LEGISLATIVE COUNCIL

Thursday 3 June 2004

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

The Clerk of the Parliaments offered the Prayers.

LOCAL GOVERNMENT AMENDMENT (MAYORAL ELECTIONS) BILL

INSTITUTE OF TEACHERS BILL

Bills received.

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

Motion by the Hon. Tony Kelly agreed to:

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

Bills read a first time and ordered to be printed.

BUSINESS OF THE HOUSE

Precedence of Business

Motion by the Hon. Tony Kelly agreed to:

That on Thursday 3 June 2004 Government Business take precedence over General Business.

TABLING OF PAPERS

The Hon. Carmel Tebbutt tabled the following papers:

(1) Annual Reports (Statutory Bodies) Act 1984—Report of Farrer Memorial Trust for the year ended 31 December 2003.

(2) State Owned Corporations Act 1989—Report of Landcom for the six months ended 31 December 2003.

Ordered to be printed.

GENERAL PURPOSE STANDING COMMITTEE NO. 1

Report: 2004 Mini Budget

Reverend the Hon. Fred Nile tabled Report No. 25, entitled "2004 Mini Budget", dated 3 June 2004, together with transcripts of evidence and answers to questions on notice.

Report ordered