it does apply. I confirm that.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [5.07 p.m.]: I thank the Minister. I know how important his comments on the bill will be in its interpretation. I move National Party amendment No. 4:

No. 4 Page 8. Insert after line 5:

**12 Long term timber supply agreements**

- (1) It is the duty of the Minister administering the *Forestry Act 1916* and the Forestry Commission to ensure that, as soon as practicable, one or more long term timber supply agreements are entered into providing for the supply from the North East Region of a total of not less than 269,000 cubic metres of timber per calendar year until the end of 2023, subject to provisions, of a kind that are ordinarily found in such agreements, dealing with a failure to supply timber in circumstances beyond the control of the Forestry Commission or the State of New South Wales.

- (2) In this clause:

*long term timber supply agreement* means an agreement for the supply of timber, by way of sale, entered into under the *Forestry Act 1916* by the purchaser, the Forestry Commission and, on behalf of the State of New South Wales, the Minister administering the *Forestry Act 1916*.

*North East Region* means the State forests and other Crown-timber lands within the area of the State to which the Regional Forest Agreement for North East New South Wales (Upper North East and Lower North East Region) applies, being the agreement known by that name, entered into between the Commonwealth and the State of New South Wales on 31 March 2000.

The fourth amendment proposed by the Opposition simply provides a legislative guarantee of what the Government has stated. It is a legislative guarantee of what is stated in the North East Regional Forest Agreement, the purpose of which was to determine areas that would be specifically reserved for conservation purposes and other areas that would be available for timber resources. The agreement was signed off in 2000—three years ago—by the Federal and State governments, green groups, and the timber industry. It guaranteed 269,000 cubic metres of timber per calendar year for the next 20 years to long-term wood supply holders in the north-east region of the State.

I am informed that the Government is of the opinion that a legislative guarantee of timber supply is unnecessary as it is already covered under the Regional Forest Agreement. However, as this agreement is subject to changing terms and conditions, the Opposition believes that the conditions contained in the agreement should be part of this legislation. The amendment also contains a clause to provide that no breach will be deemed to have occurred in unforeseen circumstances—such as during storms, bushfires and other natural disasters—when the necessary volumes cannot be supplied. The amendment merely seeks to ensure that if for some unforeseen reason timber is not available, the industry will be compensated.

The amendment will provide security to the timber industry, which supposedly has already had its security guaranteed. During the second reading debate I referred to a number of sources that support our claim that the bill will not sustain a viable timber industry on the North Coast. These sources include the Vanclay report, which was commissioned by the Government in 2003; a report commissioned by State Forests from PricewaterhouseCoopers entitled "Status of discussions—New national parks on the North Coast"; and other key information and material provided by the timber industry.

Having carefully read the information in the documents, I do not believe that the 65,000 hectares of forest estate provided under the bill can be turned into national park estate and that the 269,000 cubic metres of timber supplied per calendar year to long-term wood supply holders in the north-east region of the State will continue to be supplied. If the Government opposes the amendment, it will be testament to the fact that it, too, does not believe it is possible. It will prove also that the Government has broken its promise to provide security to the North Coast timber industry. During the second reading debate the Minister said that I was wrong, that in fact the 269,000 cubic metres would continue to be supplied. If the Minister is so certain that I am wrong and that all the timber under the agreement will be supplied, he should support the amendment. The amendment merely seeks to enshrine in legislation what the Government promised.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [5.11 p.m.]: I do not know how the Deputy Leader of the Opposition arrived at the conclusion about the 260,000 cubic metres. I will be interested to read *Hansard*.

**The Hon. Duncan Gay:** You said it not 10 minutes ago.

**The Hon. MICHAEL COSTA:** No, I did not say that. I said that you were relying on documents that predate the Government's legislation and on changes to a number of environmental conditions that make this legislation different from any pre-existing assessments. That is what I said. I was very clear about what I said. *Hansard* will show tomorrow what I said, and I will be happy at that stage to talk to the Deputy Leader of the Opposition about who was right and who was wrong. The fact is that that is what I said.

The Deputy Leader of the Opposition said that a number of reports indicated this was not achievable. He referred to those reports and talked about a compensation figure of \$253,000. In fact, he corrected me in relation to that amount—I thought it was \$230,000. Let us be clear: I said that those reports predate the Government's legislative changes—and I see that those advising the Deputy Leader of the Opposition are nodding in agreement—to environmental conditions for the harvesting of our forests. The fact of the matter is that one cannot rely on those reports as assessments. The Government is relying on the original Regional Forest Agreement [RFA]—

**The Hon. Melinda Pavey:** Which contains reference to 269,000 cubic metres.

**The Hon. MICHAEL COSTA:** That is right; nobody is disputing that. The Government is basing all its contract negotiations and strategy on the original RFA.

**The Hon. Duncan Gay:** That is what this amendment does.

**The Hon. MICHAEL COSTA:** No, the amendment does more than that. It actually moves away from the original RFA.

**The Hon. Duncan Gay:** No, it does not.

**The Hon. MICHAEL COSTA:** Let me explain how. The original RFA contemplated a review in 2006 of the availability of timber. The Deputy Leader of the Opposition is seeking to legislate in perpetuity, and that actually cuts across the original RFA. The appropriate place for these sorts of discussions is in commercial discussions with the timber industry.

**The Hon. Duncan Gay:** It should have happened before this bill.

**The Hon. MICHAEL COSTA:** It is happening. It is happening in conjunction with the bill, and we are very close, in a number of cases, to settling contracts. The commercial conditions and contract conditions will determine the outcomes. That is the normal way to handle such matters. There is no need to incorporate it in legislation. In fact, what is being proposed cuts across the original RFA, which is allegedly the basis of the amendment. The Government opposes the amendment.

**Reverend the Hon. FRED NILE** [5.14 p.m.]: The Minister has highlighted the calendar year in the amendment as 2023. Even though he said there was agreement about a review in 2006, I do not think anyone would anticipate that the agreement would be scrapped in 2006 or would cease to operate. The reference is to a review, and that means a review of an agreement that is continuing, in progress, not ceasing to operate. They are two entirely different matters. It would help the Committee if the Minister could state that the bill will not have a negative effect on the Regional Forest Agreement for north-east New South Wales—an agreement that was entered into between the Commonwealth and New South Wales on 31 March 2000.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [5.15 p.m.]: I appreciate that some honourable members are not as close as others to this issue in terms of its detail. The Government is negotiating on the basis of what was available in the Regional Forest Agreement. By way of clarification, the dispute relates to the fact that a number of views suggest that that is no longer available. That is where the difference in the figures lies.

**The Hon. Melinda Pavey:** If you believe it is available, support the amendment.

**The Hon. MICHAEL COSTA:** There is a legitimate question of clarification and I am trying to address that. The reason there is a dispute at the moment is that the Government is working on the basis of the original figure, which is somewhere in the order of 260,000 cubic metres.

**Reverend the Hon. Fred Nile:** It is 269,000.

**The Hon. MICHAEL COSTA:** There is some debate about that because there were some adjustments, but it is somewhere in the order of 260,000 cubic metres. That is what we are negotiating, and that is what our commercial arrangements are based on. There are questions about whether that is available. That is the difference in the two positions—not that it is no longer available because of the changes. There is a different position between the parties. The Government is saying that we will enter into commercial agreements and that the terms of those agreements will dictate how individual people who have wood supply agreements relate to us. The issue with regard to this amendment is that the original RFA, which we signed with the Commonwealth, has contemplated within it a review in 2006. If that is included in legislation, as the Opposition amendment seeks to do, the very principles of the original RFA will be undermined.

**The Hon. Melinda Pavey:** That is a slippery argument.

**The Hon. MICHAEL COSTA:** It is an honest explanation.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [5.17 p.m.]: The original RFA was a guarantee of 269,000 cubic metres. Reverend the Hon. Fred Nile is quite correct in saying that there was to be a review in 2006. The Minister suggested that the amendment seeks to have "269,000 cubic metres" enshrined in perpetuity. It does not; it will be there for 20 years. The Government said that it was not going to change everything. If that is so, the Government should support the amendment. Let us get on with it. We think that the Government is swinging the lead and fibbing about this, and that will be confirmed if it does not support the amendment.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [5.18 p.m.]: Let me respond again. The Government's actions are consistent with the original RFA. The change that is inconsistent is the one proposed by this amendment.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [5.18 p.m.]: There is only one thing that is consistent with this Government: it promises one thing and does the other.

**Question—That the amendment be agreed to—put.**

**The Committee divided.**

**Ayes, 15**

Mr Clarke	Reverend Dr Moyes	Mr Tingle
Ms Cusack	Reverend Nile	
Mrs Forsythe	Mr Oldfield	
Mr Gay	Ms Parker	<i>Tellers,</i>
Mr Jones	Mr Pearce	Mr Harwin
Mr Lynn	Mr Ryan	Mrs Pavey

**Noes, 20**

Mr Breen	Mr Della Bosca	Ms Rhiannon
Mr Burke	Ms Fazio	Ms Tebbutt
Ms Burnswoods	Ms Hale	Mr Tsang
Mr Catanzariti	Mr Hatzistergos	Dr Wong
Dr Chesterfield-Evans	Mr Kelly	<i>Tellers,</i>
Mr Cohen	Mr Macdonald	Mr Primrose
Mr Costa	Mr Obeid	Mr West

**Pairs**

Mr Colless	Dr Burgmann
Mr Gallacher	Mr Egan
Miss Gardiner	Ms Robertson

**Question resolved in the negative.**

**Amendment negatived.**

**Clause 11 agreed to.**

**Clause 12 agreed to.**

**Mr IAN COHEN** [5.26 p.m.], by leave: I move Greens amendments Nos 5 and 16 in globo:

No. 5 Page 8. Insert after line 29:

**14 Amendment of Forestry Act 1916 No 55**

The *Forestry Act 1916* is amended in the manner set out in schedule 6.

No. 16 Page 26. Insert after line 9:

**Schedule 6 Amendment of Forestry Act 1916**

**[1] Section 21A Special management zones**

(Section 14)

Omit section 21A (2A). Insert instead:

- (2A) The cutting and removal of timber from a special management zone for the purpose of timber production and the harvesting of products (within the meaning of section 4), other than seeds, in a special management zone are prohibited.

- (2B) Despite subsection (2A), the commission may authorise, in accordance with this Act, an Aboriginal person (within the meaning of the *Aboriginal Land Rights Act 1983*) to harvest such products in a special management zone if the commission is of the opinion that there is no other land:
  - (a) that is reasonably accessible to the person, and
  - (b) on which the products sought to be harvested by the person may be harvested by the person.
- (2C) Any such authorisation must limit the harvesting of the products concerned to a scale and intensity that is not inconsistent with the special conservation value of the special management zone and the management of the zone in accordance with the principles set out in subsection (3A).

[2] **Section 21A (3A)**

Insert after section 21A (3):

- (3A) A special management zone is to be managed in accordance with the following principles:
  - (a) biodiversity should be conserved, ecosystem function, geological and geomorphological features and natural phenomena protected and natural landscapes maintained,
  - (b) places, objects, features and landscapes of cultural value should be conserved,
  - (c) mining and mineral or petroleum exploration in the special management zone should be allowed only to the extent that they are permitted by other provisions of this Act and having regard to the conservation of the zone's natural and cultural values,
  - (d) grazing or bee-farming in the special management zone should be allowed only to the extent that they are compatible with the conservation of the zone's natural and cultural values,
  - (e) public appreciation and understanding of the special management zone's natural and cultural values should be promoted to the extent that they are compatible with the conservation of those natural and cultural values,
  - (f) sustainable visitor use and enjoyment of the special management zone should be promoted to the extent that they are compatible with the conservation of the zone's natural and cultural values,
  - (g) research and monitoring in the special management zone should be allowed only to the extent that they are compatible with the conservation of the zone's natural and cultural values.

These amendments clarify the activities that are prohibited in a special management zone, and ensure that they are managed for conservation. The first part of amendment No. 16 defines more clearly the types of forestry activities that are inhibited in special management zones, in a manner that is consistent with other legislation on forests. At the same time it allows indigenous use of forest products in these areas to continue, and continues access for State Forests of New South Wales to collect seeds. The second part of the amendment provides clearly defined statutory objectives for the management of special management zones. This will ensure that conservation-based management criteria underpin all activities undertaken within special management zones. These objectives are consistent with other objectives set down under the National Parks and Wildlife Act for the management of State conservation areas. I commend Greens amendments Nos 5 and 16 to the Committee.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [5.27 p.m.]: The Government is opposed to these amendments. The current provisions in the Forestry Act and in State Forests practices are adequate to cover all these concerns. The amendments are unnecessary, and we oppose them.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [5.27 p.m.]: The Opposition also opposes these amendments.

**Amendments negatived.**

**Clause 13 agreed to.**

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [5.29 p.m.]: I do not intend to move amendment No. 6 as circulated. By leave, I move National Party amendments Nos 5 and 7 to 19 in globo:

No. 5 Page 9, schedule 1, lines 17 to 23. Omit all words on those lines. Insert instead:

**2 Addition to Bongil Bongil National Park**

An area of about 1,142 hectares, being part of Pine Creek State Forest No 537, within the land shown by the pink tint on map catalogued MISC R 00245 Edition 4 in the National Parks and Wildlife Service, and named Bongil Bongil National Park Addition on the face of that map, subject to any variations or exceptions noted on that map.

No. 7 Page 10, schedule 1, lines 1 to 13. Omit all words on those lines.

No. 8 Page 10, schedule 1, line 14. Omit "Additions". Insert instead "Addition".

No. 9 Page 10, schedule 1, lines 21 to 39. Omit all words on those lines.

No. 10 Pages 11 and 12, schedule 1, line 34 on page 11 to line 4 on page 12. Omit all words on those lines. Insert instead:

**11 Jilliby State Conservation Area**

(1) An area of about 3,868 hectares, being the whole or part of Olney State Forest No 124, within the land shown by the light blue tint on maps catalogued MISC R 00253 and MISC R 00255 Edition 4 in the National Parks and Wildlife Service, and named Jilliby State Conservation Area on the face of those maps. The above reservation for Jilliby State Conservation Area is restricted to a depth of 50 metres.

No. 11 Page 12, schedule 1, lines 5 to 11. Omit all words on those lines.

No. 12 Page 12, schedule 1, lines 12 to 18. Omit all words on those lines. Insert instead:

(3) An area of about 21 hectares, being the whole or part of Watagan State Forest No 123, within the land shown by the light blue tint on map catalogued MISC R 00253 Edition 4 in the National Parks and Wildlife Service, and named Jilliby State Conservation Area on the face of that map, subject to any variations or exceptions noted on that map. The above reservation is restricted to a depth of 50 metres.

No. 13 Page 12, schedule 1, lines 19 to 25. Omit all words on those lines. Insert instead:

(4) An area of about 2,544 hectares, being part of Wyong State Forest No 281, within the land shown by the light blue tint on map catalogued MISC R 00255 Edition 4 in the National Parks and Wildlife Service, and named Jilliby State Conservation Area on the face of that map. The above reservation for Jilliby State Conservation Area is restricted to a depth of 50 metres.

No. 14 Page 12, schedule 1, lines 26 to 39. Omit all words on those lines. Insert instead:

**12 Lake Innes State Conservation Area**

An area of about 200 hectares, being land in compartment 98 of Queens Lake State Forest No 475, within the land shown by the light blue tint on map catalogued MISC R 00258 Edition 4 in the National Parks and Wildlife Service, and named Lake Innes State Conservation Area on the face of that map, subject to any variations or exceptions noted on that map.

**13 Addition to Myall Lakes National Park**

An area of about 2,151 hectares, being land in compartments 7, 8, 22, 23, 24, 32, 36, 39, 43, 44, 59, 61, 62 and 64 of Myall River State Forest No 294, within the land shown by the pink tint on map catalogued MISC R 00252 Edition 4 in the National Parks and Wildlife Service, and named Myall Lakes National Park Addition on the face of that map, subject to any variations or exceptions noted on that map.

No. 15 Page 13, schedule 1, lines 1 to 7. Omit all words on those lines.

No. 16 Page 13, schedule 1, lines 22 to 27. Omit all words on those lines. Insert instead:

(2) An area of about 200 hectares, being land in compartments 3, 4, 5 and 13 of Queens Lake State Forest No 475, within the land shown by the pink tint on map catalogued MISC R 00258 Edition 4 in the National Parks and Wildlife Service, and named Queens Lake Nature Reserve Addition on the face of that map, subject to any variations or exceptions noted on that map.

No. 17 Page 14, schedule 1, lines 1 to 19. Omit all words on those lines. Insert instead:

(2) An area of about 371 hectares, being land in compartments 12, 13, 14 and 99 of Queens Lake State Forest No 475, within the land shown by the light blue tint on map catalogued MISC R 00258 Edition 4 in the National Parks and Wildlife Service, and named Queens Lake State Conservation Area on the face of that map, subject to any variations or exceptions noted on that map.



No. 18 Page 14, schedule 1, lines 27 to 32. Omit all words on those lines. Insert instead:

- (2) An area of about 1,051 hectares, being part of Whian Whian State Forest No 173, within the land shown by the light blue tint on map catalogued MISC R 00241 Edition 4 in the National Parks and Wildlife Service, and named Whian Whian State Conservation Area on the face of that map, subject to any variations or exceptions noted on that map.

No. 19 Page 15, schedule 1, lines 1 to 14. Omit all words on those lines. Insert instead:

**20 Wollumbin National Park**

An area of about 1,342 hectares, being part of **Wollumbin State Forest No 357, within the land shown by the pink tint on map catalogued MISC R 00240 Edition 4 in the National Parks and Wildlife Service, and named Wollumbin National Park on the face of that map, subject to any variations or exceptions noted on that map.**

**21 Wollumbin State Conservation Area**

An area of about 348 hectares, being part of Wollumbin State Forest No 357, within the land shown by the light blue tint on map catalogued MISC R 00240 Edition 4 in the National Parks and Wildlife Service, and named Wollumbin State Conservation Area on the face of that map, subject to any variations or exceptions noted on that map.

To assist honourable members I seek leave to table a series of maps of the north-eastern New South Wales conservation reserves. When I am moving my amendments, honourable members may wish to check where they apply. I am not seeking to incorporate the maps, simply to table them.

**Leave granted.**

I thank honourable members. At this stage I thank my staff member Jane Simmons and Suzanne Laing, from Andrew Stoner's staff, who have helped me. Obviously this is not my portfolio and I am operating out of my area. The Minister will appreciate that it is terrific to have good staff. I am sure that he is in the same position. Amendment No. 5 will amend schedule 1 to exclude plantation and regrowth forests from the national park reservation. These forests have been continually logged for 130 years and are worthy of preservation as national parks. Surely the continued management by State Forests as production forests would mean that these qualities would not be diminished. These are plantation forests and were rejected in the first round of the North Coast Regional Forest Agreement. They are iconic to the timber industry because of the higher volume of quality timber they produce for the timber industry as guaranteed by the Regional Forest Agreement. The timber industry will be decimated and communities on the North Coast will suffer if these plantation forests cannot be harvested. It is very difficult to see how long-term water supply agreements can be guaranteed if these plantation forests cannot be harvested. With the exception of amendment No. 6, amendments Nos 5 to 19 proposed by the Opposition cover a large number of individual State forests in which the Opposition wishes to have timber plantations reserved.

Amendment No. 5 relates to Bongil Bongil National Park and removes the proposed reservation area west of the Pacific Highway. Amendment No. 7 seeks to remove lines 1 to 13 from schedule 1 to the bill. They relate to additions to the Chaelundi National Park. The effect of the proposed amendment will be to ensure that the area of approximately 502 hectares, being the whole or part of the Ellis State forest, and the area of about 2,693 hectares being the whole or part of Sheas Nob State forest, No. 803, remain as State forest areas. The rationale provided by the Premier for reserving these areas of State forest as national parks is that:

It is part of one of the largest areas of tall old growth forests left in north-east New South Wales. The area is an important habitat for tiger quoll, powerful owl and sooty owl.

Again, the timber industry has produced evidence that these claims are unfounded. The submission by the timber industry claims that these species of wildlife are all protected by sight-specific prescription. The Atlas of New South Wales Wildlife does not support the presence of the species claimed. The Ellis and Sheas Nob State forests do not generally satisfy the criteria of old-growth forest. Most of the area has been harvested in the past 20 years and is largely disturbed by timber harvesting, grazing and mining. Any areas of high conservation value old growth have already been identified and are excluded from harvest areas. The area is also covered by a number of perpetual leases.

Amendment No. 8 is simply definitional and consequential upon National Party amendment No. 7, which means there will be only one addition to the Chaelundi State Conservation Area. Amendment No. 9 seeks to remove lines 21 to 39 from schedule 1. This amendment will ensure approximately 366 hectares of Ellis State

forest, 140 hectares of Sheas Nob State forest and 1,692 hectares of Copeland Tops State forest remain State forest areas and are not included in any additions to the Chaelundi State Conservation Area or the Copeland Tops State Conservation Area. The Premier's argument for including Sheas Nob State Forest as part of the Chaelundi State Conservation Area is that the area is:

... an important link in the great escarpment corridor from Guy Fawkes River wilderness to Nymboi-Bindery National Park, south-west of Grafton. It contains old growth and rainforest and is home to the spotted-tail quoll, forest owls, Koala and Rufous Bettong.

The New South Wales timber industry has identified this area as an important regrowth forest, most of which has been thinned recently. An objective for this link was created following the National Parks (Reservations) Act of last November that reserved the area of Chandlers Creek to the north-west. There is very limited old growth in the area, and any of high conservation value is excluded from forestry operations as it is rainforest. Fauna are protected by species-specific prescriptions. The Atlas of New South Wales Wildlife records only a sooty owl and two koalas in the area.

When speaking on amendment No. 5 I failed to mention that it proposes that the area east of the Pacific Highway be given to the Greens, and that the plantation referred to in the legislation be attached to Bongil Bongil National Park. It also allows the timber on Pine Creek State Forest—a large timber-producing area that supplies timber to Thora Mill in Grafton and Adams Sawmill, which provide about 300 jobs—to continue to be harvested. The Government proposal is to preserve an area of approximately 2,786 hectares, being the whole of the Pine Creek State Forest No. 537, as the Bongil Bongil National Park addition. Amendments Nos 10, 11, 12 and 13 all relate to the Jilliby State Conservation Area. The Premier's rationale for preserving this large area of land for the Jilliby State Conservation Area is as follows:

This is the water catchment of the rapidly growing urban centres of the Central Coast, situated in the Watagan Mountains, north-west of The Entrance. It is home to 40 threatened and significant fauna species, including forest owls, yellow-bellied and squirrel gliders, koalas, bush-tailed rock wallaby and long-nosed potoroo.

**Mr Ian Cohen:** That is my line.

**The Hon. DUNCAN GAY:** We will let the honourable member claim to be the author of the Premier's comments if he wishes. That reinforces some of the concerns that the Opposition may have held. He might not allow the honourable member to be the author. The Opposition recognises that due to the population moving increasingly to the coastal towns the conservation of forests and wildlife has become a priority—and so it should. Having said this, it is also important that a balanced outcome for all stakeholders is achieved. The timber industry has identified that the water catchment for the Central Coast is at least 10 kilometres to the west of Jilliby. The Yarramalong Valley bisects the proposed area included in the bill. This valley is a cultivation area for turf farming, involving the spreading of fowl manure and the stripping of topsoil at frequent intervals. By comparison, upstream forestry operations have little to no effect on water quality. The area is crossed by numerous transmission lines, all requiring a clearing width of approximately 100 metres. Flora and fauna species are protected by the conditions of the integrated forestry operations approvals and site-specific prescriptions. Wildlife atlas records do not substantiate the specific claims made by the Premier. That probably comes as a shock to no-one. The Jilliby area is entirely a regrowth forest and includes substantial areas of recent harvesting.

Amendment No. 14 takes out approximately 121 hectares from the 321 hectares earmarked to be included in the Lake Innes Conservation Area. The Premier has indicated that the eastern area proposed for reservations is an important corridor linking Queens Lake with Lake Innes Nature Reserve. The area is home to a large diversity of small species including the squirrel glider, little bent wing bat, masked owl and green and golden bell frog. The Opposition's rationale for reducing the 321 hectares for reservations as outlined in the bill to 200 hectares is that the northern section of the proposed reserve includes a substantial mature plantation dating back to the prior ownership of CRA Pty Ltd, the builders of the Herons Creek Mill. The amendment also removes approximately 738 hectares from the 2,889 hectares earmarked within the bill to be included in the Myall Lakes National Park addition. The Premier has indicated that the 2,889 hectares of land to be included in the Myall Lakes National Park contains 53 predicted threatened and significant fauna species and rainforest and old-growth remnant forest in a mosaic that joins Myall Lakes National Park to Ghin-Doo-Ee National Park.

The Opposition's rationale for reducing the State Forest area to 2,151 hectares is that most of the area proposed for reservation is young regrowth intensively managed for timber production. It includes recently harvested areas and mixed ages of forest to about 30 years. Compartments 41, 42 and 60 are older and are important resources for the current period. The proposed reserve blocks major road access through the forest.

Flora and fauna and high conservation value of old-growth forest is protected through the integrated forestry operations approvals and by the exclusion due to site-specific prescriptions. No areas of old-growth area identified for reservations are within this forest. The proposed reservation as a link between national parks is not justifiable. The significant link is through the forest that is managed to ensure that the habitats are maintained.

The effect of amendment No. 15 would be to remove the proposed 2,929 hectares being the whole or part of Tuggolo State Forest No. 312 to be included in the Nowendoc National Park addition. The Premier has indicated that this area southeast of Nundle contains important rainforest and swamp. It is home to tiger quoll, wombat, New Holland mouse and square-tailed kite. The Opposition's rationale for removing this section from the bill is that the southern section of this area exists as forest management zones 1, 2 and 3 and is already reserved. This section contains only above-average resource regionally available to the Walcha Mill. All of the values represented would be protected as exclusions or as species-specific prescriptions under the integrated forestry operations approvals. The Atlas of New South Wales Wildlife does not substantiate the Premier's claim about the species in the area.

The effect of amendments Nos 16 and 17 would be to ensure that approximately 200 hectares of the Queens Lake State Forest No. 475 remain State Forest land to be used as a resource of the North Coast timber industry. Amendment No. 16 will ensure that the northern section of the proposed reserve includes a substantial mature plantation dating back from the prior ownership of CRA Pty Ltd, the builders of the Herons Creek Mill. Amendment No. 17 would remove the additions to the Sherwood Nature Reserve, an area of approximately 813 hectares, and to the Wedding Bells State Forest, an area of approximately 367 hectares. The Opposition wishes to maintain this land as State Forest because it is one of the best examples of regrowth blackbutt on the North Coast. Its accessibility and adjacency to private land have created a highly valuable resource, relatively free of hollow trees. The area is highly disturbed from a history of intensive timber production. The 900 hectares in this proposal may carry up to 100 cubic metres of timber per hectare with approximately 500 hectares of the proposal composed of regrowth forest having an average increment of five cubic metres per annum.

The reason for amendment No. 18 is that this forest comprises intensively managed regrowth, predominantly high-quality blackbutt and hectares of plantation established in the 1960s and 1970s. This is essentially a manmade forest with a substantial history of logging, clearing and replanting dating back to a prior dedication in 1913. It includes particularly large areas of cleared farmland that has been deliberately converted to native hardwood forest for timber production. The New South Wales Forest Products Association holds a copy of a map showing the original land tenure and forest management of the area.

The Government's proposed amendment to include an additional 2,259 hectares of the Whian Whian State Forest will have the effect of increasing the size of Nightcap National Park by almost a quarter. The Premier has indicated that the Whian Whian State Forest is home to the nightcap oak, an extremely rare and important species. The New South Wales timber industry has indicated that the nightcap oak is already reserved within the Nightcap National Park. There are no records of its presence within the Whian Whian State Forest. The area is a water catchment for Rocky Creek Dam and has been managed as such since the dam's construction. The forest is also a substantial tourist attraction.

Amendment No. 19 provides that the area is a resource dedicated to timber production following the reservation decisions in the Border Ranges and the Blackbutt Plateau. The New South Wales forest agreement identified the area as part of the substantial timber supply. It includes 296,000 hectares of hardwood plantation and is estimated to contribute 2,400 cubic metres of volume to the current yield, which is 1,230 cubic metres over 20 years. Honourable members must agree that what we are putting in place is sensible. We are trying to argue from a basis of fact; we are not relying on green or redneck rhetoric. The information we have presented should persuade the Government that many of its assertions about this bill are incorrect. From a pragmatic perspective, these amendments are sensible and should be supported.

**The DEPUTY-PRESIDENT (The Hon. Kayee Griffin):** Order! I am advised that it is out of order to table these documents in Committee. They need to be tabled at the third reading stage.

**The Hon. Duncan Gay:** That is fine. They are made available to help members.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [5.54 p.m.]: The Government opposes these amendments, and I will not spend a long time explaining why. Suffice to say that I am amazed to realise that Deputy Leader of the Opposition is probably grimmer than I am after listening to all that detail about the ecological value of these things.

**The Hon. Melinda Pavey:** Unlike you, he has done his homework.

**The Hon. MICHAEL COSTA:** I saw him reading his homework, so I know what he was doing. It would have saved a great deal of time if these amendments had been moved in toto. They are designed to remove 12,000 hectares of the proposed national park from this category of nature reserves and State conservation areas. The total package is only 46,000 hectares, so these measures represent a massive gutting of the proposal. Regardless of what honourable members think about it and the rationale behind the Deputy Leader of the Opposition's contribution, the Government took this proposal to the election and the public made a judgment. It is irrelevant to go through the detail and to be pedantic about there being one koala fewer than was claimed. This represents a substantial proportion of reservation and to remove it would gut the bill and would be contrary to the Government's mandate. Accordingly, the Government opposes the amendments.

**Mr IAN COHEN** [5.55 p.m.]: I agree with the Minister on this matter. The total area reserved in this legislation is 37,013 hectares. The Opposition's amendment suggests only 14,679 hectares, which is less than half. Amendment No. 5 proposes to remove 1,644 hectares of the Pine Creek icon area from reserves. The Greens oppose the amendment because Pine Creek, which is just south of Coffs Harbour, is not an old-growth forest but is renowned for having the highest density of koalas in any New South Wales coastal forest. The tourist value to the Coffs Harbour region of protecting this forest is immeasurable. It has enormous potential. The Greens had a koala and a quoll mascot outside Pine Creek during the election campaign. The event attracted keen media attention. The people of Coffs Harbour should be proud of this remarkable area close to their community. As I said to the shadow Minister a moment ago, perhaps he does not know it but we are doing him a great favour by protecting the area and moving a step forward in recognising it as a major tourism icon for the North Coast.

Amendment No. 7 removes the entire Sheas Nob icon area from reserves. The Greens oppose this amendment. Sheas Nob, which is situated in the ranges of the Great Escarpment near Nymboida, south-west of Grafton, is an important link in the Great Escarpment corridor from Guy Fawkes River Wilderness through Chaelundi east to the Nymboida River and Wild Cattle Creek. They are all sites of confrontation, particularly Wild Cattle Creek and Chaelundi. It contains a mosaic of rainforest, old-growth forest and other older growth stages. A large part of the area encompasses inadequately reserved ecosystems and the area is almost entirely identified as having high to very high irreplaceability. A large number of threatened species are known and predicted to occur in the area. These include species such as the Sphagnum frog, spotted-tailed quoll, masked, powerful and soot owls, golden-tipped bat, koala, rufous bettong and many other species.

Amendments Nos 8 and 9 remove 506 hectares from the Chaelundi icon area and the entire Copeland Top icon area from reserves. The Greens oppose these amendments. Chaelundi is part of one of the largest areas of tall old-growth forest left in north-east New South Wales. It has outstanding conservation and wilderness values, and some of the highest densities of arboreal mammals, large forest owls and tiger quolls ever recorded in Australia.

**The Hon. Melinda Pavey:** So you did write the Premier's press release!

**Mr IAN COHEN:** We have a community of knowledge about the quality of these areas. Copeland Tops, near Gloucester, it is a biodiversity hotspot of outstanding regional significance. It provides known or predicted habitat for more than 40 threatened and significant fauna species and includes a centre of endemism for high elevation vertebrate fauna. It is a mosaic of old-growth forests and rainforest. The Hon. Melinda Pavey should read the chapter on Chaelundi in my book, *Green Fire*. It will convince her of the value of saving the area.

The Greens oppose amendment No. 10, which removes 55 hectares from the Jilliby icon area, being part of Olney State Forest that was earmarked for transfer under the bill. The Government's conservation data identified Jilliby as the principal centre of unreserved biodiversity in lower north-east New South Wales. The area contains eight poorly reserved coastal forest ecosystems, and 40 threatened and significant fauna species. As well as having conservation significance, the forests of Jilliby are an important component of the water catchment for the rapidly growing urban centres of the Central Coast. Indeed, I think the catchment provides water for a Minister of this House.

Amendment No. 11 removes a further 3,836 hectares from the Jilliby icon area, being all of Ourimbah State Forest that was earmarked for transfer under the bill. For the reasons outlined in the consideration of amendment No. 10, the Greens oppose this amendment. The Greens also oppose amendment No. 12, which

removes a further 37 hectares from Jilliby icon area, being part of the Watagan State Forest that was earmarked for transfer under the bill. We also oppose amendment No. 13, which removes a further 1,298 hectares from the Jilliby icon area, being part of the Wyong State Forest that was earmarked for transfer under the bill. The Greens oppose amendment No. 14, which removes 121 hectares from the Queens Lake icon area and 738 hectares from the Myall Lakes National Park.

Queens Lake provides a critical forested core to the reserve network in the region by forming a link between the Lake Innes Nature Reserve and the Queens Lake Nature Reserve. It is a diverse area that is notable for the variety of ecosystems, species, and poorly reserved coastal habitats it contains. Myall River, near Bulahdelah, contains four poorly reserved forest ecosystems, a predicted 53 threatened and significant fauna species, and rainforest and old-growth forest remnants in a mosaic that joins the Myall Lakes National Park to the Ghin-doo-ee National Park to the north.

The Greens also oppose amendment No. 15, which removes the entire Tuggolo icon area near Walcha, which encompasses 2,929 hectares. While the landscape of Tuggolo has been extensively cleared and the remnants are affected by dieback, the icon area provides habitat for a large number of poorly reserved, old-growth-dependant fauna species. The Greens oppose amendment No. 16, which removes a further 206 hectares from the Queens Lake icon area. We also oppose amendment No. 17, which removes a further 757 hectares from the Queens Lake icon area and the entire Sherwood old-growth icon area near Coffs Harbour, which encompasses 1,180 hectares. Sherwood is one of the best remaining examples of old-growth blackbutt left in north-east New South Wales, and it is vital for the survival of the hollow-dependent fauna in the region.

The Greens also oppose amendment No. 18, which removes 1,208 hectares from the Whian Whian icon area, near Byron Bay, from schedule 1. Amendment No. 22 places 758 hectares of this in schedule 2 and 450 hectares is removed from reserves. Whian Whian is recognised as one of the most exceptional and outstanding biodiversity hot spots in Australia. It is part of the Mount Warning Caldera system, and it contains remnants of many ecosystems and species that have been cleared almost to extinction. Whian Whian is also the water catchment for six major regional centres, including Lismore, my hometown of Byron Bay, and Ballina.

The Greens also oppose amendment No. 19, which removes 340 hectares from the Wollumbin icon area, near Byron Bay, from schedule 1. Wollumbin is recognised as one of the most exceptional and outstanding biodiversity hot spots in Australia. It is part of the Mount Warning Caldera system, and contains remnants of many ecosystems and species that have been cleared almost to extinction. Wollumbin is also of special significance to the Bundjalung people.

**Question—That the amendments be agreed to—put.**

**The Committee divided.**

**Ayes, 14**

Mr Clarke	Reverend Dr Moyes	Mr Ryan
Ms Cusack	Reverend Nile	Mr Tingle
Mrs Forsythe	Mr Oldfield	<i>Tellers,</i>
Mr Gay	Ms Parker	Mr Harwin
Mr Jones	Mr Pearce	Mrs Pavey

**Noes, 19**

Mr Breen	Mr Della Bosca	Ms Tebbutt
Mr Burke	Ms Fazio	Mr Tsang
Ms Burnswoods	Ms Hale	Dr Wong
Mr Catanzariti	Mr Kelly	<i>Tellers,</i>
Dr Chesterfield-Evans	Mr Macdonald	Mr Primrose
Mr Cohen	Mr Obeid	Mr West
Mr Costa	Ms Rhiannon	

**Pairs**

Mr Colless	Dr Burgmann
Mr Gallacher	Mr Egan
Miss Gardiner	Mr Hatzistergos
Mr Lynn	Ms Robertson

**Question resolved in the negative.**

**Amendments negatived.**

**Mr IAN COHEN** [6.11 p.m.]: I am advised by the Clerks that Greens amendment No. 9 has been neutralised by the failure of one of the National Party amendments, so I will move only Greens amendment No. 8:

No. 8 Page 14, schedule 1, line 20. Omit "**State Conservation Area**". Insert instead "**National Park**".

This amendment seeks to protect all of Whian Whian and Wollumbin icon areas as national parks rather than State conservation areas. Whian Whian and Wollumbin are part of a landscape of world heritage significance: Mount Warning Caldera. The amendment will ensure that under no circumstances will mining or mineral exploration, which is not subject to environmental impact assessment, be allowed in these areas. I commend the amendment.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [6.12 p.m.]: The Government supports an appropriate balance between State conservation characteristics and important natural resources and the ability for natural resources to be subject to exploration. If the Greens amendment were successful, it would prevent the current exploration program in this area. Therefore the Government opposes the amendment.

**Amendment negatived.**

**Schedule 1 agreed to.**

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [6.14 p.m.], by leave: I move National Party amendment Nos 21 to 29 in globo:

No. 21 Page 16, schedule 2, lines 5 to 10. Omit all words on those lines. Insert instead:

**1 Addition to Bongil Bongil National Park**

An area of about 420 hectares, being part of Pine Creek State Forest No 537, within the land shown by the brown tint on map catalogued MISC R 00245 Edition 5 in the National Parks and Wildlife Service, and labelled D002 on the face of that map, subject to any variations or exceptions noted on that map.

No. 22 Page 16, schedule 2. Insert after line 21:

**2 Addition to Jilliby State Conservation Area**

An area of about 57 hectares, being part of Watagan State Forest No 123 and part of Olney State Forest No 124, within the land shown by the brown tint on maps catalogued MISC R 00253 and MISC R 00255 Edition 4 in the National Parks and Wildlife Service and named Jilliby State Conservation Area on the face of that map, subject to any variations or exceptions noted on that map. The above reservation for Jilliby State Conservation Area is restricted to a depth of 50 metres.

No. 23 Page 16, schedule 2. Insert after line 21:

**3 Addition to Whian Whian State Conservation Area**

An area of about 758 hectares, being land in compartments 69, 72, 73, 74, 75, 77, 91, 92, 93, 95, 96, 97 and 98 of Whian Whian State Forest No 173 and the whole or part of Whian Whian East State Forest No 3, within the land shown by the brown tint on the map catalogued MISC R 00241 Edition 4 in the National Parks and Wildlife Service, subject to any variations or exceptions noted on that map.

No. 24 Page 16, schedule 2. Insert after line 21:

**4 Addition to Wollumbin National Park**

An area of about 320 hectares, being part of Wollumbin State Forest No 357, within the land shown by the brown tint (that is within the land shown by the pink tint) on the map catalogued MISC R 00240 Edition 4 in the National Parks and Wildlife Service, subject to any variations or exceptions noted on that map.

**5 Wollumbin State Conservation Area**

An area of about 20 hectares, being part of Wollumbin State Forest No 357, within the land shown by the brown tint (that is not within the land shown by the pink tint) on the map catalogued MISC R 00240 Edition 4 in the National Parks and Wildlife Service, subject to any variations or exceptions noted on that map.

No. 25 Page 17, schedule 3, lines 4 to 20. Omit all words on those lines.

- No. 26 Page 17, schedule 3, line 26. Insert ", EXCEPTING any land that a person holds under a perpetual lease, a special lease or a term lease within the meaning of the *Crown Lands (Continued Tenures) Act 1989* or land that is comprised in an incomplete purchase within the meaning of that Act" after "noted on that map".
- No. 27 Page 17, schedule 3, lines 27 to 31. Omit all words on those lines.
- No. 28 Pages 22 to 23, schedule 5, line 29 on page 22 to line 4 on page 23. Omit all words on those lines.
- No. 29 Page 24, schedule 5, line 12. Omit "1 July 2007".

Insert instead "the date that is 12 months after the delayed transfer date as referred to in section 6".

Amendments Nos 21 to 24 amend schedule 2 to the bill to include further industry-determined plantation forests to be logged before such time as national park status is invoked in 2006. The Opposition seeks support for the amendments so that the plantation forest similar to the forests already identified by the Government in the Pine Creek State Forest can be logged prior to national park status being invoked. Plantation forest in Bongil Bongil National Park, which was declared a national park by the Coalition when last in Government, is currently being harvested and replanted in order that in the long term it will resemble native forest. These forests were harvested flooded gum plantation and were being replanted and regrown so they very closely resemble pre-logged forests in Bongil Bongil.

Amendments Nos 25 to 27 relate to the Opposition's concern that the bill will change the management arrangements on perpetual leases and other forms of lease, which we believe would disadvantage the owners of the leases. Previously, Forests on the land, not the land itself, were declared State forests, and tenures continued to be managed under the Crown Lands Act. The change to the lease arrangements vests the management of the land in the National Parks and Wildlife Service rather than the Department of Lands, as is currently the case.

The National Parks and Wildlife Service has advised me that if this vesting occurs, the only entity that could purchase these leases, which are regarded as being almost equivalent to freehold title, is the National Parks and Wildlife Service. This would severely affect their value and reduce the royalty of timber on the land and any income derived from grazing or the sale of the land. We are therefore asking the Government to remove all references to leases until legal questions regarding ownership are resolved and some assurance can be given to the owners of the leases that just-terms compensation will be paid—an assurance that we acknowledge the Minister gave earlier. We acknowledge that, upon further investigation, the Minister's assertion was correct that national parks can be included. When the Minister gets it right we acknowledge that.

**The Hon. Michael Costa:** That must be all the time.

**The Hon. DUNCAN GAY:** No, it is not. Very often your ability to get it right is not commensurate with your ego. Amendment No. 25 seeks to remove approximately 1,504 hectares from Chaelundi State Forest and about 209 hectares of land from Copelands Tops State Forest that is subject to existing leases. These areas are covered by a number of leases and the timber industry has also indicated that Chaelundi State Forest does not generally satisfy the criteria for old-growth forests. Most of the area has been harvested for the past 20 years and is largely disturbed by timber harvesting, grazing and mining. Any areas of high-conservation, old-growth forest have already been identified and are excluded from the harvest areas. The Copeland Tops State Forest is an isolated forest, surrounded by farmland, just west of Gloucester. It is an important high-quality resource that was planted mostly for harvesting in the current period.

Amendment No. 26 reflects the Opposition's concerns about the provisions in schedule 3 dealing with the vesting of land in the Minister. The term "vesting" means transferring land from Crown title to non-Crown title under the Minister. Effectively, the acquisition of land by the Minister implies legal ownership, and hence the Crown nature of the title would be abolished. The Opposition asks the Minister to carefully consider the Opposition's amendments and exclude these leases, at least until the legal definition is clarified. If these leases can be sold only to the National Parks and Wildlife Service the value of the land will be substantially diminished. Those leases have three important values, as I have indicated previously.

Amendment No. 27 is consequential upon amendments Nos 25 and 26, which seek to exempt land covered by perpetual leases from schedule 3 to the bill. Amendment No. 27 seeks to remove an area of approximately 675 hectares from Tuggolo State Forest No. 312 and to ensure that the land remains State forest. Not only is this land covered by leasehold, but the northern section of the forest contains the only above-average resource regionally available for the Walcha mill. Although the Premier has cited the need to preserve the habitat of the tiger quoll, common wombat, new Holland mouse and square-tailed kite, the National Parks and Wildlife Service atlas does not substantiate that the claimed species is in that area of Tuggolo State Forest.

As amendment No. 28 seeks to remove leasehold land from inclusion in the area of State forests to be reserved as national parks, the part of schedule 5 that relates to the administration of existing interests affecting land being vested in the Minister responsible for the National Park and Wildlife Act is essentially made redundant. Amendment No. 29 would allow timber that is not yet mature to be logged at another date. It would be a waste of valuable resources if this timber were partially logged through to 2006; other timber could be logged while forests are being regenerated. The timber industry would lose the opportunity to harvest that timber and once again a planted species would be in a national park.

If there is to be a blight on this land, I urge the Government to buy the land now under the compulsory provisions of the just terms legislation. As I said with respect to amendments Nos 20 to 24, if the Government were serious about biodiversity and preserving jobs in the timber industry, it would allow those plantations to be regrown over time so they will more closely represent the original forests in these areas. I urge honourable members to support the amendments.

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [6.24 p.m.]: The Government opposes the amendments. Given the time, I shall not go into details. The substantive arguments are similar to the ones we have put about other amendments. In relation to leases, I accept that the just terms compensation Act applies. In fact I have a copy of the National Parks and Wildlife Act, which makes specific reference to property acquisition. I put on the record that that Act does apply, to allay the concerns of the Opposition about just terms compensation. The other amendments go to the heart of the Government's announcements on forests, and the Government does not intend to vary from its mandated position. I therefore oppose the amendments.

**Mr IAN COHEN** [6.25 p.m.]: The Greens oppose the amendments. Amendment No. 21, in combination with amendment No. 5, would transfer an additional 325 hectares of plantations in Pine Creek to schedule 2 for delayed transfer to reserves after logging. Amendment No. 22 seeks to place 57 hectares of so-called plantation in Jilliby icon area in schedule 2 for delayed transfer to the reserve after logging. Amendment No. 23 seeks to place 758 hectares of so-called plantation in Whian Whian icon area in schedule 2 for delayed transfer to the reserve after logging. Amendment No. 24 seeks to place 340 hectares of so-called plantation in Wollumbin icon area in schedule 2 for delayed transfer to the reserve after logging. Similarly, amendment No. 25 seeks to prevent perpetual leases of 1,504 hectares in the Chaelundi icon area, and of 615 hectares in the Copeland Tops icon area, from being vested in the Minister administering the National Parks and Wildlife Act. The Greens oppose the amendment because these areas would then remain as State forest and be available for logging.

Amendment No. 26 seeks to constrain the vesting of 209 hectares in the Tuggolo icon area in the Minister administering the National Parks and Wildlife Act. Amendment No. 27 seeks to prevent perpetual leases of 675 hectares in the Tuggolo icon area from being vested in the Minister administering the National Parks and Wildlife Act. Amendment No. 28 seeks to stop the administration of perpetual leases, special leases, or term leases from being transferred to the Minister administering the National Parks and Wildlife Act. Amendment No. 29 seeks to match dates for the granting of rights of way on roads by the Minister administering the National Parks and Wildlife Act and to change the date of proclamation of reserves proposed by amendment No. 1. For the reasons given during the consideration of Amendment No. 1, the Greens oppose the amendments.

**Question—That the amendments be agreed to—put.**

**The Committee divided.**

**Ayes, 13**

Mr Clarke	Reverend Dr Moyes	Mr Tingle
Ms Cusack	Reverend Nile	
Mrs Forsythe	Ms Parker	<i>Tellers,</i>
Mr Gay	Mr Pearce	Mr Harwin
Mr Jones	Mr Ryan	Mrs Pavey

**Noes, 19**

Mr Breen	Mr Della Bosca	Ms Rhiannon
Mr Burke	Ms Fazio	Mr Tsang
Ms Burnswoods	Ms Hale	Dr Wong
Mr Catanzariti	Mr Hatzistergos	
Dr Chesterfield-Evans	Mr Kelly	<i>Tellers,</i>
Mr Cohen	Mr Macdonald	Mr Primrose
Mr Costa	Mr Obeid	Mr West



**Pairs**

Mr Colless	Dr Burgmann
Mr Gallacher	Mr Egan
Miss Gardiner	Ms Robertson
Mr Lynn	Ms Tebbutt

**Question resolved in the negative.**

**Amendments negatived.**

**Schedules 2 to 5 agreed to.**

**Title agreed to.**

**Bill reported from Committee without amendment and report adopted.**

**Third Reading**

**The Hon. MICHAEL COSTA** (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [6.38 p.m.]: I move:

That this bill be now read a third time.

**The House divided.**

**Ayes, 19**

Mr Breen	Mr Della Bosca	Ms Rhiannon
Mr Burke	Ms Griffin	Mr Tsang
Ms Burnswoods	Ms Hale	Dr Wong
Mr Catanzariti	Mr Hatzistergos	
Dr Chesterfield-Evans	Mr Kelly	<i>Tellers,</i>
Mr Cohen	Mr Macdonald	Mr Primrose
Mr Costa	Mr Obeid	Mr West

**Noes, 13**

Mr Clarke	Reverend Dr Moyes	Mr Tingle
Ms Cusack	Reverend Nile	
Mrs Forsythe	Ms Parker	<i>Tellers,</i>
Mr Gay	Mr Pearce	Mr Harwin
Mr Jones	Mr Ryan	Mrs Pavey

**Pairs**

Dr Burgmann	Mr Colless
Mr Egan	Mr Gallacher
Ms Robertson	Miss Gardiner
Ms Tebbutt	Mr Lynn

**Question resolved in the affirmative.**

**Motion agreed to.**

**Bill read a third time.**

[The Acting-President left the chair at 6.45 p.m. The House resumed at 8.15 p.m.]

## NATIONAL PARKS AND WILDLIFE AMENDMENT (TELECOMMUNICATIONS FACILITIES) BILL

### Second Reading

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.15 p.m.]: I move:

That this bill be now read a second time.

This bill will allow the Minister for the Environment to authorise, subject to rigorous new environmental assessment criteria, the installation of new telecommunications facilities on lands reserved under the National Parks and Wildlife Act 1974. This Government supports the improvement of telecommunications services, particularly in rural and regional areas of New South Wales. In July 1997 the Commonwealth Telecommunications Act 1997 came into effect. It required for the first time certain activities of telecommunications carriers to comply with relevant State and Territory laws. In particular, telecommunications facilities in national parks were not classed as low-impact facilities and were therefore subject to the laws of New South Wales. Although the National Parks and Wildlife Act permits the installation of certain types of facilities, such as for electricity transmission and pipelines, the Act does not currently allow the installation of new telecommunications facilities on lands reserved under the Act. I seek to have the rest of the second reading speech incorporated in *Hansard*.

### Leave granted.

The Act also allows the Minister to grant a lease or licence to use and maintain a telecommunications facility that is *already* situated on reserved lands.

The Act has not kept up with technology—these provisions were drafted well before the invention of modern telecommunications technology such as mobile phones. The national parks estate includes many elevated hill tops and like topography that would be suitable for telecommunication facilities. In fact, the National Parks and Wildlife Service has been approached on numerous occasions by telecommunications carriers seeking to improve network coverage, particularly in rural and regional NSW.

This Bill seeks to correct this anomaly.

Left in its current form, the *National Parks and Wildlife Act* will continue to impede the establishment of an effective statewide network of telecommunication services.

By allowing telecommunications facilities in appropriate locations within the national parks estate, mobile telephone coverage will be extended both within the parks as well as in the immediate surrounding areas. This will particularly benefit the rural and regional parts of the State where communications services are often of a lower standard than in urban areas.

One such example concerns the mobile phone coverage in the Upper Clarence area, in the electorate of Lismore. To provide regional mobile phone coverage in the area, three sites were identified as necessary to meet acceptable service standards. One of these locations is on Haystack Mountain in Yabba National Park. The height and location of this site would provide mobile phone coverage in the hilly terrain of the Upper Clarence area as well as extending coverage westward to nearby regional communities.

I am grateful to the Member for Lismore for bringing this case to my attention.

As a result of this legislation, his constituents in towns such as Bonalbo will be able to access improved telecommunications services, which are currently denied to them.

The Bill will also provide the capacity to improve communications and safety in emergency situations, such as bush fires and rescue operations. In this context, I note that the NSW Coroner only very recently recommended in his Goobang National Park Fire Inquiry that a mobile telephone repeater be established in the national park to service the community and provide additional communications during times of emergency.

Improved telecommunications facilities will also assist National Parks and Wildlife Service staff in day to day park management as well as emergency services staff, particularly where they are required to work in remote and rugged areas that may not have radio coverage.

An improved communication network will also lead to an improvement in the safety of people visiting national parks and reserves throughout the State. To cite one area as an example, the Royal National Park on Sydney's southern outskirts is one of the most heavily visited national parks in the State. Unfortunately, the rescue of lost or injured visitors is a common occurrence in this park but due to the hilly terrain, mobile phone coverage is patchy at best, even though the park is right on Sydney's doorstep.

Wattamolla is an example of one particular mobile "black spot" where the National Parks and Wildlife Service has installed an emergency telephone. This phone utilises a telecommunications tower located in the nearby suburb of Cronulla, however, I understand that it is a common occurrence for this tower to become overloaded. This often results in a loss of signal to the

emergency phone, which unfortunately then ceases to be operational. An event such as this could mean the difference between life and death in an emergency situation.

I understand that just over a week ago, a group of four bushwalkers became lost in the Royal National Park. They were lucky in that they happened to be in a good location to get a signal and so managed to alert authorities by using their mobile phone, leading to their successful rescue. However, in hilly terrain or remote areas such as Nattai or Blue Mountains National Park, if a walker is lost or injured they may simply be unable to use their mobile phones to seek emergency assistance without first climbing to the top of a hill or by walking a long way out to get help.

No government has done more than this government for conservation in NSW. Since 1995, more than 1.86 million hectares have been added to the national park system, which is now amongst the best in the world with around 21 million visitors every year. This Bill ensures that the conservation values of the national parks estate will not be compromised. The Government will not allow new telecommunications facilities to be constructed in the national parks estate at will.

The installation and on-going maintenance of telecommunications facilities within the national park estate will be subject to rigorous environmental assessment processes under Part 5 of the *Environmental Planning and Assessment Act 1979*.

I can assure the House that the conservation of biological diversity and ecological integrity will be a fundamental consideration when determining whether the installation of telecommunications facilities within the national park estate should proceed.

In addition to the environmental safeguards afforded by the *Environmental Planning and Assessment Act*, this Bill requires that telecommunications facilities cannot be approved in the national parks estate unless certain criteria are met.

Firstly, the Minister will need to be satisfied that there is no other feasible off-park option. National parks should and will not be seen as a 'soft option' relative to land outside the estate. Telecommunications carriers will have to provide evidence that they have examined alternative locations outside of the reserve estate and explain why these locations are not feasible.

Facilities will also need to be essential for the provision of telecommunications in the park or in surrounding areas, which would be served by the facility. This criterion will reduce the potential for a proliferation of towers.

Once the facility becomes redundant (due to advances in technology), it must be removed and the site must be rehabilitated. This will ensure that redundant infrastructure does not proliferate in parks.

The siting of all new telecommunications facilities must take into account park management objectives. This is important to ensure that the operation of the facility does not compromise the values of the area and the impact of the facility on park management and park users is minimised.

Lastly, when selecting the preferred location for new telecommunications facilities, any existing easements and structures within the park are to be assessed for the suitability to co-locate the new infrastructure. This is intended to consolidate impacts onto sites that are already disturbed.

As a matter of policy, the telecommunications facilities would also be subject to the National Parks and Wildlife Service's Construction Assessment and Approvals Procedure, which ensures the safety of structures built within the national park estate. Carriers would also be encouraged to be inventive with design of telecommunication facilities to minimise visual impacts upon the environment. In addition, the National Parks and Wildlife Service will develop guidelines for environmental assessment and approval processes for telecommunications facilities proposals.

The Bill will provide the Minister for the Environment the discretion to grant a lease, licence or easement for telecommunication facilities in the national park estate.

The granting of an easement is generally only appropriate for optical fibre cables and copper cables. In all other cases the Minister would consider the issue of an appropriate licence, which is the accepted practice across other Government land management agencies.

The granting of a licence also enables explicit operating conditions to be attached to any licence, with the primary aim of minimising impacts on lands managed by the National Parks and Wildlife Service. Similarly, conditions can be negotiated before an easement is granted. This will ensure that facilities are located, designed and maintained consistent with the management objectives of the area.

In addition, the National Parks and Wildlife Service would negotiate a rental or fee agreement that reflects the commercial nature of the proposal. This is consistent with the whole of Government review of the licensing and pricing regime for telecommunication sites on Crown lands, and reflects the current practice of Government land management agencies with respect to the administration of telecommunication facilities.

The receipt of revenue will also benefit the management of national parks as such funds would be dedicated for a range of conservation works.

This is a necessary and sensible Bill that will bring the *National Parks and Wildlife Act* up to date with modern telecommunication technology, which will in turn benefit rural and regional NSW, as well as having benefits for park staff and visitors in emergency, rescue or park management situations.

I commend this Bill to the House.

**The Hon. GREG PEARCE** [8.18 p.m.]: The Opposition does not oppose the bill. A number of amendments have been foreshadowed through the day but we will discuss them in Committee. Improved

telecommunications facilities, particularly in rural and regional areas, are very important to the development of New South Wales. Commonwealth legislation now requires that telecommunications carriers comply with State laws. Previously, telecommunications companies were able to introduce their infrastructure without necessarily complying with environmental protection laws applying to other developments in the State, particularly in areas such as national parks. The current legislation permits the installation of facilities for electricity transmission and pipelines, and it is sensible that telecommunications facilities should be covered. I will not deal with all the provisions of the bill. The Minister mentioned a number of them, in particular the safeguards to ensure that the bill does not have the effect of unnecessarily interfering with national parks by enabling inappropriate development.

In the other place the Minister for the Environment made a number of comments about the bill deserving support because of the impact on emergency services, bushfire and other rescue facilities. That is not the most significant part of the bill. It really is about extending telecommunications facilities generally. Whilst the Minister's comments are worthy of note, they are not really at the heart of the bill. What is at the heart of the bill is, as I mentioned earlier, the need to ensure that there are sufficient restrictions and procedures to ensure that there is no abuse of the new authority under the legislation to introduce telecommunications infrastructure into national parks. In the other House the shadow Minister, Mr Richardson, outlined a number of applications for new facilities of which we were already aware. He described some of them, including that at Haystack Mountain in the Yabbara National Park in the Lismore region, and various others that are supported.

The shadow Minister also mentioned the good work that the industry is doing at the moment. He drew attention to the code of conduct that has recently been adopted by the Mobile Carriers Forum. Whilst it is not directly relevant to the land that is covered by this bill, it indicates that the industry is acting responsibly in moving towards a voluntary approach to ensuring the most appropriate methods for the introduction of the facilities. The shadow Minister raised questions in the other place about the key issue; that is, that the Government guarantee minimal impact on national parks as a result of this legislation.

The Parliamentary Secretary answered a number of the questions and, in particular, indicated that unnecessary damage to national parks would not be tolerated and offending carriers would be severely penalised. The Opposition agrees with that approach and is therefore pleased not to have to oppose this legislation. As I said, the Mobile Carriers Forum has now adopted a voluntary code. I am grateful to Andrew Harper, who briefed me earlier today, for his explanation about the way the industry is proceeding in a responsible way to deal with these issues. The shadow Minister expressed concerns about the capacity of the National Parks and Wildlife Service to guarantee the safety of infrastructure in national parks. The Government still needs to address that issue. With that caveat, the Opposition does not oppose this legislation.

**Mr IAN COHEN** [8.24 p.m.]: This bill allows the Minister to grant leases or licences for telecommunications facilities, including the easements and rights of way, through any national park. The Greens and the peak environment groups are concerned that this bill will lead to a proliferation of towers, trails and related infrastructure throughout our national parks and other conservation reserves. Although the Minister has said that there would not be a flood of applications to place telecommunications facilities within national parks, there could be dozens if not hundreds. That is particularly true when one considers that the Minister conveniently failed to mention that more than 60 per cent of the applications are apparently before the National Parks and Wildlife Service [NPWS]. Rather than there being only three applications before the NPWS, as the Minister implied in his second reading speech, there are apparently nine: one in each of the Georges River, Goobang, Ku-ring-gai, Morton, Myall Lakes, Sydney Harbour and Yabbara national parks, one in Talawahal Nature Reserve and one on the Barrenjoey Peninsula.

The Minister's second reading speech also provides spurious justification for the bill. None of the examples provided give compelling reasons that telecommunications towers need to be provided in national parks and other NPWS reserves. In fact, it is dangerous to rely on mobile phones as a safety device because it will never be possible to provide full mobile phone coverage within all national parks unless a repeater is installed in every gully. Creating an expectation that mobile phones can serve as a serious safety device will also mean that park visitors will not adopt more effective safety precautions such as being competent in navigation, using maps, compasses and emergency position indicating radio beacons, taking a satellite phone—lightweight models can be purchased for less than \$1,000—and using a radio. Those devices are far more effective in hilly terrain.

In any case, the real beneficiaries of this legislation will not be park visitors but mobile phone users and the telecommunications industry corporations. We should not be degrading the important ecological and cultural values of our hilltops in national parks for the benefit of the telecommunications industry. Hilltops are important

for the fauna that favour them, such as certain butterflies and moths, and vegetation confined to hilltops due to altitudinal conditions, including threatened species. Many hilltops are also significant for Aboriginal people. There is no doubt that the important ecological and cultural values of hilltops in national parks will be degraded by the installation of telecommunications facilities. Not only is the immediate site affected when communications towers are installed, but in many instances a wider area is cleared for specially made access/maintenance and hazard-reduction zones and activities that have nothing to do with essential park purposes. Mount Canobolas is a case in point. A plethora of communications towers, buildings and overground powerlines has resulted in the felling of a number of *Eucalyptus rubida canobolensis*, a species listed under both New South Wales and Federal threatened species legislation.

Similar situations will arise in many national park estate lands. Although there may be a strictly limited number of cases in which mobile phone towers or non-management-related radio towers would be permitted in national parks, it is crucial that the following principles are applied to the approval of new telecommunications towers. Towers should be associated with the existing infrastructure. There should be no prudent or feasible alternatives available, including alternatives that may be less effective or more costly. The footprint of the towers and infrastructure should be minimised. Towers should be provided only where they can benefit a large proportion of the population. Towers should be constructed to minimise the risk of damage from fire, avoiding clearing or hazard reduction of adjacent bushland, and avoiding the potential to cause bushfires. Towers should not be easily visible from within the reserve, unless associated with an existing tower. No new access roads or infrastructure corridors should be permitted and power should be provided using solar-powered generators.

Access for construction and maintenance should be only by helicopter or foot. No tower infrastructure or access routes should be provided in wilderness areas, nature reserves or other areas of high conservation value or with remote natural areas status—in plans of management—or characteristics. Any lease, easement or right of way should be specifically referred to in a plan of management. There should be no impact on the natural values or visual community of the park, and details of all leases, licences, easements and rights of way should be available on a public register and the Internet. The bill will adversely affect many people, including those who use national parks and nature reserves in an effort to get away from the intrusion of modern technology. The very nature of reserves, national parks and wilderness areas will be significantly affected. Many people have written to me to express their concerns. In a letter addressed to the Minister, Don Cameron of Faulconbridge wrote:

I am greatly concerned about the proposed bill on two fronts.

First, it is yet another example of development impinging on the national park estate and other nature conservation areas. The arguments for nature conservation are compelling and becoming ever stronger in the face of relentless development.

Second, the environment movement was consulted about the bill only in a limited manner after it was tabled in parliament.

I object to the expanding construction of telecommunication facilities in national parks on numerous grounds (they have been described to you in detail in a number of documents compiled by the environment groups).

The objections raised were predictable and, I strongly believe, quite valid. A great deal of angst and wasted energy could have been prevented by earlier consultation.

The environmental challenges faced by NSW are too daunting to be continually sidetracked by proposals that compromise nature conservation.

In a letter addressed to the Minister, Dierk von Behrens of Weetangera, in the Australian Capital Territory, wrote:

I am writing on behalf of the co-owners of a property known as Black Ridge over which we have entered into a conservation agreement with the NSW government—specifically your Department.

We are very concerned that, according to information we have received, the NSW Government is proposed to allow the telecommunication industry access to the conservation estate.

Only some two years ago we agreed to relinquish an area of some 800 acres around Mt Clifford that members of our group had on a five-year lease, in order for this important area to become a Nature Reserve. We are very worried that now, having passed this area into what we thought would be the strongest possible conservation status—namely that of the crown itself. In view of the proposed actions of your government as we understand them, we might well have been better off defending the undisturbed state of this area, for instance, had we not done so.

We ask that you support the amendments proposed by the Greens and Democrats that:

Exclude all telecommunication facilities, including phone towers and fibre optic cables, in Wilderness Areas, Nature Reserves and Aboriginal Areas, as well as Remote Natural Areas that are designated in a plan of management.

Allow only telecommunication facilities that are built into an existing structure or that are within 50 metres of a freeway or highway.

Prevent road construction or the placement of aerial powerlines or telecommunication cables with any telecommunication development proposed within the national park estate.

Require every proposed telecommunication facility in a park to be subjected to the environmental impact statement process.

Ensure the assessment criteria for proposed telecommunication facilities (and associated easements, leases and licences) have the smallest possible footprint on the national park estate; are fire proof; and of minimal visual impact.

The construction policy and methodology of the Cairns cable-way should form a minimum standard for any telecommunication facility that is approved in conservation areas restricted as above. In this, a very strictly delimited and effectively controlled area only was disturbed. Materials were airlifted in and each site restored with plants grown from site-specific seeds.

Ensure that only telecommunication facilities that serve a significant proportion of a regional population are approved.

Prevent damage to the national park by requiring the developer to lodge bond (of a minimum of \$500,000) for each facility in the national park estate.

Enable the public to track these developments through a register of leases for telecommunication facilities and limits lease to no more than five years.

These are examples of people who have handed over land to the National Parks and Wildlife Service for protection. These people are now concerned that, given the changing of the goalposts, they may be disempowered in protecting the land they have so generously handed over to the service. The Greens oppose the bill. We believe it allows for serious intrusions by various competing telephone companies. The erection of such towers will have a serious impact on our national parks, nature reserves and wilderness areas. It is important that those areas be maintained in their natural state, free from the impacts of human intervention. The Government should take considerable care before opening up our national parks to this type of intrusion.

It must be acknowledged that there may be some negative impacts with regard to a lack of telephone communication. Additionally, the towers may be put up willy-nilly around the country—which is, of course, a Federal issue. Once Telstra is sold off as a private enterprise, even more pressure will be brought to bear with regard to these issues. How long will it be before technology moves ahead to the point where we have satellite facilitation of mobile phones, not only offshore but also in space? By the time that occurs, this technology will have done a great deal of damage to our national park estate, for only short-term gain.

Many people wish to go into areas where there is no mobile phone connection—it is something about people's desire to get away from twenty-first century technology and to reconnect with nature, as we discussed in detail during debate on the National Park Estate (Reservations) Bill. It seems that the Government gives with one hand and takes away with the other, all in the one night, which is a great shame given the Greens concerns that the bill should be resisted. The Greens oppose the bill.

**Reverend the Hon. FRED NILE** [8.35 p.m.]: The Christian Democratic Party supports the National Parks and Wildlife Amendment (Telecommunications Facilities) Bill. We do not see the bill as the beginning of the destruction of national parks. I think some of the concerns expressed are either misplaced or exaggerated. Certainly towers will not be erected on every mountain or hill in New South Wales where there is a national park, but there is a need for this legislation.

We could blame the Greens for the legislation, because through their campaigning more than two million hectares of land have been declared national park estates and therefore the potential locations for the erection of telecommunications facilities are now extremely limited. The National Park Estate (Reservations) Bill probably added to the problem, by reducing the potential locations for the erection of telecommunications facilities. Unarguably, there is a need to have efficient telecommunications facilities and an effective statewide network of telecommunications in our State, but many people, particularly those in rural and remote areas of New South Wales, have expressed concerns about the establishment of such facilities.

Rural towns such as Broken Hill and Bourke are not the only areas of the State without mobile connection. My home town of Gerroa, which is between Gerringong and Nowra, also has no mobile connection. We support any measure that enables people to communicate through the use of mobile phones. Mobile phones have now become a vital safety mechanism. People are urged to carry them when they go hiking, and school groups going on excursions in the bush are also urged to carry them, so that if an accident occurs the authorities can be contacted and a Careflight helicopter organised if it is required. Rural firefighters are now able to communicate with authorities by using mobile phones during bushfires. Mobile phones are also used with respect to lost persons, accidents, plane crashes, and so on.

I note that under the bill the Minister for the Environment must be satisfied that there is no other feasible off-park option, that the proposal is essential for the provision of telecommunications in the park or in surrounding areas intended to be served by the facility, and that there will be compulsory removal and rehabilitation of the facility site or sites once the technology becomes redundant. The possibility of satellite phones has been raised. When that technology occurs, and it is economical and affordable for the majority of the population—I understand that it is very expensive—obviously the towers would then be removed.

The Minister must also be satisfied that the proposed location for the new facility has taken into account park management objectives, and that existing easements and structures have been assessed for suitability to co-locate new infrastructure and/or to consolidate impacts onto sites already disturbed. I believe that the Minister should also be satisfied that only one tower is erected on a site. If a number of companies want to erect a tower, each of them should not be allowed to erect one. There must be some way in which, through co-ordination, all operators can use one tower. I would also suggest, reflecting our green credentials, that the towers be green and friendly. A tower does not need to be a great big bright shiny aluminium structure, but could be painted green. I even suggested to the Reverend the Hon. Dr Gordon Moyes that it could be disguised as a tree. In other words, a tower could be made to blend with, rather than be alien to, a park location.

Another condition is that the operators installing the tower should use existing fire tracks. There are many fire tracks in the forests for firefighting vehicles. Those tracks may provide a roundabout way of getting to an installation area, but the installers will not be travelling backwards and forwards along the same track every day. New tracks should not be created, and provision must be made to dismantle the equipment and to restore the location when the tower is no longer required. Also, the tower should be checked to ensure that it is no higher than necessary. Some companies may want to put up a huge tower, which would cost more money, but a tower should only be as high as is absolutely necessary to provide technical availability. We support the bill.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [8.40 p.m.]: The Australian Democrats support the bill. The principal Act already permits the installation of facilities for electricity and pipelines in national parks and other reserved lands. The Act also allows the Minister for the Environment to grant a licence to use and maintain a telecommunications facility that is already situated on reserved lands. In order to enhance mobile telephone coverage in rural and regional New South Wales, telecommunications companies have approached the Government seeking access to national parks to establish new facilities. That is the reason for the bill.

The bill will insert a new section 153D in the principal Act. Under the proposed section, new telecommunications facilities may be built within a national park under certain conditions. The Minister may grant leases, licences and easements or rights of way for the erection on, use and maintenance of land for the purposes of installing telecommunications facilities. A Minister may do so under criteria conditions, as outlined in proposed section 153D (4). The Federal Government, quite foolishly, allowed each telephone company to set up a separate network. Had that Government insisted that companies share facilities by arrangement, Australia could have had a far better network for the same money. I believe it would be extremely unfortunate if there were separate facilities for each telephone company that wanted to set up towers. One would hope that the Minister would learn from the mistake of the Federal communications Minister and insist that any tower be a shared facility. Perhaps the Minister has the opportunity to do what the Federal Minister failed to do. Companies must be instructed to share a facility by arrangement and not build a duplicate.

The National Parks Association has raised some concerns about the guidelines. A large part of the National Parks Association letter has been read onto the record by my colleague Mr Ian Cohen. The association has substantial concern that the bill may allow a proliferation of towers, trails and other related infrastructure in national parks. The association says that the bill fails to ensure that national parks are a place of last resort for the facilities, and fails to place adequately stringent construction conditions to safeguard environmental values. Clearly, it behoves us all to maintain pressure on the Government in this area.

Hilltops and mountains are potential sites for relay towers, but they may have important ecological and cultural values. Valuable sites dotted around the State are likely locations for Telecom facilities. Mt Canobolas, one example cited by Mr Ian Cohen from material supplied by the National Parks Association, is a hilltop that contains rare hilltop vegetation, including the threatened species *Eucalyptus conobolensis*. In March this year that hilltop was cleared to form a firebreak around a highly fire-prone structure attached to a communications tower. There seemed to have been no effective effort made to design the structure to withstand bushfire. I do not know if the Bathurst copper butterfly, which was the source of some debate in this House last year, was affected by that vegetation clearing.

Construction of new facilities at an undisturbed site should be a last resort, and the onus must be on the proponent to demonstrate that all other options are impossible, rather than being just a little more expensive. The spires on St Mary's Cathedral were put in place by a large helicopter, and it may well be that similar technology could save expenditure, time and trouble on the building of a huge road. Certainly, some pressure needs to be applied to find the best solution, not merely the one that comes to mind first.

**Reverend the Hon. Dr Gordon Moyes:** There should be church spires on all mountain tops, is that what you are suggesting?

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I am sure the many blue domers in this country regard the sky above them as their cathedral. There are significant Aboriginal sites that may be more susceptible, for example, North Brother Mountain at the heart of Dooragan National Park. That mountain, a site of cultural significance to the Aboriginal people, supports a wide range of vegetation communities, including some of the best examples of old growth blackbutt forest and pockets of subtropical rainforest that provide habitats for gliders, bats and koalas. Hilltops are also sites of traditional Aboriginal stone arrangements and carvings used for animalistic ceremonies.

There was considerable debate in this House on the action of TransGrid in clearing land illegally in the vicinity of its transmission lines in no less than five national parks in the northern Kosciusko region in 2001. TransGrid acknowledged that it did not follow its own procedures covering easement maintenance and care for the environment. The report on TransGrid's action was very caustic indeed. Part of the report said:

In its submission the National Parks and Wildlife Service (NPWS) noted that with respect to the incidents that are the subject of the Inquiry, TransGrid first and foremost failed to honour a primary obligation to notify the NPWS prior to carrying out any maintenance work on transmission lines managed by the Service. This procedural obligation is contained within a 1994 agreement that exists between the NPWS and the Electricity Association of NSW titled: "Procedures for power line maintenance in lands administered by the National Parks and Wildlife Service of NSW" ... The NPWS further noted that given TransGrid is a NSW Government authority, it is the NPWS contention that there was a reasonable and genuine expectation that TransGrid would uphold this obligation.

Clearly, under this legislation, that obligation will continue, particularly with future telephone towers. Given that a State-owned corporation failed in its duty, we believe that a private sector telco must also be watched closely. I will be moving some amendments that will go some way to address the concerns of the National Parks Association. I thank Andrew Cox, of the National Parks Association for his input, Keith Muir of the Colong Foundation, and Georgia Miller from the Nature Conservation Council [NCC]. I also thank the staff of the Hon. Bob Debus, who have been extremely helpful in relation to this issue, and the Minister for his extremely courteous letter, which is the best letter I have received since I have been in this Parliament. We support the bill.

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.47 p.m.], in reply: We commend the bill to the House.

**Motion agreed to.**

**Bill read a second time.**

### **In Committee**

**Clauses 1 to 3 agreed to.**

### **Schedule 1**

**Mr IAN COHEN** [8.49 p.m.], by leave: I move Greens amendments Nos 1 and 2 in globo:

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

[1] **Section 151D Register of certain interests to be publicly available**

Insert ", licences granted under section 153D" after "leases granted under this Act" in section 151D (1).

[2] **Section 151D (2) (a)–(e)**

Insert "licence," after "lease," wherever occurring.



No. 2 Page 3, schedule 1. Insert before line 3:

[1] **Section 153A Leases etc relating to wilderness areas**

Insert at the end of section 153A (b):

, or

(c) grant a lease, licence, easement or right of way under section 153D,

Amendment No. 1 would ensure that a section 153D interest must be placed on a public register. Already all other leases, easements and rights of way under the National Parks and Wildlife Act are required to be placed on a public register. This register can be viewed at the head office of the National Parks and Wildlife Service or on its web site. The public is very concerned about national parks and other reserves being subject to development by the telecommunications industry. This amendment will ensure that the public can track the location and extent of facilities through a public register of leases, licences, rights of way and easements.

Amendment No. 2 would exclude visually intrusive and environmentally damaging communications towers and other telecommunications facilities in our most undisturbed areas. Protected wilderness areas, being areas that are excluded from all development, are the cornerstone of the national park estate. Legislation that allows telecommunications development in such areas would defeat the purpose of wilderness area declarations. Protected wilderness areas are one of the last refuges of undisturbed ecosystems. New telecommunications towers and other infrastructure would cause the greatest impact on their remoteness and natural beauty. New roads or powerline easements would cause major incursions into wilderness areas. I commend the amendments to the Committee.

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.51 p.m.]: The Government is prepared to accept Greens amendment No. 1, which will ensure that a publicly available register of leases and licences includes details of licences and grants under proposed section 153D. The Government is also prepared to accept Greens amendment No. 2. Wilderness areas currently cover about one-third of the national park estate. By definition they are in remote areas, usually far from centres of population. The Minister for the Environment has advised that the National Parks and Wildlife Service is unaware of any telecommunications facilities being sited in existing declared wilderness areas; nor have any proposals been put forward to locate facilities within wilderness areas. For these reasons the amendment is unlikely to have any significant impact, but its intent is understood and it is not opposed.

**The Hon. GREG PEARCE** [8.51 p.m.]: The Opposition also supports the amendments. We agree that accountability and transparency, which are the bases of the amendments, will serve the community well. In relation to Greens amendment No. 2, I have already said that the Opposition is concerned to ensure there is a proper balance between environmental protection and the need for modern technology. Wilderness areas are special areas that require extra vigilance. Accordingly, we support the amendments.

**Amendments agreed to.**

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [8.52 p.m.]: I move Australian Democrats amendment No. 1:

No. 1 Page 3, schedule 1, proposed section 153D (4) (a), line 18. Insert "prudent or" before "feasible".

The bill allows telecommunications facilities in parks where there are no feasible alternatives. Feasibility is determined by economic considerations as well as engineering considerations. This amendment includes "prudent" in the consideration of alternatives. It broadens the assessment to ethical issues such as whether it is wise to develop a virgin mountaintop if the same communication coverage can be provided at greater cost through other means, such as by using a number of telecommunications towers. I commend the amendment to the Committee.

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.53 p.m.]: The Government is unable to accept the amendment. Adding the word "prudent" in the manner suggested would needlessly complicate what is currently very clear and unambiguous wording in proposed section 153D (4) (a). It would therefore create significant uncertainty. As currently drafted, the intention of the bill is to ensure that locating a facility in a park is a last resort. It is that simple. If locating the facility other than in a park is feasible, and allows the telecommunications purpose to be achieved, that location should always be used.

**The Hon. GREG PEARCE** [8.54 p.m.]: The Opposition does not support the amendment. One of the key requirements of legislation is the degree of certainty, and this amendment would introduce uncertainty. We agree that the location of these facilities in national parks should be as a last resort. Unfortunately, this is one of those amendments that we are used to from the fairies at the bottom of the garden.

**Amendment negatived.**

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [8.55 p.m.], by leave: I move Australian Democrats amendments Nos 2, 3 and 4 in globo:

No. 2 Page 3, schedule 1, proposed section 153D (4). Insert after line 20:

- (b) the site of any proposed above ground telecommunications facility covers the minimum area possible, and

No. 3 Page 3, schedule 1, proposed section 153D (4). Insert after line 20:

- (b) the proposed telecommunications facility is to be designed and constructed in such a manner as to minimise risk of damage to the facility from bushfires, and

No. 4 Page 3, schedule 1, proposed section 153D (4). Insert after line 20:

- (b) the site and construction of the proposed telecommunications facility have been selected, as far as is practicable, to minimise the visual impact of the facility, and

Amendment No. 2 inserts a new paragraph into proposed section 153D (4) to ensure that proposals for leases, licences, easements or rights of way for telecommunication facilities in national parks and other reserves are subject to specific development assessment criteria that will prevent inappropriate development. It seeks to minimise environmental disturbance of the park estate. The physical footprint of aboveground facilities should be as small as possible. This does not include the footprint of underground cables or powerlines, so it allows for a longer route to be taken if it minimises the environmental impact.

Amendment No. 3 inserts a new paragraph (b) into section 153D (4) to ensure that proposals for leases, licences, easements or rights of way for telecommunication facilities in national parks and other reserves are subjected to specific development assessment criteria that will prevent inappropriate development. Paragraph (b) proposes criteria to require telecommunications facilities to be fireproof as this would prevent clearing around the facility that would otherwise be necessary to protect the facility from radiant heat and flame. Facilities should be built to withstand bushfires, such as being underground or made from fire-retardant materials.

Several months ago the Rural Fire Service pressured the National Parks and Wildlife Service into clearing rare vegetation from around a telecommunications tower on Mount Canobolas to reduce the fire risk. However, one of the associated buildings that created the bushfire risk had eaves that were lined with newspaper that could easily catch alight. Therefore, the obligation must be on the lessee or licence holder to avoid constructing a dangerous, fire-prone building or facility.

Amendment No. 4 also seeks to insert another paragraph into proposed section 153D (4) to establish criteria for the visual impact on the park estate and thereby facilitate the development by industry of less intrusive designs for natural environments. The visual amenity of telecommunications towers has long been a subject of controversy. In urban environments, industry has made advances in recent years by improving the exterior design so as to blend in with the environment. Impact on visual amenity could be avoided by a combination of the location selected and the construction and design elements used. Reverend the Hon. Fred Nile advocated this in the second reading debate. I commend the amendments to the Committee.

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.58 p.m.]: The Government is prepared to accept Greens amendment No. 2. The intention of the bill is to ensure that if a facility is approved, it should have minimal environmental impact. The bill already contains numerous environmental safeguards, as does the Environmental Planning and Assessment Act 1979, under which applications for facilities will be assessed. However, the proposed paragraph will add an additional safeguard. The footprint of the ground facility should certainly be minimised. Therefore, the Government supports the amendment.

The Government is also prepared to accept Australian Democrats amendment No. 3. It is accepted that, as a normal part of the planning process, the intent will be to ensure that the approved facility is designed and constructed in such a manner as to minimise risk of damage from bushfires. That is simple commonsense. The

Government is also prepared to accept Australian Democrats amendment No. 4. The bill already contains numerous environmental safeguards, as does the Environmental Planning and Assessment Act 1979, under which applications for facilities will also be assessed. Minimising visual impact is certainly consistent with the aim of the bill.

**The Hon. GREG PEARCE** [8.59 p.m.]: The Opposition also supports these sensible amendments that provide further guidelines for facility providers. They are in accordance with our approach to this bill.

**Reverend the Hon. FRED NILE** [8.59 p.m.]: The Christian Democratic Party supports these amendments. In our contribution to the second reading debate we foreshadowed the need for such amendments.

#### **Amendments agreed to.**

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [9.00 p.m.]: I do not intend to move Australian Democrats amendment No. 5. I move Australian Democrats amendment No. 6:

No. 6 Page 3, schedule 1, proposed section 153D (4). Insert after line 20:

- (b) where the Minister is of the opinion that the proposed telecommunications facility poses a significant risk of causing environmental damage, a bond has been lodged with the Director-General to enable the Director-General (if the lessee, licensee or holder of the easement or right of way fails to do so) to successfully rectify any damage to the values of the reserved land that may have occurred during the construction, operation, maintenance or decommissioning of the proposed telecommunications facility, and

This amendment inserts a new paragraph into proposed section 153D that requires that a bond be lodged with the National Parks and Wildlife Service [NPWS] when a facility poses a significant risk of causing environmental damage. The bond applies not only during construction but also in the operation, maintenance and ultimate decommissioning and removal of the facility upon the expiry of its design life. The bond should be in proportion to the extent of the potential environmental impact and scale of work. It must be borne in mind that when telecommunications towers become redundant in the next few decades it is highly likely that many companies now operating will no longer exist. The Government should not have to foot the bill for rehabilitating tower sites, as happens now with old mine sites. I commend the amendment to the Committee.

**Mr IAN COHEN** [9.01 p.m.]: On behalf of the Greens I support the amendment. Indeed, I support all the amendments moved by the Hon. Dr Arthur Chesterfield-Evans. Requiring a bond seems particularly reasonable. I understand that the amendment is not supported by either the Government or the Opposition. Historically, when the environment has been damaged the offending party simply gets away with it, leaving the Government to foot the bill and right the damage. So, requiring a bond would seem to be fair. Bonds are required by rental tenants, and they are used in many aspects of our activities in society. A bond for a facility in such a sensitive area would seem to be reasonable.

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.02 p.m.]: The Government is unable to support this amendment, though it accepts that the use of bonds is a potentially useful mechanism available to the Minister if approval is granted for a telecommunications facility. Bonds will be used in appropriate cases. However, the need for a bond and its appropriate monetary value should be assessed on a case-by-case basis. Depending on the risk and the values to be protected, it could be inappropriate to include a compulsory provision in this legislation.

**The Hon. GREG PEARCE** [9.02 p.m.]: The Opposition agrees that while a bond is potentially a useful mechanism for the approval process it should be assessed on a case-by-case basis and should not be locked into the legislation.

#### **Amendment negated.**

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [9.03 p.m.], by leave: I move Australian Democrats amendment Nos 7 and 8 in globo:

No. 7 Page 3, schedule 1, proposed section 153D (4). Insert after line 20:

- (b) if feasible, an existing means of access to the proposed site of the lease, licence, easement or right of way is to be used, and

No. 8 Pages 3 and 4, schedule 1, proposed section 153D (4) (e), line 33 on page 3 to line 3 on page 4. Omit all words on those lines. Insert instead:

- (e) the proposed telecommunications facility is, if feasible, to be co-located with an existing structure or located at a site that is already disturbed by an existing lease, licence, easement or right of way on the land concerned.

Amendment No. 7 requires using an existing means of access to new telecommunications facilities if feasible. This would obviate damage by preventing the construction of new roads. It would encourage the use of

helicopters in the construction of telecommunications facilities, which is a common practice in the industry. Roads are potentially one of the most damaging aspects of the development of telecommunications facilities in national parks and other reserves. They provide access for arsonists, allow rubbish dumping, and are subject to greatly increased soil erosion. The construction of a steep four-wheel drive access track up a mountainside can increase soil erosion from 0.3 tonnes per hectare per year for pristine forest to 30 tonnes to 60 tonnes per hectare per year.

Amendment No. 8 requires the co-location of facilities, if feasible, so that the community can benefit from these facilities at the least environmental cost. This includes co-location of any new powerlines or cables within existing infrastructure corridors. Establishing telecommunications facilities in association with existing facilities is one of the most effective methods of preventing further damage to national parks arising from developments that are subject to this legislation. If it is not possible to co-locate a facility, the amendment proposes that it be located on a site that is already disturbed by an existing lease, licence, easement or right of way.

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.05 p.m.]: The Government supports amendment No. 7 as it is consistent with the intent of the bill to ensure that environmental impact is always minimised and, whenever possible, eliminated altogether. Using existing means of access when feasible is certainly in keeping with the aim of the bill. The Government also supports amendment No. 8, which, again, is consistent with the intent of the bill to ensure that environmental impact is always minimised. Co-location of telecommunications facilities with other existing structures is clearly an appropriate outcome if that can be achieved. Importantly, unlike a similar amendment moved by Mr Ian Cohen, this amendment preserves an ability to locate a facility in other areas.

**The Hon. GREG PEARCE** [9.05 p.m.]: The Opposition also supports these amendments. It is a matter of balancing the need for expanding modern technology with minimising environmental impact. Therefore these two amendments are supported.

#### **Amendments agreed to.**

**The TEMPORARY CHAIRMAN (The Hon. Tony Burke)**: Order! As Australian Democrats amendment No. 3 has been agreed to, Greens amendment No. 3 lapses.

**Mr IAN COHEN** [9.07 p.m.]: I move Greens amendment No. 4 on sheet C-069I:

No. 4 Page 4, schedule 1, proposed section 153D. Insert after line 3:

- (5) The Minister, when granting a lease, licence, easement or right of way under this section, must, if feasible, ensure that:
  - (a) the proposed telecommunications facility is co-located with an existing structure within an existing lease, licence, easement or right of way on the land concerned, or
  - (b) if the proposed telecommunications facility cannot be co-located as referred to in paragraph (a), the facility is located at a site that is already disturbed by an existing lease, licence, easement or right of way on the land concerned.

I understand that this amendment is not supported by the Government. It would ensure that telecommunications facilities are established on existing structures rather than developed in undisturbed locations. Establishing telecommunications facilities in association with existing facilities is one of the most effective methods of preventing further damage to national parks from developments subject to this legislation. The amendment would require co-location of facilities so that the community can benefit from the facilities at the least environmental cost. This includes co-location of any new powerlines or cables within existing infrastructure corridors.

If it is not possible to co-locate a facility, the amendment proposes the next best alternative for ensuring the protection of the environment. It would require that mobile phone towers be located no more than 50 metres from freeways and highways. This constraint would provide the travelling public with mobile phone coverage but would not impact on remote bushland areas. The Government supported a similar Australian Democrats amendment, but I believe this amendment goes further, and appropriately so, in protecting forest areas from the encroachment of mobile phone towers. I commend the amendment to the Committee.

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.08 p.m.]: The Government accepted Democrats amendment No. 8. The amendment moved by

Mr Ian Cohen would ensure that, if feasible, an existing structure is to be used to co-locate a telecommunications facility. If that is not feasible, an existing disturbed area must be used. That is not a problem: the problem is that if the use of a disturbed area is not feasible, the amendment would ensure that the facility cannot be located within a national park. That would have the effect of excluding large areas from the scope of this bill and undermine its core purpose.

**The Hon. GREG PEARCE** [9.09 p.m.]: The Australian Democrats amendment provided a balanced approach to these issues, but the Opposition does not support the Greens amendment.

**Amendment negatived.**

**Mr IAN COHEN** [9.09 p.m.]: I move Greens amendment No. 5:

No. 5 Page 4, schedule 1, proposed section 153D. Insert after line 3:

- (5) The Minister must not grant a lease, licence, easement or right of way in relation to any land under this section for the purpose of the erection, use or maintenance of an above ground telecommunications facility unless:
  - (a) the granting of a lease, licence, easement or right of way for that purpose is identified in the plan of management for the reserved land concerned as being a permissible purpose for which the land may be used, and
  - (b) the location of any proposed telecommunications facility is identified in that plan of management.
- (6) Subclause (5) does not apply to the granting of a lease, licence, easement or right of way if the proposed telecommunications facility concerned is to be co-located with an existing structure within an existing lease, licence, easement or right of way or is to be located at a site that is already disturbed by an existing lease, licence, easement or right of way.

This amendment provides that telecommunications facilities must be included in a plan of management. The amendment requires plans of management for any proposed aboveground telecommunications facilities on new sites in national parks or other National Parks and Wildlife Service reserves. Thus, new proposals will require plans of management to be amended and placed on public exhibition. This will ensure that the public is notified of proposals and has the opportunity to comment on obtrusive proposals before they are approved. Otherwise, national parks could be developed with new telephone towers and other aboveground infrastructure without any need for public consultation. The first the public would find out about the proposal is when it is built, and by then it would be too late. I commend Greens amendment No. 5.

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.10 p.m.]: The Minister for the Environment has advised that this amendment was originally raised with his office with the intention of ensuring some form of public notification of applications received under proposed section 153D. The Government is not opposed to this, but it believes that the plan of management process is not the appropriate way to achieve this outcome. With this objective in mind, I give a commitment on behalf of the Government that all applications received under proposed section 153D will be referred to the relevant national parks regional advisory committee for comment, and advertised in newspapers circulating in the area in which the proposed the facility is to be located. A reasonable period of comment would be 21 days. Of course, all comments will be considered before a final decision is made. Therefore, the amendment is unnecessary.

**The Hon. GREG PEARCE** [9.11 p.m.]: Having regard to the commitment just given by the Minister, the Opposition also considers the amendment unnecessary.

**Amendment negatived.**

**Mr IAN COHEN** [9.11 p.m.], by leave: I move Greens amendments Nos 6 and 7 in globo:

No. 6 Page 4, schedule 1, proposed section 153D. Insert after line 3:

- (5) The Minister must not grant a lease, licence, easement or right of way under this section that would allow the placement of aerial powerlines or aerial telecommunications cables.

No. 7 Page 4, schedule 1, proposed section 153D. Insert after line 3:

- (5) The granting of a lease, licence, easement or right of way under this section is taken to be an activity within the meaning of Part 5 of the *Environmental Planning and Assessment Act 1979* that is likely to significantly affect the environment (including critical habitat) or threatened species, populations or ecological communities, or their habitats. Nothing in this subsection allows the erection, use or maintenance of a telecommunications facility that would otherwise be prohibited.

Amendment No. 6 relates to the undergrounding of cables and powerlines. Telecommunications facilities, while they are often on the cutting edge of technology, can require external power sources. If external electric power is required there is a need for power cabling. In some cases there may be a need for telecommunications cabling. This amendment will ensure that all cabling is placed under the ground, where it is protected from fire hazard and tree fall. That will not damage the environment, because wide easements that can scar the landscape, fragment habitat and create a barrier for the movement of some animal species will not be needed. Solar-powered facilities are a serious alternative to providing access to grid power. Repeater stations outside national parks can also be used to avoid coaxial cabling in national parks.

Given that telecommunications facilities are likely to cause significant environmental impact to visual, cultural and natural values, it is appropriate to require that each proposal is carefully examined and subjected to public comment and careful review. The most appropriate means to ensure that the national park environment is protected and that the concerns of the community are met are by subjecting each development to an environmental impact statement. That is exactly what amendment No. 7 would do. It would provide an opportunity for the public to comment on proposals during an exhibition period of at least 28 days and require that the full extent of the environmental impact be documented. Such measures are currently required for matters as small as a concrete batching plant in a rural area, so it is not unreasonable to ensure that our best natural environments are protected by such a measure. I commend Greens amendments Nos 6 and 7 to the Committee.

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.13 p.m.]: The Government is unable to support Greens amendments Nos 6 and 7. They would serve to limit the operation of the legislation to such an extent that its core purpose would be destroyed. The bill does not deal explicitly with power lines, but I understand that other sections of the National Parks and Wildlife Act already deal with such infrastructure. Therefore, the amendment would result in a set of confused provisions in the Act that the Government cannot support. Greens amendment No. 7 would require in all cases that an environmental impact statement [EIS] be prepared. This is simply unnecessary. It is entirely possible that the placement of a facility will have a negligible or nil environmental impact—for example, the location of a small antenna on an existing structure. To require an EIS to be prepared in such circumstances would be ridiculous. The existing test in the Environmental Planning and Assessment Act as to whether an EIS is necessary should continue to apply.

**The Hon. GREG PEARCE** [9.14 p.m.]: The Opposition agrees that the provisions in relation to power lines are sufficiently dealt with in the Act and therefore we do not support amendment No. 6, as it may create some confusion. In relation to amendment No. 7, we note that the bill places a great deal of responsibility on the Minister to ensure minimum environmental impact of infrastructure on the national park estate. We believe that the appropriate way to proceed with these important pieces of technology is for the Minister to have that responsibility. Accordingly, we do not support the proposition that there be an individual environmental impact statement on every occasion.

#### **Amendments negatived.**

**Mr IAN COHEN** [9.15 p.m.]: I move Greens amendment No. 8:

No. 8 Page 4, schedule 1, proposed section 153D. Insert after line 3:

- (5) The Minister must not grant a lease, licence, easement or right of way under this section in respect of land that is within an area designated as a remote natural area in a plan of management or an Aboriginal area.

The best, most natural areas and culturally sensitive sites should not be subject to any development, including telecommunications facilities such as phone towers and fibre optic cables. This amendment will ensure that Aboriginal areas and remote natural areas that are designated in a plan of management are not subject to these developments. I commend Greens amendment No. 8, a very important amendment, to the Committee.

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.16 p.m.]: The Government is prepared to support Greens amendment No. 8. As was the case with the amendment concerning wilderness areas, the Government accepts that some land of high conservation value and land with high Aboriginal cultural heritage value should not be included within the ambit of proposed section 153D. The Minister for the Environment has advised that the designation of "remote natural area" is somewhat rare in that it predates the Wilderness Act. It is entirely possible that over time this designation will progressively be removed from the plans of management simply because new legislation has made it redundant. Of course, that will only occur following extensive community consultation.

**The Hon. GREG PEARCE** [9.17 p.m.]: The Opposition is also prepared to support the amendment in relation to wilderness areas, and we agree that the same arguments apply in relation to remote natural areas, if there are any at the moment, to areas of high conservation value, and to Aboriginal heritage areas. Accordingly, we support Greens amendment No. 8.

**Reverend the Hon. FRED NILE** [9.17 p.m.]: I am concerned about the reference to "an Aboriginal area". The Hon. Greg Pearce referred to an "Aboriginal heritage area". The amendment does not say that; it says "Aboriginal area". I have been to some Aboriginal areas that do not have any mobile phone connections and the people there would love to have a tower nearby. Aboriginal people use mobile phones. The Government should clarify whether this provision will restrict the provision of telecommunications in remote Aboriginal areas. Aboriginals have as much right to access mobile phones as the white community. In other words, can the Aboriginal people agree to have a tower for their own use and assistance?

**Mr IAN COHEN** [9.18 p.m.]: The clear intent of the amendment is that we are talking not about Aboriginal areas where people might be living but about designated areas of significance to the Aboriginal community within national parks and wilderness areas. The term "remote natural area" clearly indicates that we are talking about Aboriginal areas other than where Aboriginal people are living. There are less than 10 special Aboriginal areas in New South Wales. We are talking about quite specific sites in what is essentially the national park estate.

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.19 p.m.]: To reinforce the point made by the honourable member, I am advised that Aboriginal areas are a specific reserve category under the National Parks and Wildlife Act. They do not cover Aboriginal communities as such, but rather areas of cultural significance.

**Amendment agreed to.**

**Mr IAN COHEN** [9.20 p.m.]: I move Greens Amendment No. 9:

No. 9 Page 4, schedule 1, proposed section 153D. Insert after line 3:

- (5) The Minister must not grant a lease, licence, easement or right of way under this section for a term that exceeds five years (including any option to renew).

There was also a need for the public to retain a firm grip on the national park estate and to ensure that there is an opportunity to regularly review the terms and conditions of the leases and licences for telecommunications facilities. This amendment ensures that the tenure of leases, licences, rights of way and easements is limited to no more than five years. This will ensure that the presence of the telecommunications facilities within national parks and other reserves is kept under review. At present the leases, licences, easements or rights of way can be issued for an indefinite period. The Greens believe that this is a reasonable amendment.

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.21 p.m.]: The Government cannot support the amendment. The Government believes that, whilst time limits on leases, licences, easements and rights of way may be appropriate in certain circumstances, it would be inappropriate to legislate a maximum length of time, let alone five years. It would be far better to consider this issue on merits when applications are received. It should also be pointed out that proposed section 153D (4) (c) will require redundant facilities to be removed. That is, only operational facilities will be allowed to remain in place.

**The Hon. GREG PEARCE** [9.22 p.m.]: The Opposition does not support the amendment either. If the Minister, in considering applications and in exercising what we consider to be a very important responsibility to ensure that there is minimal environmental impact, considers on a case-by-case basis that there should be conditions relating to review of the grant of the easements or other rights, then the Minister can do that. We note that proposed section 153D (4) (c) includes this provision for the removal of a facility after the facility becomes redundant. We expect that in approving the facilities the Minister will make certain that appropriate provisions are put in place to ensure that that provision is enforced. We do not support the amendment.

**Amendment negatived.**

**Schedule 1 as amended 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 Ms Lee Rhiannon agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Member's Business item No. 38 outside the Order of Precedence, relating to the report on the review of the Office of the Inspector-General Department of Corrective Services, be called on forthwith.

#### Order of Business

#### Motion by Ms Lee Rhianon agreed to:

That Private Member's Business item No. 38 outside the Order of Precedence be called on forthwith.

### INSPECTOR-GENERAL OF CORRECTIVE SERVICES REVIEW

**Ms LEE RHIANNON** [9.25 p.m.]: I move:

That this House take note of the report on "Review of the Office of the Inspector-General Department of Corrective Services" dated May 2003 and tabled in this House on 24 June 2003.

The Greens believe that in the light of the report on the review of the office of Inspector-General of Corrective Services, which was tabled by the Minister for Justice, we must urgently revisit the issue. Given the secretive nature of this review, and the curriculum vitae of those who conducted the review, the conclusion was by no means a surprise. The position of Inspector-General was always going to be axed. What was surprising, however, was that this axing was such a blatant hatchet job. There is hardly even a pretence of objectivity in the review. The Department of Corrective Services wanted to get rid of a thorn in its side and it hired a hit squad to do the job. From my reading of the report, it seems that all Mr Avery and Mr Dalton did was take dictation from the department.

The report attacks the office of Inspector-General largely by attacking the former inspector-general for being "adversarial". It ignores the fact that independent oversight of a department inevitably involves some conflict. Presumably, the department would have preferred the Inspector-General to be a lapdog rather than a watchdog. But that is no reason to get rid of the office. In fact, it suggests that the Inspector-General was doing a good job. If the department did not occasionally feel some pressure from the Inspector-General, the Inspector-General would not have been earning his money. But the review shows that Mr Dalton and Mr Avery think a watchdog should wag its tail but should not bark. With this as their starting point the two former commissioners went about amassing evidence to support their prejudices.

**The Hon. John Hatzistergos:** Why make it personal?

**Ms LEE RHIANNON:** I acknowledge the interjection. The starting point of making it personal was with Mr Dalton and Mr Avery. I am not making it personal; I am just commenting on how they handled a report. They did not do it objectively. It really is one of those standout reports in a whole different realm—

**Reverend the Hon. Fred Nile:** That is in your opinion.

**Ms LEE RHIANNON:** Yes, at no stage have I said that I am speaking on behalf of others. This flawed Dalton-Avery report is the document Cabinet will use to decide the future of the Inspector-General. The Greens have put forward this motion as a way of providing an alternative source of information for the Cabinet's decision. On the one hand Cabinet members can read a biased, one-sided report based on a secretive review. If they only do this, they will surely make the decision the Department of Corrective Services wants. The option is to read *Hansard*, canvass community opinions and make a decision based on an extensive, reasoned public debate.

The position of the Greens in this debate is simple. We believe the role of the Inspector-General should be maintained. The review argues that the Ombudsman can do the Inspector-General's job and that duplication exists in the two offices. Debate has been conducted on this issue and the Ombudsman has sent the Greens a letter arguing that his office is capable of doing the job.



**The Hon. John Ryan:** Did you get a letter from him?

**The ACTING-PRESIDENT:** Order! Interjections are disorderly at all times. The honourable member should address her comments to the Chair.

**Ms LEE RHIANNON:** The Ombudsman responded to the Greens after the last debate. In the letter he claims he has the power to investigate discretionary decisions of the department, and regularly does so. Justice Action refers to another Ombudsman's office official who stated that the Ombudsman does not perform a review role in individual cases in which discretionary decisions are made by public authorities such as the Department of Corrective Services. The Ombudsman's office is sending out contradictory signals about its power. Perhaps this debate will help clarify that uncertainty. However, the Greens believe that this demonstrates the need to keep the office of Inspector-General.

The prison system is one of the most difficult and sensitive areas of government, and that reinforces the need for this debate. Even given the Ombudsman's work there is room for more oversight. Moreover, an alternative option has not been canvassed by the review. The Government could remove the duplication by transferring all prison complaints from the Ombudsman to the Inspector-General and reallocate the appropriate resources. Surely that option should be on the agenda during this review. The Greens believe that the money allocated to the Inspector-General has been well spent. The Inspector-General's office has produced a large number of helpful reports.

The former Inspector-General, Mr Lindsay Le Compte, drew attention to disciplinary issues surrounding Commissioner Ron Woodham. Under the model the Department of Corrective Services is proposing as a replacement for the Inspector-General these issues would never have seen the light of day. Interestingly, once the Inspector-General made the complaints, even Mr Dalton and Mr Avery thought they were important. Recommendations Nos 5 and 6 of their report seem to relate to the Inspector-General's work on the Woodham affair; that is, performance and promotion at the top levels of the department. That issue still has not been resolved. The Greens had hoped to see the Inspector-General's role strengthened, not abolished. His important and effective work must be allowed to continue. If duplication is to be eradicated, then the Ombudsman's powers in this area should be handed to the Inspector-General.

The Department of Corrective Services must not be allowed to get away with this attempt to become its own watchdog. That is very dangerous and we must resist it. The office of the Inspector-General is being punished for being tough, fearless and doing its job. The Greens congratulate the former Inspector-General. Although he has been vilified in this report and in some other areas, we believe that with time the significance of his job will be acknowledged. I look forward to this debate and to hearing contributions about the future of the office of the Inspector-General. I urge honourable members to remember that prisoners have rights, and that those rights are tenuous. Therefore, a body independent of the department is vital in maintaining, minimising and, hopefully, eradicating the abuse to which prisoners are so often subjected.

**The Hon. JOHN RYAN [9.35 p.m.]:** The Opposition supports this opportunity to review the report produced by Mr Avery and Mr Dalton into the office of Inspector-General of Corrective Services. I note that the main recommendation of the report is that the office of Inspector-General should be abolished. Interestingly, it is even suggested that the independent Official Visitors should become staff of the Department of Corrective Services by transferring their operations to the Directorate of Probity and Performance Management, which is an agency within the department. The value of the Official Visitors has been that they have been independent of the department and have been seen as an external agency able to make contact with inmates. Their role would be destroyed if they were to become the responsibility of the directorate.

To illustrate what I mean by additional scrutiny of the Department of Corrective Services I will relate an incident that occurred in November last year when the Commissioner of Corrective Services, Ron Woodham, spoke to a group of union delegates assembled in PSA House for a periodic State delegates management meeting involving senior managers. His speech was spiked with the bad language that is characteristic of his utterances. It contained a stunning threat. I will not quote Mr Woodham directly because of the profanities he used. He said that the place was leaking like a sieve and that the department knew who the culprits were and that they would be crushed very soon.

**The Hon. John Hatzistergos:** I have heard that one before.

**The Hon. JOHN RYAN:** I have heard it many times from many people and I have no doubt that it is true. I understand that similar comments were made to a select group of governors meeting at the department's

head office in Roden Cutler House. They were told that anyone who went to an external agency with a complaint would be crushed. If the chief executive officer of an organisation such as the Department of Corrective Services has no inhibitions about making threats of that nature to senior staff in a reasonably open forum, I suggest that the department is in need of closer and more rigorous scrutiny, not less.

I have brought to the attention of the House on a number of occasions an incident involving a corrective services officer who assisted a committee of this House with information and who was subjected to a criminal investigation for doing nothing more than having contact with members of Parliament. In case I am accused of lacking balance—I intend to demonstrate that this report is not balanced—I acknowledge two key indicator areas in which the department performs well. The New South Wales prison system has a low level of escapes and deaths in custody. In many other respects the department is in deep trouble. The recently prepared—although at the moment secret—public service profile indicates that the department has one of the worst sick leave records in the New South Wales public service. According to the Productivity Commission of New South Wales, the department achieves the second worst recidivist rate in the nation, and that rate has been getting worse. Given that that is the benchmark for what the department is supposed to produce, that is, reformed offenders, there could be no more telling assessment of its performance.

I will not detail my other concerns about this issue, but I maintain that the department also has a basic problem with a culture that is conducive to corruption. It would appear that the only trouble with the Inspector-General was that he was too effective and rigorous in identifying and dealing with that problem culture. The report on the review of the office of Inspector-General by Mr Avery and Mr Dalton is an extraordinary document. It is a matter of record that it was produced in a rush, that the hearings were conducted in secret, that many of the documents on which it was based are still secret and that it lacks so much balance that I assign it no credibility.

Notwithstanding the reputation of its authors, it is no surprise that two former chief executive officers of government departments would conclude that a watchdog looking over a CEO's shoulders would be unnecessary. I do not mean in any way to be insulting, but an illustration of their blindness to the need for an independent oversight body is that one of them was in charge of the Department of Corrective Services when its Minister, Rex Jackson, was perpetrating one of the State's legendary acts of corruption. A feature of the Avery-Dalton report that has not escaped media attention is that it makes comments that can only be described as partisan political gibes. Avery and Dalton quote at length comments of the former Leader of the Opposition as an endorsement of their view, as some sort of means of embarrassing members of the Opposition into concurring with their recommendations.

**The Hon. John Hatzistergos:** Put that in perspective.

**The Hon. JOHN RYAN:** I am referring to the report. The Avery-Dalton report was supposed to independently and objectively review the work and achievements of the Inspector-General. Any pretence it may have had in claiming objectivity is completely blown away by its hopelessly one-eyed presentation of the case for abolishing the office of Inspector-General and by the profoundly unobjective, possibly even offensive, language it uses to describe the former Inspector-General, Lindsay LeCompte. I quote a section of the report to illustrate:

From the outset, the Inspector General adopted an adversarial approach with the Department Of Corrective Services which created strong negative tensions. In his initial address to a conference of Governors of Correctional Centres, the Inspector-General adopted a heavy-handed approach. Apparently one of his other sins was that he "lectured recruits" about integrity, and according to this report, "The alleged aggressive, combative, adversarial approach adopted by the Inspector-General has entered into corrections folklore."

Sadly, some of the comments made in the report bear a strong resemblance to the comments I heard Mr Avery make about the former New South Wales Ombudsman, David Landa. I recall Mr Avery accusing him of drumming up complaints by going around the State informing people about how they could complain about inappropriate action from police. I ask: Whose folklore? I know plenty of people who are trained observers of corrections departments who would have made the case that Mr LeCompte was not tough enough. When dozens of his reports lay unreported to Parliament and virtually ignored by the department, his only response was to mildly record some of the detail in his annual report, which, for the most part, was released a year in arrears and appended to the department's own annual report. While many of Mr LeCompte's comments about the department were strong enough to make sensational newsprint, his reports were rarely in the media, and I do not even recall him ever holding a press conference.

**The Hon. John Hatzistergos:** Did you ever read them?

**The Hon. JOHN RYAN:** I have. The review does not present a balanced assessment of the work done by the Inspector-General. Frankly, it is nothing more than a transparent and unambiguous attempt to get square with a watchdog who, in the words of one media headline, "had the temerity to bark". I quote a section of the report:

Without losing its impudence, the Office of Inspector General could have been very influential and constructive in helping to bring about or accelerate change within the Department of Corrective Services.

While I welcome the admission from the reviewers that the department needs change, they had suggested that the Inspector-General has not had any influence. That is just not true. Sadly, the review has been written without reference to any of the many positive achievements of the Inspector-General. For example, just today in question time the Minister for Justice heaped great praise on a scheme within the Department of Corrective Services to receive complaints from inmates by telephone. That scheme was started by the Inspector-General, and it occurred because he demanded that inmates have telephone access to him. The New South Wales Ombudsman thought that the telephone complaints scheme was so good that he also adopted it.

Though the department will never acknowledge it, the Inspector-General has been responsible for significant reforms to the management of inmate property, inmate applications and selection procedures used to appoint deputy governors, governors and more senior officers—saving the department a substantial amount of money. A section of an internal document relating to the protected disclosures policy appended to a report by the Inspector-General entitled "Status Report, Review of Human Resource Practices in the DCS" reads:

The assistance of the Inspector-General in the development of new policy has been much appreciated.

Yet there is no reference to these sorts of achievements in this report. It is important to point out that the Department of Corrective Services prepared this so-called independent review. The Directorate of Probity and Performance provided its secretarial service. This appears to have compromised—

*[Interruption]*

The secretarial services for the preparation of this report were conducted in Sir Roden Cutler House. I think we can reasonably assume that the Directorate of Probity and Performance prepared the various drafts that the two authors of the review used to complete their report. I note that the branch did not even have the sense to clean off their fingerprints. Page 14 of the report displays glowing comments about the Directorate of Probity and Performance, and the suggestion that it take over part of the role of the Inspector-General. I agree that the creation of the Directorate of Probity and Performance in the Department of Corrective Services is a step forward. However, it is no substitute for the Inspector-General in regard to inspection reports. For a start, there is no requirement for the directorate to report to Parliament, and thereby to the public, and its reports remain a closed shop. No-one would ever know what was in them or whether they were implemented.

One of the phoney arguments used in the review to justify the abolition of the office of Inspector-General is that the Ombudsman does the same, or a better, job. I do not wish to spark a war with the Ombudsman, but I ask whether that is a fact. In his most recent annual report the Ombudsman reported that he received 4,057 complaints, including oral and written complaints, from detainees in juvenile justice centres and inmates in both private and public gaols. Do members know how many of these 4,000 complaints were formerly investigated? Only three. Interestingly, in the same annual report the Ombudsman also reported on an inspection of the Mulawa women's prison that he undertook during 2001. One has only to compare the mild comments of the Ombudsman with the rigorous, straightforward and well-researched report of the Inspector-General about Mulawa. I dare the Minister for Justice to release the other report, which he holds in secret—a report produced by the Inspector general on the other MRRC. The public could then determine whether the Inspector-General is doing his job by allowing his work to be circulated. The only reason the public has been able to see any of this material is that the Parliament ordered the papers to be tabled so they could be seen by the public.

**The Hon. John Hatzistergos:** Did we oppose it?

**The Hon. JOHN RYAN:** No, you did not oppose it, but the former Minister could have published those reports long ago, without the need for any action from this Parliament. It is no wonder that the review report makes the observation:

The Department of Corrective Services respects the way in which the Office of the Ombudsman operates. Although it does not always welcome the outcome of investigations by the Ombudsman it acknowledges that invariably it has been properly consulted and invited to respond to matters raised by the Ombudsman before a final report is tabled.

It is no wonder that the Department of Corrective Services loves the Ombudsman—he is easier on them. He only investigates three matters a year, and when he conducts a more rigorous review it provides nothing like the sort of detail that is provided by the Inspector-General. I remind the House that, with respect to Mulawa, the Inspector-General reported that the building was in a dangerous state with regard to fire safety. He quantified staffing problems, reporting that on any one day up to two-thirds of the staff were on leave. He reported that Mulawa gaol accounted for nearly half of the lockdowns imposed on the entire corrections system, and that Mulawa was the site of the highest incidence of violence in the corrections system. If one were to compare those comments with the comments of the Ombudsman, one would wonder whether they were talking about the same place.

I do not suggest that the Ombudsman should not continue his current role with regard to complaints. I believe it would be a good idea to rationalise the role of the Ombudsman to that of a complaints department. The Ombudsman is probably the best place for individual complaints of inmates to be resolved. That accounts for only about 15 per cent of complaints, and that is hardly a great number when one considers that 4,000 complaints are made. I have no problem with that. Indeed, if the Minister wanted to transfer Official Visitors to the Ombudsman as well, so that his role would continue and be more streamlined, I would not disagree with that. But there is a role for an independent watchdog to conduct inspectorial visits on the Department of Corrective Services and to report fearlessly and objectively on the outcome of those visits. There is no doubt that Mr LeCompte has been doing a good job.

Some suggest that some of the language of Mr LeCompte about the Department of Corrective Services is excessive. Mr LeCompte was very successful—much to the aggravation of the Department of Corrective Services—in pursuing the procedures surrounding the selection of senior officers. The truth is, if you do not select the right people, you waste a lot of money. The Inspector-General was simply trying to get the department to implement the recommendations of the Independent Commission Against Corruption with regard to the appointment of senior staff. It has been suggested that the Inspector-General was rough on the department. I ask honourable members to listen to the language of barrister Brian Knox, who was appointed by the department. Of course, Mr Knox's report has never been seen either, and I challenge the Minister to table that report. I see no reason why it should be kept secret. I ask members to assess the difference between the language used by Brian Knox and that used by the Inspector-General. Mr Knox said:

Until the Department adopts a new, more contemporary and "people friendly" approach to the handling of its grievance and disciplinary matters, its culture will remain largely moribund and individual performance will be impeded.

The truth is that in any one year there have been in excess of hundreds of thousands of dollars paid to individual public servants within the Department of Corrective Services, and the Minister simply says it is too much effort to find out. Well, we will see about that. I am sure it is not too much effort to find out about it, and we will find out about it. In particular, I look forward to finding out how much was spent defending Mr Woodham in the Administrative Decisions Tribunal against the rather offensive remarks that he made to an Aborigine on one occasion. Members can read that for themselves. The offensive language that Mr Woodham used to that officer is on the public record. I wonder how much was paid to defend him? The hide of the Commissioner and the Department of Corrective Services in criticising how much is spent by the office of the Inspector-General! The truth is, a million dollars is an enormously modest sum when one considers the difference between having a full royal commission into the Department of Corrective Services—which may well happen—and what might have happened but for the activities of the Inspector-General.

**The Hon. John Hatzistergos:** You actually called for one.

**The Hon. JOHN RYAN:** I still would.

**The Hon. John Hatzistergos:** What about the Inspector-General? Do you want to have a royal commission as well?

**The Hon. JOHN RYAN:** Because you want to gag the Inspector-General. As a result of the efforts of the Inspector-General there have been fewer appeals to the Government and Related Employees Appeal Tribunal because he has made the Department of Corrective Services selection and procedures more rigorous. I want to make a brief comment about the correspondence we received from the ICAC with regard to its investigation, simply because I have no doubt that the—

**The Hon. John Hatzistergos:** Point of order: We are not debating the ICAC letter. This is not a take-note debate in relation to the ICAC correspondence. We are debating the report of the Review committee into the Inspector-General. That letter has nothing to do with office of the Inspector-General—

**The Hon. John Ryan:** I hope you observe the same thing.

**THE ACTING-PRESIDENT:** Order! The Hon. John Ryan will cease interjecting during the point of order.

**The Hon. John Hatzistergos:** This is what this debate is about, that is what you asked for, that is what you got. Start debating the report and tell us why we should keep this office.

**The Hon. JOHN RYAN:** I accept the point of order as long as the Minister does not make any reference to that letter himself. I fear that, as he attempted to do in question time the other day, he is going to use that letter as a means to discredit the Inspector-General. If he does, then the letter is very relevant. The Minister said a moment ago I should talk about the Inspector-General.

**THE ACTING-PRESIDENT:** Order! The Hon. John Ryan will resume his seat. The honourable member cannot argue that the matter is relevant because he supposes that it may be raised later in the debate. That is not appropriate.

**The Hon. John Hatzistergos:** Further to the point of order: We are having this debate for the purpose of allowing members to ventilate their views on a report. So far we have had a few tiddly bits from Ms Lee Rhiannon, and we have had nothing from the Hon. John Ryan but the regurgitation of a whole series of allegations and counter-allegations and attacks that we have heard before in many cases.

**The Hon. JOHN RYAN:** Madam Acting-President, you interrupted my speech because you thought it was against the point of order—

**The Hon. John Hatzistergos:** It is.

**The Hon. JOHN RYAN:** What are you doing about him? He is just wasting time.

**The ACTING-PRESIDENT:** Order! The contribution of the Hon. John Ryan should remain relevant. The House is engaged in a take-note debate on the report into the review of the office of the Inspector-General of Corrective Services, and the honourable member should confine his comments to that report.

**The Hon. JOHN RYAN:** There is no doubt that the reason the Government does not want to traverse on to that is because it simply wants to gag any discussion about it. I accept that. I believe that has been well-documented. The truth is that if the Minister dares to make any attempt to use that report as a means to discredit the Inspector-General without having it debated in the Parliament—given that it was in regard to a reference by the Parliament—then he will stand condemned.

**The Hon. John Hatzistergos:** I am not here to discredit the Inspector-General.

**The Hon. JOHN RYAN:** You attempted to the other day in question time. The Opposition believes that there is a role for the continuation of the office of Inspector-General. There is ample evidence—which sadly lies secret—that this report was not adequate. As I said, the best the Minister has been able to suggest is that, in an assessment by the Ombudsman on one of the stakeholders, and one of the potential beneficiaries of this action, there is a 15 per cent overlap between what the Inspector-General does and what the Ombudsman does. That is 85 per cent left over. I suggest that is an excellent case for continuing with the office of Inspector-General. The only objection to the office of Inspector-General that has come from the Department of Corrective Services is that he has been too rigorous. In fact there is ample evidence, which I could argue all day, as to why the department needs a great deal more than the Inspector-General. I agree that a royal commission would be sufficient. Nevertheless, at the very least, unless the Minister can say in his contribution how he will establish something that is more open and more transparent than what we currently have—the currently secretive arrangements—there is every reason to continue with the Inspector-General, if only for the fact that at least once a year we get a report to the Parliament from the Inspector-General, and we will not get that from the directorate of the office of probity. All we will get are reports—

**The Hon. John Hatzistergos:** Not from the Ombudsman?

**The Hon. JOHN RYAN:** We do, but they are not going to deal with the same things, are they? The lay visitors will be dealing with some matters, and the Ombudsman with others. We will not ever see them. I believe there is every reason to continue with the Inspector-General. [*Time expired.*]

**Reverend the Hon. FRED NILE** [9.55 p.m.]: I acknowledge that the Government has agreed that this report on the review of the office of Inspector-General will be debated for approximately one hour tonight. When we considered the motion earlier I made the point then, and I repeat, that it seemed logical that this review report go to the Cabinet—which I understand is the correct procedure—then the Cabinet will consider the review, the great deal of information it has access to, not just the review report, and then make a decision. Cabinet may not make a decision, but I assume legislation will then be introduced if Cabinet wishes to abolish the office of Inspector-General, and it will be debated in this House. In other words, we are pre-empting a discussion by the Cabinet. I believe Ms Lee Rhiannon said—and I think the Hon. John Ryan implied as well—that if we have this debate we will influence Cabinet. I do not believe too many debates in this House influence Cabinet. Cabinet has its sources of information from all over the State—

**Ms Lee Rhiannon:** I didn't say "influence". I said the debate would take note of the decision.

**Reverend the Hon. FRED NILE:** That is the same point. I do not believe that the Premier or any Cabinet Minister would sit down and read this debate. I would be very surprised. I have never seen any evidence of that in the 22 years I have been here. I am not criticising Cabinet. Cabinet is the Government; it makes decisions and then we debate the decision. We may agree with it, we may reject it, or we may amend it. That is a process of this House—the House of review. We do not normally pre-empt Government decisions. That is what this debate seems to be doing now. We are assuming that at some point the Government will have a bill to abolish the position of Inspector-General.

Another matter of concern to me—and this has happened with the speech of the Hon. John Ryan—is that the debate could turn into a personal attack on the two officials who conducted the review, Mr John Avery and Mr Vern Dalton, who are two very independent thinking people who and I do not believe can be manipulated or fooled. I have not had any great contact with Mr Dalton although I have with Mr Avery over the years, especially when he was police commissioner, and prior to him becoming police commissioner. Mr Avery is a man who is well recognised as a person of integrity and as a person who would not bend to the Government's whims, or manipulate a report and not conduct a proper review. That is my opinion. I know the Hon. John Ryan does not hold the same view—that is his right.

I have been looking at the review report, and it has a list of all the submissions received by the review. There were submissions from the acting Inspector-General of the Department of Corrective Services, the Deputy Ombudsman, and the Justice Action Group; from the honourable member for Bligh, Clover Moore, who has been very active on prison issues; from New South Wales Greens, who fulfilled their obligations as a group concerned about what is happening in prisons; from the Indigenous Social Justice Association; from John Thornton, Official Visitor, and Kay Valder, Official Visitor, of the Justice Action Group; and from the Hon. Peter Breen.

If the Coalition had deep concerns about the Inspector-General, why did the Hon. John Ryan or another member not make a submission to the inquiry? The two officers who conducted the review would have then given consideration to the submission in their final report. Perhaps it was an omission and the information should have been supplied to the review. For those reasons I would prefer to wait for the Government, through Cabinet, to make a decision. We will then respond and the Government will have to justify, as it normally does, why it has recommended certain action with respect to the Office of the Inspector-General.

**The Hon. PETER BREEN** [10.00 p.m.]: I wish to make a few brief remarks on this important debate on the review of the Inspector-General of the Department of Corrective Services. I have always believed that the Inspector-General has a role to play with respect to policies of the Department of Corrective Services and staff and management issues. I agree with the Hon. John Ryan that the Ombudsman may be in a better position to receive complaints by prisoners. However, I am concerned about the number of complaints actually investigated by the Ombudsman, if the figures given by the Hon. John Ryan are correct.

The report raises two issues that I believe have a bearing on the Office of the Inspector-General. One relates to inmate development committees and the other relates to Official Visitors, in whom inmates have a great deal of trust. Prisoners regard them as competent and effective interveners when they have problems. The inmate development committees and Official Visitors owe their standing in the prison system to the work of the Inspector-General. The Inspector-General has raised the profile of both those offices. Indeed, recommendation No. 2 of the review states:

Existing responsibilities be transferred to the Office of the Ombudsman except for Official Visitors.

Of course, this leaves Official Visitors in limbo if the other offices are transferred to the Ombudsman. However, I interpret that as recognition—and, I hope, enhancement—of the important role of Official Visitors. It is worth looking briefly at the history of the position of the Inspector-General when considering the Inspector-General's role with respect to complaints. In 1996, when the position was first contemplated by the Labor Government, the then Minister, Bob Debus, in answer to a question in the other place, said:

The Inspector-General of Corrective Services will scrutinise and streamline internal investigation processes to ensure improved fairness and discipline in our gaols. In particular, the Inspector-General will improve the management of the New South Wales prison system ... The kinds of complaints which occur in the system may seem trivial to outsiders but in the superheated world of the prison, such issues can produce explosive results.

Some issues of prisoners seem trivial by our standards. We often wonder how they can develop and blow up to such an extent that they cause confrontations, and often assaults and serious injuries. A couple of areas cause problems for prisoners. It is worth noting them in the context of this debate because, in my experience—which is only limited—the Inspector-General has been able to deal with these issues in a way that I believe the Ombudsman has been unable to. I refer to visitors—a matter of great concern to prisoners—and to what prisoners term "buy-ups".

As honourable members would be aware having read the weekend press, prisoners have accounts into which money can be paid. I know that the Minister has a concern about particular ongoing matters. Prison authorities have the power to withdraw money from the accounts of prisoners. Earlier in the week I raised with the Minister that the weekend before last certain prisoners had their bi-annual family visit day cancelled and certain money was withdrawn from their accounts. That is an example of something prisoners would complain about. I do not believe the Ombudsman has the same status and rapport with prisoners, with those who represent their interests or with community groups as the Inspector-General.

I know it is anecdotal evidence but it is my own experience that the Inspector-General enjoyed a certain role in and rapport with the community. I mentioned Official Visitors and inmate committees. I refer also to the fact that the Inspector-General met on a regular basis with community groups and played a role with those community groups and prisoners that the Ombudsman simply does not have—he has other functions. There are different divisions within the Ombudsman's office but the general public does not realise that. Therefore, prisoners, friends and relations do not have a benchmark to judge the effectiveness of the complaints mechanism or mechanisms for investigating prison authorities. Finally, I make an analogy between what is happening in the office of the Inspector-General and what happened to the Community Services Commissioner.

**The Hon. John Hatzistergos:** The Coalition supported it.

**The Hon. PETER BREEN:** I note the Minister's interjection. However, the Community Services Commissioner served a role in relation to the Department of Community Services that is not dissimilar to the role served by the Office of the Inspector-General. It seems to me that the Community Services Commissioner was undermined, first by advice from the Crown Solicitor and, second, by the Government suggesting that the Community Services Commissioner was operating outside his powers. This is exactly what is happening with the Inspector-General. There is a general undermining of the position to the point where the Crown Solicitor has said that he is acting outside his authority, there has been an investigation and a report, and inevitably we will see the demise of the Inspector-General in the same way we saw the demise of the Community Services Commissioner. I note that in 2002, when the position of Community Services Commissioner was abolished, the disabilities people said that the upshot was that the Crown Solicitor's advice was wrong; the commissioner never lost any powers. Unfortunately, this decision came too late to prevent the commission being dismantled.

I believe it will not be long before we look back on the Office of the Inspector-General and say exactly the same thing; that the Inspector-General was not acting outside his powers, that he was simply doing the job, under statute, that he was given by the Government. We will say that he did his job too well, that he created problems for the Government because he investigated complaints in the correct way, and then his position was gradually dismantled. It is a sad reflection on the prison community in New South Wales that the report on the position of Inspector-General is so negative. Indeed, it uses tough language, stating that the Inspector-General trespassed into certain things or supplanted the authority of the investigating bodies, and so on. That indicates little understanding of the important role played by the Inspector-General.

The Inspector-General is an important port of call for the prisoner population in New South Wales and their family and friends. The Inspector-General's position should not be lost at a time when the prison system is creaking under the weight of the prison population, outdated facilities—New South Wales is operating some of the oldest gaols in the world—lack of morale among prison authorities, general evidence that more and more

people in the prison system are concerned about loss of such things as education and privileges, people are being locked away in a cell for unreasonable lengths of time and so on. More and more we need the Inspector-General to keep an eye on things. Now we find that the position almost certainly will be diminished—if not removed—to the point that it is no longer effective as a watchdog. That will be a sad loss. I support the idea that the position of Inspector-General should be preserved and protected as a suitable way of keeping an eye on what is happening in the prison system in New South Wales.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [10.11 p.m.]: I support the role of the Inspector-General, Lindsay Le Compte, who is a respected public servant. He did the 20 reports that seemed to cause the Government so much embarrassment, including a report on the riots at Goulburn and Lithgow. I gather that some reports are still secret. The Inspector-General has been criticised in the report by Vern Dalton and John Avery for working in an adversarial framework. I have asked that justice in New South Wales be in a much less adversarial framework. The legal system comes from an adversarial framework, and most watchdog bodies operate in an adversarial framework. There is a long tradition of that.

If we could get more restorative justice in New South Wales that would be good. Certainly, this Parliament spends its life passing legislation that puts people in gaol for longer. It can hardly be said to be doing things in a less adversarial frame. I confess that my experience of prisons is limited to the inquiry of the Select Committee on the Increase in Prisoner Population, which horrified me. Then I saw much the same sort of thing in the mental health committee. What happened in both of those committees was pretty horrifying. The medical material from Richard Matthews, the head of Corrections Health, showed that 11 per cent of prisoners screened positive for psychiatric tests, 21 per cent have major depression, 68 per cent have opioid dependence or have abused opioid in the past 12 months, 56 per cent are amphetamine dependent or have abused amphetamines in the past 12 months, 49 per cent are alcohol dependent, and a large percentage are illiterate.

Something like 20 per cent of people in the prison population have not yet been sentenced, and a considerable percentage of them—56 per cent, from memory—were either found not guilty or had served more time waiting to get to court than they were sentenced to. So prisons have an immense influence on people's lives. There has been a huge growth in the prison population, from 6,342 in 1997 to more than 8,000 in 2002, and it is higher now. The budget has increased from \$341 million in 1997 to \$530 million in 2002, so there is a huge increase in the budget and a great deal of crowding within the system.

There is a ministerial reference committee on the prevention of violence in the corrections system which was instigated in the time of Minister Watkins. Again, most of the information I could find about that showed that the department was investigating itself. Since the boilermaker's decision, it has been a general principle that the people who judge should be external to the system. If ever a system needed input from outside and contact with the outside world to stop the growth of a culture that is totally different and much more brutal than that of the outside world, I believe it is our prison system.

All male cultures—in a sense the prison system, apart from the women's prison, is a male culture—tend to become brutal and develop a culture of their own. Prison culture needs to be kept open and looked at by someone who maintains the norms and values of the outside world. When I went to Grafton gaol I described the maximum security section as being a human zoo. It smelt like a zoo. The people were crowded in cages like at a zoo. They walked around with nothing to do, like animals pacing their cages. The smallest irritation could cause violence in such a system. When they want cocks to fight in the Philippines they put them in smaller and smaller cages until eventually they fight; and if they stop fighting they put them closer so that they will continue to fight until one is killed.

This image came to me as I looked at these gaols. When I heard about the rehabilitation programs that existed in theory I asked, "How many people are staffing these programs?" The prisoners said that the programs did not exist. It turned out that there were 1.5 people full-time equivalents in the gaol supervising a population of about 120, so there was little real rehabilitation. The diversion system for people with a psychiatric illness was almost at an embryonic stage. The development of the forensic side of prisons in New South Wales is absolutely primitive, compared to Victoria. Effectively, they call it a prison hospital but in fact it is just another part of the prison; the cages, uniforms and so on are exactly the same. It is a totally untherapeutic environment.

Rehabilitation and parole also need a great deal of attention. Certainly the number of people who are drug affected or mentally ill is so high that it is an abnormal and adverse environment for prisoners. The norms of a civilised society need to permeate into that culture. We need to know what is going on in the cells. These people will be released from that culture into society and will either reoffend or have to interact with the rest of



society while in their damaged state. Out of sight, out of mind might be all right in the short term, but it is not good for the people inside or for society as a whole.

As such, the argument for an independent oversight is absolutely overwhelming. The idea that the department should inspect itself as it internalises its own values is an absurd proposition. It is worrying to see such a report, which does a hatchet job on the Inspector-General. In the women's prison I saw the safe cells, as they are called; the prisoners were visible to the staff the whole time. As the people in the safe cells withdrew from drugs and became utterly depressed they would run against the wall and smash their heads against the wall. They would be put in straightjackets to try to stop this; then when they ran and bashed their heads against the wall they would have helmets put on them. So they were in straightjackets with helmets on, still trying to bash their heads against either the wall or the corner of the bed, which is merely a raised piece of concrete with a sponge mattress on top.

This is the depth of despair that we are dealing with in the prison system. The Law Society wrote a report entitled "New South Wales: The Convict State". This is very worrying. Members of the prison officers union are employed by the Department of Corrective Services. It has been pointed out that they get perks which can be withdrawn if there are too many complaints from the workers. So people are saying that their complaints do not always get carried across. I could go through the report in detail but I want to be brief. Certainly some of the comments have been looked at by Justice Action, which is a group of advocates for prisoners. They go to a good deal of trouble to arrange jobs for people coming out of prison, which makes a huge difference to the rate of reoffending. Justice Action points out that often in the report of the review of the Office of the Inspector-General of the Department of Corrective Services—the Dalton and Avery report—a considerable number of statements and assertions are made with no evidence or reference. They include:

Some submissions assert that existing agencies such as the Ombudsman cannot perform their complaints function adequately. This is simply not correct.

It is an unsubstantiated assertion. Another assertion on the page 9 of the report states:

Generally, the Ombudsman has the confidence of prisoners and external agencies.

Another assertion from that same page reads:

If the seconded police officers act inappropriately, improperly or corruptly in the performance of their duties a referral must be made to the Police Integrity Commission.

One might ask, by whom? The following statement appears at page 10 of the report:

... it appears that the Government intended ...

Surely there should be no doubt about what was intended in a legislative framework. On page 12 the following appears:

The Inspector-General is alleged to have been "captured by malcontented Officers" ...

And again on that page:

For some reason he is said to have obsessively pursued issues based on hearsay. Some assert that he frequently failed to test the veracity of information ...

Later on that page the report states:

A number of Governors claim ...

In other words, a whole lot of unsubstantiated assertions are made in the text of the report of the review of the office of the Inspector-General. Most of the recommendations from the review refer the watchdog role back to the department and to the control of the commissioner, Ron Woodham. Mr Woodham himself is the subject of an inquiry by the Independent Commission Against Corruption [ICAC] as a result of a report made by Mr Lindsay Le Compte, who was the Inspector-General. In a sense, the one who raised the concern that is being investigated by ICAC is now to be destroyed by forces that seem very much influenced by the Department of Corrective Services.

It is important to acknowledge, even at a philosophical level, that an external agency is needed to review the prison system and to acknowledge that there is a huge problem in the prison system. If the

Government will not accept that there is a huge problem in the prison system, perhaps we need a royal commission, because every bit of evidence I have seen suggests there is a problem. It also suggests that although the Inspector-General was almost one-out and not perfectly connected with prison visitors generally, in their motion they expressed support for the retention of his office. Prison visitors need to be strengthened as the foot soldiers of a meaningful inspectorate working on behalf of the community. If the Government cannot see this is important, it is even more limited than I thought it was. I ask that the Government retain the office of Inspector-General and try to humanise the prison system. That is the only way we will get a real system of justice in our community.

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, and Minister Assisting the Premier on Citizenship) [10.22 p.m.]: Before I deal with the thrust of the debate, I welcome the contributions by honourable members, particularly those who have read the report and constructively attempted to isolate the issues and address them. Sometimes they have done that in ways that I may not agree with, but they have made the effort to try to analyse the important issues raised, such as duplication, which some critics accept, and come to a sensible conclusion as to how the issue should be approached.

Let me go through a bit of history. Honourable members will remember that in 1974 there was a riot at Bathurst. The gaol was completely destroyed and a number of prisoners and prison officers were severely injured. Following that, the Government of the day set up an inquiry. As a result of that inquiry a number of changes occurred to the prison system to make it accountable in a way that the system had not known before. A corrective investigations unit was set up in the Police Department to provide independent oversight of the department to prevent criminal conduct. This is the agency that the Hon. John Ryan implicitly criticised in his remarks. It was set up as a result of the royal commission's recommendation to independently oversight officers of the department.

In 1985, while the Wran Government was in office, for the first time we had a system of official visitors assigned to prisoners to deal with complaints of prisoners. I make one thing very clear, because whatever happens this will be definite in the final outcome: official visitors play an important part in the internal oversight of the department. I will not have official visitors—who receive important complaints about inmates, about buy-ups, about visits, about things that a lot of people would think trivial—running off to external agencies to try to get redress. It is important that the department knows about problems first hand and deals with them immediately. I will not accept it waiting for months to have things investigated.

I know visitors cannot be there every minute of the day, but the hotline we have been trying in three prisons—and we are going to expand it to a couple more—is designed to fill the official visitors gap. So, when there is a complaint, however trivial it might be, it will be dealt with immediately. I have no problem in giving a break-up of those issues. Buy-ups are a big issue in the prison system. I have no problem in passing on that information to the external agencies so they can look at it as a systemic issue. However, I will not accept an individual's complaint first being handed over to the Ombudsman or the Inspector-General. That is a recipe for disaster in the prison system. That is exactly the sort of issue that led to the problems that Justice Nagle identified, because they were not able to be dealt with.

I have been to about two-thirds of the prisons since I have been the Minister. I will not criticise the Inspector-General. A number of prison officers have expressed satisfaction with Steve Griffin, the acting Inspector-General, and the service he provides. They understand, and I have explained it to them, that the first port of call must be to the department—in many cases to the governors, with whom they have good relationships—to speak to them about the issue and get an outcome. If for whatever reason they cannot get an outcome they should approach the next port of call, whatever that might be. Ultimately I want to know about it. I get the reports of the visitors every six months and I read them. Just recently one visitor wrote to me about an issue. I asked my office to arrange for that visitor to come in and speak to me because I wanted to discuss that issue.

The department is going to have to endure two levels of oversight. One is internal oversight, of which official visitors are part. The other is external. We are constantly talking about the oversight of the department. The department is overseen by some 13 agencies, apart from the Inspector-General. The Privacy Commission, the Anti-Discrimination Board, the Crime Commission, NSW Police, the Inspector-General and the Auditor-General are all there watching over every nook and cranny in the department.

I have no problem with a rigorous system of external oversight but let us come to the Inspector-General, which was an initiative adopted in 1995 by this Government. What led to it? Look at the reign of the

previous Government when Michael Yabsley was the Minister. I have been looking at Michael Yabsley's record. He started in an appalling way but he improved as he went on. He started to realise the problems that were occurring. There were riots at six prisons because issues were not addressed at the coalface. They went through every prisoner's property overnight because tragically a prison officer had been stabbed with a syringe. Half of Parklea prison was destroyed. That is why in 1995 we decided to do something else. What was the attitude of the Opposition to the establishment of the Inspector-General? I have a lot of time for the honourable member for Coffs Harbour. In relation to the bill that established the Inspector-General he said:

It is another waste of money.

The honourable member for Ku-ring-gai, the current Deputy Leader of the Liberal Party, said:

This bill makes no mention of costs. It is these sorts of measures that increase bureaucracy without demonstrating any increased efficiency within the public sector that leads to the needs for increased taxation.

The former Leader of the Opposition, Kerry Chikarovski, who at that time was the Opposition spokesperson on Corrective Services, said:

The Ombudsman has always dealt with complaints from prisoners. They have free access to the Ombudsman by way of a phonecard ...

Will prisoners complain to both the Ombudsman and the inspector-general? Will we be able to define to whom they can complain in the first instance, or will they be unsure who they should deal with?... I ask how the Minister sees the delineation in the roles of the Ombudsman and the inspector-general, and which should be the first port of call. The matter is to be decided by protocols, but how will that help prisoners decide to whom they should take their complaints? I am concerned about whether the establishment of this office will create yet another layer of bureaucracy without any real benefit to those involved ...

In the overall scheme of things I am not quite sure what the inspector-general will resolve at the end of the day. I declare that I have an aversion to the creation of additional layers of bureaucracy. At a time when we are looking at downsizing government, I have difficulty working out why the Government needs to create a new position, the functions of which are already covered by other people or bodies.

... at a time of scarce resources, and when people are struggling with budgets, the creation of this position is a nonsense, given that we are all talking about reducing the size of government, not increasing it.

That is the position of the Opposition: a waste of money, a nonsense, a bureaucratic layer, and no mention of bills. That is what the Opposition said in 1995 when this office was being established. The Government established this position precisely to do the sorts of things that were outlined in the speech of the then Minister for Corrective Services, Mr Debus, to encourage mediation and the formal resolution of complaints about the correctional system. It is true that one of the things that the previous Inspector-General asked for was for prisoners to be able to contact him through an automatic dialling system, as occurs with the Ombudsman. And that was granted. What I said in question time today had nothing to do with that facility. At present prisoners have three choices, particularly in the gaols I spoke about this morning. They can push one button for the Inspector-General, another button for the Ombudsman, and another button for the complaints hotline.

**The Hon. Duncan Gay:** Is that on a console?

**The Hon. JOHN HATZISTERGOS:** Just about. Interestingly, two-thirds of prisoners using that facility choose to contact the Ombudsman. The Hon. John Ryan said the Ombudsman is a bit of a farce because he investigated only three matters out of 4,000—but his aim is to resolve problems, not to escalate them and create huge investigations and royal commission inquiries. The job of the Ombudsman is to resolve issues. That is also the job of the visitors, and that is the job of the Inspector-General. I am not interested in having huge investigations or royal commissions with numerous lawyers and whatever to deal with issues that need immediate resolution, particularly in the context of prisoners' complaints. People are kidding themselves if they tell me things are going well despite the department not reacting to legitimate issues that are being raised and being forced into a stand-off position where we have to initiate inquiries and inquisitions. That will not progress or resolve the issues we are talking about.

I have been visiting prisons and speaking to these people at the coalface. I have asked the visitors, "What do the prisoners think? What do they say?" The answer is that there is confusion. They are open about it. They say they do not know. Generally, whoever answers their call first is the one they deal with, because they do not know what the job of the Inspector-General is and what the job of the Ombudsman is. And they are not alone.

When this debate was to come on previously I sought the views of crossbenchers. I will not mention the individual I spoke to but he said, "Would you mind explaining to me exactly what the Inspector-General of Corrective Services does?" This was a member of Parliament who would be debating these issues. I do not think he is alone, because other people do not know. If honourable members have a look at the functions of the Inspector-General, the functions of the Ombudsman, and the functions of the other watchdog agencies, they will see that there are duplications. They are identified in the report.

Let me make a few points perfectly plain. I think the department has a way to go in terms of reforming itself, and I have made that quite clear to the commissioner. Indeed, I get sick and tired of complaints by one officer against another. Honourable members will recall the unfortunate death of a young Aboriginal inmate at John Morony prison. An investigation report identified some officers who were to be the subject of disciplinary action, and there was all sorts of concern about who in the department was going to handle that disciplinary issue. I asked the commissioner to ensure that it was investigated externally, and that is not the only matter that we have asked to be dealt with externally. The simple fact is that there are people in other agencies who will not accept what happens if matters are investigated internally. That issue is identified in the report.

A number of honourable members have criticised the key recommendation of abolishing the office, but have they looked at the other important and serious recommendations that will be implemented? This is exactly the point: the commissioner is prepared to appoint external mediators to resolve concerns of executive staff regarding disciplinary action or unsuccessful applications for promotion. I do not want to deal with disgruntled employees who feel they have not had a fair hearing on procedures or promotions. I do not know that the Inspector-General has resolved that issue either, notwithstanding his efforts, good or otherwise. The recommendation in the report is sensible and it deserves support.

There is another recommendation that no-one seems to have focused on. Lee Rhiannon is a big advocate for prison reform and for prisons doing the right thing, but she has not said a word about the recommendation for a comprehensive inspection system at correctional centres, with an independent person on the panel to supervise, with the system to be managed by the probity and performance division, and with reports to be provided to me, amongst others, so that the correctional centres can meet their objectives.

**The Hon. John Ryan:** Not Parliament; they just go to you.

**The Hon. JOHN HATZISTERGOS:** When the Hon. John Ryan thinks about some of the points he has argued in this debate he will realise that they are actually arguments for the abolition of the office of Inspector-General, not for its retention. It has been claimed that we need a body that has more powers and that it should report to Parliament. That is what the Ombudsman does: he reports to Parliament. He has more powers.

**The Hon. John Ryan:** Which he does not use.

**The Hon. JOHN HATZISTERGOS:** It was put forward as an option. If the Hon. John Ryan seriously looks at this report he will see that a number of options are put forward. One option involves having an organisation or Inspector-General with more powers and one that reports to Parliament. What is the point of having the Ombudsman's office, because it does that as well? Why do we not let the Ombudsman do it? That is what the Opposition is asking for. So it should think seriously about that. When this issue was first debated in the Legislative Assembly in 1995, Kerry Chikarovski said—it is in *Hansard*—"I support the reports going to the Minister." No amendment was moved.

Everybody says there is a big issue about the Inspector-General. Let us get this quite clear: this report that the Opposition criticises was actually an initiative of the Greens. They put it into the legislation at the time. It was also agreed that there would be a sunset clause. This office will cease on 1 October of this year unless the Parliament legislates otherwise. Unless this issue is dealt with by the Parliament parochially, the office will cease. That was in the legislation. Those who were there at the time knew the office was created for only a definite period. I repeat that the issue is not about transparency and accountability. I accept transparency and accountability, but the issue is: Who performs the functions? Opposition members agree there should not be duplication and wastage.

I do not want to go through the differences between the department and Le Compte. I made that quite clear to the department and Mr Avery and Mr Dalton when they saw me. I am definitely not interested in trying to resolve those issues. They are past. One has moved on, and it really does not matter. However, what is important is that the watchdog have credibility. And it is important that it have credibility not only within the

department but among the other watchdog agencies. One of the things that has not been mentioned in the report is that two of the fiercest critics of this organisation are the Independent Commission Against Corruption [ICAC] and the Ombudsman. Both have criticised it. You could say that the Ombudsman's office has some vested interest because it would get the resources if it took over the functions, but the ICAC has criticised the Inspector-General's office.

They are not the only ones; the majority of visitors have also criticised them, as have the inmate development committees. Dalton and Avery went to the committees to find out what they thought, and they said that the Ombudsman was providing a better service. Further discussions will take place between now and when Cabinet decides the Government's final position. However, I make it clear that I will not support the Official Visitors being made an external watchdog agency. I am happy to give information to the Ombudsman or some other body that might assist the Official Visitors to develop the systemic or thematic schemes that are important in their work. However, it is important that they focus on resolving complaints quickly, effectively, and decisively. If they do not, we will have the same problem that led to the riots to which honourable members have referred.

I will raise one further matter because Ms Lee Rhiannon did not. When we previously debated the office of the Inspector-General the honourable member quoted from information provided by an Official Visitor, Mr Ray Jackson. The information the honourable member referred to was also quoted by Justice Action in a press release it issued the same day. The information was not from Mr Jackson in his capacity as an Official Visitor, and its use was unauthorised. I have a copy of the letter sent to the honourable member on 9 May, which states:

Brett Collins of Justice Action has badly and seriously misrepresented my position and the position of the ISJA.

As I informed you neither Brett Collins nor yourself had been given any authority to use the ISJA Submission in any form or content.

In my opinion Brett Collins has deliberately, and selectively, quoted from my ISJA Submission in an attempt to further malign Commissioner Woodham in some way. As I said to you, always check facts and sources when dealing with Justice Action material.

As an Official Visitor I recognise that I do not have the right, nor opportunity to make public remarks as an Official Visitor. Up until this time I have meticulously implemented this understanding. Never has there been any incidents of cross-over between my Official Visitor role and my ISJA role as President/Public Officer.

The actions of Brett Collins in putting that quote, embedded into his e-mail release, has caused me much concern and disquiet. You, erroneously, have also become party to the problem.

I request, again, that you make representations on my behalf in Parliament, into the Hansard, that the Submission quoted from was sourced from myself as the President/Public Officer of the ISJA and was not in my Official Visitor capacity.

Mr Jackson has asked Ms Rhiannon to apologise and repeated that request in this letter, but she has not done so. I raised this matter in deference to him and to clear up the record on his behalf.

**The Hon. CATHERINE CUSACK** [10.43 p.m.]: I thank the Government for its indulgence in allowing me to make a short contribution to this debate. I support everything the Hon. John Ryan has said this evening on behalf of the Opposition. Ms Rhiannon has launched a disgraceful attack on Vern Dalton's integrity. I know him as a man of high integrity. Any respect I may have had for the honourable member has evaporated as a result of her attack tonight.

**Ms LEE RHIANNON** [10.44 p.m.], in reply: I thank all speakers in this debate, which, although short, has been of some use. I hope the Minister considers the views expressed by members of Parliament before the final decision is made about the future of the office of the Inspector-General. Members have spoken about conditions in prisons, the need for independent oversight, and the role of the commissioner and the Official Visitors, highlighting why we need to retain the office of the Inspector-General. Much has been said about duplication; that aspect has been clearly addressed. No-one wants to see duplication of services, and the Government's role is to determine whether there is duplication and, if there is, to eliminate it. However, its elimination should not be used as an excuse to eliminate the key role of such an important office.

Strong support has been expressed for the retention of an independent watchdog. That independent watchdog should report directly to Parliament, not to the Minister. It has taken four attempts to get this issue debated. Take-note debates often last longer than one hour, and this one has gone for a little longer because members agreed that it should. That does not give me much confidence in the Government's openness when

considering points of view other than those from Mr Avery and Mr Dalton. The Minister quoted the letter from Mr Jackson. I have corrected that situation in *Hansard*. I also congratulate Mr Ryan and Mr Breen for their contributions. It is sad when Ministers, particularly Mr Costa and Mr Hatzistergos—

**The Hon. Michael Egan:** Don't miss me out!

**Ms LEE RHIANNON:** Mr Costa and Mr Hatzistergos always ask for congratulations, but the Treasurer congratulates himself. He is nodding, so it appears that we agree. I urge the Minister to take from this debate the commitment of many members that the right thing must be done for prisoners in New South Wales. We have should not lose sight of the fact that we are talking about people who have already lost a number of rights. However, that does not mean they should lose all their rights. That is what is facing them if we lose this independent office of review.

**Motion agreed to.**

### BILLS RETURNED

The following bills were returned from the Legislative Assembly without amendment:

Commission for Children and Young People Amendment (Child Death Review Team) Bill  
Police Powers (Drug Detection in Border Areas Trial) Bill

### ADJOURNMENT

**The Hon. MICHAEL EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.50 p.m.]: I move:

That this House do now adjourn.

### GOVERNOR-GENERAL APPOINTMENT

**The Hon. CHARLIE LYNN** [10.50 p.m.]: I compliment our Prime Minister, John Howard, on his appointment of Major General Mike Jeffery as Governor-General. I had the honour of serving under then Brigadier Mike Jeffery during his term as commander of our 1<sup>st</sup> Brigade at Holsworthy between 1982 and 1984. I was his senior Brigade Staff Officer responsible for personnel and logistics in the brigade, which comprised the 5<sup>th</sup>/7<sup>th</sup> Mechanised Infantry Battalion and the 3<sup>rd</sup> Parachute Infantry Battalion of the Royal Australian Regiment, the 8<sup>th</sup>/12<sup>th</sup> Medium Regiment of the Royal Australian Artillery, the 1<sup>st</sup> Armoured Regiment and the 2<sup>nd</sup> Cavalry Regiment of the Royal Australian Armoured Corp, the 1<sup>st</sup> Construction Regiment and the 1<sup>st</sup> Field Squadron of the Royal Australian Engineers, the 1<sup>st</sup> Transport Squadron, the 104<sup>th</sup> Signal Squadron, the 101<sup>st</sup> Field Workshops, the 1<sup>st</sup> Field Supply Company and a field ambulance. All in all, the 1<sup>st</sup> Brigade had responsibility for about 4,000 regular combat soldiers and their families. Brigadier Jeffery's role as commander was to ensure the combat effectiveness of the 1<sup>st</sup> Brigade and the welfare of all officers, soldiers and their families.

Brigadier Jeffery was well suited for the appointment as our commander. He joined the Royal Military College as a 16-year-old cadet, he graduated as a Lieutenant in 1958, and he served in a number of junior regimental appointments, including our elite Special Air Service regiment in his home State of Western Australia. He was then posted to Malaya in 1962 for operational service with the 2<sup>nd</sup> and 3<sup>rd</sup> Battalions of the Royal Australian Regiment. In 1964 he was appointed Aide-de-Camp to the Army Chief of the General Staff, after which he was seconded to the British Special Air Service regiment for an operational tour of duty in Borneo during confrontation. From 1966-1969 he served in Papua New Guinea with the 1<sup>st</sup> Battalion of the Pacific Islands Regiment. During this posting he married Marlena Kerr of Manly.

In 1970 he served a tour of duty in Vietnam as an infantry company commander with the 8th Battalion of the Royal Australian Regiment where he was awarded the Military Cross and the South Vietnamese Cross of Gallantry. In 1972 Brigadier Jeffery was selected to attend the British Army Staff College at Camberley and was then promoted to Lieutenant Colonel and posted to command the 2nd Pacific Islands Battalion in Papua New Guinea. In 1975 he assumed command of the Special Air Services Regiment and after that was promoted to Colonel as the first Director of the Army's Special Action Forces. He was awarded the Order of Australia in recognition of his services in this appointment. He was promoted to Brigadier in 1981, and he headed Australia's National Counter-Terrorist Co-ordination Authority. He was then posted as Commander of the 1st Brigade at Holsworthy.

I was aware of Brigadier Jeffery's background as a graduate of the Royal Military College and his impeccable service record. I assumed he came from a background of wealth and privilege, but I was surprised to learn that he was the son of a prospector from Wiluna in Western Australia whose father had walked through the Pilbara looking for gold. He would, indeed, have come from a privileged family had his father noticed the same signs as Lang Hancock did before him. Nevertheless, Brigadier Jeffery went on to develop his own internal wealth: a desire to succeed, a thirst for knowledge, Christian values, moral and physical courage, and a proud appreciation of our Australian heritage.

In his professional capacity as Commander of the 1st Brigade he demanded high levels of professionalism and inspired his commanders, officers and soldiers to give their best. This was expected of him, and I believe he exceeded the expectations of our higher command echelons at the time. But it was in the unsung area of army welfare that he really imposed his will and raised the standard of the people who really matter in the army: the non-commissioned officers, the soldiers and their wives. It was a fact of life at the time that an army corporal with a wife and two children needed welfare support to survive from week to week. They lived in old prefabricated houses that neither the Commonwealth nor the State were willing to maintain properly, in areas that offered little employment opportunities for spouses or adequate public transport. They were our silent second-class citizens but, to their great credit, they never complained about their lot—they got on with their job and managed as best they could.

Brigadier Jeffery took it upon himself to check out the reality of their conditions. He "walked the talk". He visited their houses, neighbourhood centres and schools. He invited the local members of Parliament to join him—at that time, Robert Tickner and Stan Knowles—and enlisted their support to improve their conditions. He arranged for bureaucrats to come up from Canberra and he gave them a serve—always in a very diplomatic manner, but in a way that indicated to them that they had to find real solutions. When he was unable to get resources from local councils to clean up the area, he ordered the entire brigade to stand down and mobilised all its resources to spruce the place up. Car bodies were retrieved from surrounding bushland, dams were cleaned out, parks were spruced up, kindergarten and school equipment was fixed. While the soldiers worked, their wives and kids provided drinks, snacks and cheerful support. This was well before the concept of Clean-up Australia became fashionable.

The annual clean-up not only changed the condition of what had been a neglected area; it instilled pride and a sense of esprit de corps which had been lacking for many years. Brigadier Jeffery encouraged his officers and soldiers to become part of the local community—to join the local service clubs and contribute to improving the lot of others in the area. He was, indeed, a man of the people, in words and action. Brigadier Mike Jeffery was the most inspirational leader I worked for in my 21-year Army career. It was no surprise to me to see him go on to command the 1st Division and be eventually appointed as Governor of Western Australia, an appointment he served with great distinction. I regard it as an honour to have served with him. I believe he will be an outstanding Governor-General—an inspiration for us all. I have no doubt that he will do us proud.

#### **TRIBUTE TO MR ERNEST (BILL) RADCLIFFE OLDFIELD**

**The ACTING-PRESIDENT:** I acknowledge the presence in the gallery of the Oldfield family and friends, including Mr Richard Johnston, who was recently awarded the Centenary Medal.

**The Hon. DAVID OLDFIELD** [10.55 p.m.]: Tonight I hosted family and friends celebrating my father's eighty-fifth birthday. I thank David Draper and his staff for a wonderful evening. These next few minutes belong to my father. All who have known him would agree that he deserves much more. Ernest Radcliffe Oldfield was born in Subiaco, in Western Australia, on 11 June 1918, the eldest son of Ernest Henry and Lena Eva Oldfield. He very quickly picked up the name "Bill". Most people are unaware that his name is Ernest.

Bill went to Victoria Park primary school and then Perth Boys High School, leaving at 14, in the midst of the Depression, to take up a job as an office boy. He quickly learned to do the company's accounts, before jumping to sales at the age of 16. He then moved to wholesaling hardware and fancy goods. This time he began as the company accountant, but within months he was back selling. For the rest of his life, he and others would refer to him as a salesman—some would say, the best they had ever known.

Like many Australians, my father found his life interrupted by World War II. He was 21. He joined the Army in 1939 and transferred to the Air Force in 1940. He went to Air Gunnery School and graduated from number six course as a wireless-air gunner. Dad was posted to No. 2 Squadron to crew Hudson bombers.

Hudsons were not modern aircraft and were relatively easy prey for Japanese Zeros. However, dad was lucky, because in those particularly early stages of the war, when the Japanese were winning, he flew countless hours, including 77 combat missions.

In early 1942, invasion of Australia was expected, and in many places outnumbered Australians fought to the last man. Dad's squadron was flying out of bases in Indonesia. Indeed, only hours before the island of Koepang fell to the Japanese, he pulled away the chocks and was the last man to board the last plane out. Dad rose quickly through the ranks, being commissioned as a pilot officer, then promoted to Flying Officer, and in 1943 to Flight Lieutenant. He became Squadron Gunnery Leader, he was promoted to North-Western Area Gunnery Leader, and later to Western Area Gunnery Leader. As a flight sergeant he was awarded a DFM for bravery. The recommendation for that citation reads in part:

His willingness to participate in operations at all times has been outstanding and his conduct on all such operations exemplary.

At the moment, though originally placed on the semi retired list, he flies with the Commanding Officer of No. 2 Squadron on every occasion at his own request. He is in fact almost "Father and Mother" to all other air gunners in the Squadron.

His concern being not only with them personally but with the conditions under which they fly and the conditions under which they live.

That medal has on it the words "For Courage". As an original member of No. 2 Squadron he also received a United States presidential citation. Good luck can be fleeting, and in April 1945 dad was in a B-24 Liberator that burst into flames after a night attack on Denpasar. After being on fire for more than two hours, the plane was crash landed in shallow water off the island of Soemba. Thereupon, after many shots and considerable struggle, dad became a prisoner of the Japanese, but that is another story. After the war, dad went back to sales in Perth, and in 1946 took up the agency for a company called Samuel Taylor, and later moved to Sydney to be that company's New South Wales sales manager.

Dad soon became national sales manager, then sales director, then deputy managing director and finally managing director and chief executive officer—all of this during the company's emergence as a true Australian success story. Samuel Taylor was also known as the "Pressure Pak" company. The company manufactured many famous products, including Mortein, Fabulon, Preen, Aerogard, Mr Sheen, Trix, Pure and Simple and Y-Cough. My father and mother, June, are still together—they have been together for nearly 50 years, and I am fortunate that they are both here tonight. It is no idle boast to say my father is a great Australian—whereas I am merely the son of a great Australian. Dad is of a generation the like of which Australia will, I fear, unfortunately not see again.

### SKILLS TRAINING AND RESOURCE SERVICE

**The Hon. KAYEE GRIFFIN** [10.59 p.m.]: I am pleased to have this opportunity to bring to the attention of the House the services provided by the Skills Training and Resource Service [STARS] in the St George and inner-west regions. STARS was established to help provide the necessary training and support for volunteers and management committees of home and community care funded services and other not-for-profit service providers. STARS plays an important role in the support and training of volunteers working in home and community care services in the Canterbury, Marrickville and Leichhardt areas. It also provides services for non-home and community care funded organisations in the Canterbury and Leichhardt local government areas.

The specific aims of the STARS program are to strengthen local communities by actively recruiting, training and placing volunteers, as well as promoting volunteerism in the wider community. According to the most recent Australian Bureau of Statistics survey of volunteer work, more than 4.4 million Australians are involved in voluntary work, and 2.3 million Australians are providing care for family members or friends with a disability, mental illness, or who are frail aged. In New South Wales alone, more than 1.5 million people volunteer their time freely in a variety of ways.

Home and community care and other not-for-profit organisations benefit through having trained and committed volunteers available to them. In turn, the members of our communities whom these volunteers assist on a day-to-day basis, such as the frail aged and people living with disabilities, benefit from the skills and training the volunteers possess. Furthermore, carers themselves are assisted greatly. With better-trained volunteers such as those referred by STARS, the workload of carers can be shared around, providing them with some respite from their responsibilities.

With the support that comes from the extra assistance provided by volunteers, the aged and people with disabilities are able to retain their independence longer and avoid being placed prematurely into institutionalised



care. This independence is vital in ensuring quality of life is improved. Without the existence of adequate and appropriate home and community care services that quality of life is often diminished. In my local area, STARS provides the vital link between people who want to volunteer and the organisations that need the help. Directing the volunteers towards the organisations that will benefit most from their assistance is one of STARS primary and fundamental functions.

As our population ages there is an ever-increasing need for quality, community-based care. Older people and people with disabilities are choosing more and more to remain in their own homes, and carers require ongoing support to fulfil their vital role in the community. In order to continue to provide its services STARS relies heavily on all levels of government for assistance. The co-operation between the Home and Community Care Service, the New South Wales Department of Ageing, Disability and Home Care, and local government is vital. STARS is a great example of an effective partnership between State and local governments and the community. It provides a quality, essential service, and I commend to the House the STARS program and applaud its invaluable contribution to local communities.

### **QANTAS NORTH COAST SERVICES**

**The Hon. CATHERINE CUSACK** [11.03 p.m.]: Residents and businesses in northern New South Wales are shocked and dismayed by recent decisions taken by Qantas, the main provider of air services to Grafton, Ballina and the Gold Coast. Qantas has discontinued its Grafton service, halved its flights to Ballina, and continues to provide a chaotic schedule of heavily overbooked, unreliable flights to the Gold Coast. It gives me no pleasure whatsoever to talk of Qantas in these terms. I once regarded Qantas with real pride and affection—the world's greatest airline; an Aussie icon that embodied the best qualities Australia has: warmth, friendliness and a safety record that demonstrated its commitment to passengers.

It saddens me that the Qantas I once knew is no more. Australians have loved Qantas and, as a result, it has had huge support from our governments, both in terms of regulatory decisions and publicly funded air travel, which I hazard could run into hundreds of millions of dollars worth of income to Qantas each year. Some examples of support for Qantas, based on our community's faith in its philosophy, include the decision to allow the merger with Australian Airlines, which led to reduced competition and placed pressure on Ansett. With the collapse of Ansett, Qantas received almost monopolistic market share and access to infrastructure, a windfall that was almost unremarked because it happened in the shadow of September 11. It is worth noting that in the wake of September 11 most other international airlines were pushed to the brink of collapse, whereas at the same time the Ansett windfall to Qantas saw its domestic market share jump to 90 per cent.

Qantas has also been a huge beneficiary of Australian economic growth under the Howard Government and the focus of tourism development and new infrastructure initiatives by all Australian governments. For example, the Sydney Olympics was another windfall for Qantas, even though Ansett shouldered the burden of being the official sponsor. Over the years the Federal Government has supported Qantas representations to block out and substantially delay the entry of competitors such as Malaysian Airlines, Singapore Airlines, Air New Zealand and Thai Airways. Most recently, the Federal Minister for Transport and Regional Services, John Anderson, was accused of being the "Minister for Qantas" after he blocked the entry of Emirates into the lucrative Sydney market. Minister Anderson is supporting Qantas's desire to allegedly merge with a New Zealand, even criticising the Australian Competition and Consumer Commission [ACCC] for rejecting the original proposal.

Over the next 12 months Minister Anderson will be lobbied again by Qantas over the Air New Zealand deal and the need to revisit the Emirates issue. I urge my Federal colleagues, and Minister Anderson in particular, to carefully weigh the privileges and assistance that Qantas receives from Australians against what it is prepared to give back. Like a large number of Qantas's regional business and government travellers, I want to spend as much time as possible at home with my family and young children, and I am wholly reliant on a decent air service in order to have any quality of life. So when I ask the question "What is Qantas giving back?" I do not want to hear a "fig leaf" reply about sponsorship for Australian sport. I want to hear that Qantas is committed to providing a reliable service. When I talk about "giving back", I am not asking Qantas to maintain loss-making services to regional Australia. The Ballina and Grafton rights are good, strong profitable routes. They are constantly booked out and near impossible to get onto at short notice during the main hours of business travel.

Equally I have heard the complaint that no airline seems to be able to turn a profit at Gold Coast airport. Well, Qantas's Gold Coast schedule is a nightmare, mainly because its management schedules Gold

Coast flights in concert with flights to Brisbane. In spite of this, the route is incredibly popular. Gold Coast passengers often find themselves in strife because of overbookings or almost routinely cancelled, merged or delayed flights. In these circumstances, Qantas will always offer a plan B involving Brisbane. Of course, this is absolutely useless for the residents of the Northern Rivers. But the Qantas bureaucracy is seemingly incapable of understanding the complexities and rich business opportunities of our region. So when I hear Qantas concede that passenger numbers are not the problem, that the difficulty is yield, I am equally frustrated.

The problem of yield relates to the high demand of Gold Coast and Ballina airports for frequent flyer points. This reflects their standing as tourist destinations. The way that Qantas accounts for usage of frequent flyer points places airports at a massive and totally unfair disadvantage. North Coast and Gold Coast business travel is the major casualty. Business simply cannot get enough seats and flexibility in their bookings to satisfy demand. By trying to recover the costs of frequent flyer flights from average yield, Qantas has set our northern regional airports an impossible target. In doing so it is killing local business. Qantas ratchets up the degree of difficulty and cost to such a level that it is hurting our economy. It is undeserved because with proper accounting and thoughtful management I believe Qantas could run an extremely profitable, integrated service to northern New South Wales.

Qantas is exhibiting the worst characteristics of effective monopolistic domination of the business and tourism travel markets. In fairness I have attempted to contact Qantas to discuss these problems, but it is now so removed and so arrogant about its customer base, that even as a regional member of Parliament I am unable to get through to anyone to arrange a meeting. The best I have been able to do is to obtain a customer relations fax number. I have personally been the victim of numerous problems with Qantas government business services and Qantas flights themselves. I hasten to add that front-line Qantas staff at airports and on the planes have been nothing but kind, courteous and helpful. [*Time expired.*]

#### **PYMBLE BUSHLAND REZONING**

**Ms SYLVIA HALE** [11.08 p.m.]: I wish to bring to the attention of the House another case of the Carr Government's bulldozer approach to urban planning in Sydney. This case involves the State Government's rezoning of six sites in the heart of the Ku-ring-gai greenbelt against the wishes of the local community and the council. Threatened urban bushland has been rezoned to allow six storeys of concrete apartments. Strong community opposition, threatened species reports, and the proposal twice being denied by Ku-ring-gai Council, amounted to nothing. The Minister simply intervened, overrode the wishes of the community and the council, and now the developers are in control.

But I focus on one particular site at Avon Road and Beechworth Road in Pymble. The site is approximately seven hectares of bushland along the railway tracks adjacent to Pymble Ladies College. Despite weed infestation in the understorey, the site contains one of the few remaining areas of Sydney blue gum high forest. In 1997 Ku-ring-gai Council and the National Parks and Wildlife Service confirmed that the site contained threatened habitat. In 1998 an expert habitat consultant confirmed the importance of the blue gum ecological community. Under the Threatened Species Act, blue gum high forest is a threatened ecological community, and any development likely to impact on such an ecological area requires a species impact statement.

During 1997 and 1998 council denied a development application for up to 200 units and 300 car parking spaces, based, in part, on the presence of threatened habitat. The developer then lobbied PlanningNSW, and in January 2002 the Minister forcibly took planning control of the site. Despite local protest and environmental concerns, PlanningNSW rezoned the site, allowing medium-density apartments, and in October 2002 proposed 300 units—100 more than the initial proposal. At that time, in October 2002, my fellow Greens member, Ms Lee Rhiannon, asked a question in this House of the then Minister for Planning, Dr Refshauge, about whether the site contained threatened blue gum high forest: "No", he replied.

In November 2002 Dr Refshauge's department published a document entitled "Draft Development Controls and Design Guidelines Six SEPP 53 Sites in Ku-ring-gai", which clearly listed the site at Pymble and confirmed that it contained the threatened blue gum forest ecological community. In January the Minister finally signed off on the rezoning but chose not to make it public until after the State election in March. As has been the case with so many other deplorable decisions, the Government chose to hide this decision until after the election was safely over. Ministerial call-ins of development applications completely exclude local councils and residents from the planning process. It is a deeply unpopular strategy of the Government and this story demonstrates why. Ministerial call-ins hand the planning process to developers and deprive local communities of a voice. This is precisely what happened in Ku-ring-gai.

In recent days we have spoken at length in this House about the role and importance of local government, and the contempt shown by the Government for residents and for the decisions and procedures of democratically elected councils. Central to this contempt is the Government's desire to do favours for its developer mates and to ensure the continued flow of funds from developers to its coffers. The Greens will continue to speak out in support of resident concerns and against the corrupting influence of developer donations to political parties.

### DEATH OF FATHER JOHN BROSNAN

**The Hon. TONY BURKE** [11.12 p.m.]: I would like to pay tribute to one of the most impressive people I have ever met, Father John Brosnan, who passed away on 26 March. He would be known throughout media circles as the chaplain to Ronald Ryan, the last man to be executed in Australia. I was fortunate to meet Father John Brosnan some years ago in the midst of the debate relating to euthanasia legislation in the Northern Territory. Father John Brosnan had convictions similar to those I hold about the death penalty.

Father Brosnan was a priest for 57½ years but for 30 years he was a chaplain inside the maximum security unit of Pentridge Gaol. Many children of prisoners attended private schools because Father Brosnan paid their fees. At Pentridge his style was extraordinary. The inmates would talk of their respect for him and would alter their behaviour in ways that one would not think possible. Journalist Tom Prior wrote a book about Father John Brosnan entitled *A Knockabout Priest*, in which an inmate referred to Father John Brosnan as being responsible for preventing a bank robbery. The inmate referred to an occasion when he, with others, was about to rob a bank when he saw Father Brosnan standing outside the building chatting with someone. The inmate, when referring to his friend, said:

The young Kiwi would have gone ahead anyway, but not me. Bros would have recognised me for sure and that would have put him in an embarrassing situation—and the boys would never have forgiven me if he had been hurt.

As it was, we gave it away for the day and never went back. There are plenty of banks around, but only one Bros.

His quick wit was apparent in a eulogy he delivered for an inmate. During such funerals it was not unusual for inmates to interject midway through eulogies. When Father Brosnan was interrupted by a cranky inmate who shouted out, "He didn't even believe in God" he replied, "He does now." In politics he was a champion of the cause to abolish the death penalty—a fundamental right that we take for granted. It is frightening to think that it was as recent as 1967 that people were executed in this nation. Father Brosnan became involved in the euthanasia debate. He wrote what resulted in the most quoted letter in the Federal parliamentary debate on euthanasia. He commenced that letter with the words:

One of the last things Ronald Ryan said to me before he was executed was, "I don't know which is worse; that [meaning the gallows] or a lifetime in this loveless environment."

Father Brosnan went on to say that to this day he was not entirely sure whether or not in the end Ronald Ryan actually wanted to be executed, but either way it did not change the fact that it was not right that the State killed him. The Brosnan Centre in Victoria is a refuge for the young homeless and unemployed. It looks after people on their release from prison. I was privileged to meet Father Brosnan face-to-face. The final words that Ronald Ryan said to Father John Brosnan were as follows:

Goodbye and thank you very much. Never forget, no matter how long you live, you were ordained for me.

There is no doubt that Father John Brosnan played a special role in Ronald Ryan's life, but in preserving the dignity of our laws by standing firm against capital punishment Father John Brosnan served all Australians.

### DEATH OF MRS JOY CUMMINGS

**The Hon. PATRICIA FORSYTHE** [11.16 p.m.]: My comments may come as a shock to honourable members opposite, but I would like to pay tribute to an outstanding Novocastrian, Joy Cummings, who I understand from my reading of the Newcastle City Council web site died today. Joy was the first female Lord Mayor in Australia. She was a Labor Lord Mayor and she was also my local councillor when I lived in Mayfield. Her son and I were acquaintances through a schoolmate. I have often wondered why back in the 1970s my ambition was to enter politics, but I remember sharing a number of political platforms with Joy Cummings at that time.

There were few women in politics in Australia during the 1960s, 1970s and 1980s. I entered Parliament at the beginning of 1990. I suspect Joy Cummings had a strong influence on women in the 1950s, 1960s and

1970s. Jeannette McHugh and Cheryl Kernot, both former members of Federal Parliament, Rosemary Kibbatz, a member of the Queensland Parliament, my former colleague in this place the Hon. Virginia Chadwick and I are all Novocastrians and we all knew Joy Cummings. Her influence on people was far greater than merely that of a councillor on Newcastle City Council. Joy was a pioneer and a trailblazer.

On the weekend I read an article in the *Sun-Herald* that reported that Joy was gravely ill, so I kept checking the Newcastle council web site for further news. It is important that we pay tribute to Joy because in the 1960s it was no easy feat for a woman to become a councillor. Despite Newcastle being a male-dominated city in those days, Joy was able to become a councillor. She came from a humble background. Ray, her husband, was a fireman. Indeed, one of her daughters followed in her father's footsteps and went on to become one of the first female firefighters in New South Wales. I say with confidence that my parents would never have voted for Joy, but I recall she was involved in small business and may have owned a small shop at the other end of Mayfield from where I lived. Joy was an outstanding lady who stood up for what she believed in. Members of all political persuasions must acknowledge the importance of standing up for their beliefs. I pay tribute to the life of Joy Cummings.

**Motion agreed to.**

**The House adjourned at 11.20 p.m. until Thursday 3 July 2003 at 11.00 a.m.**

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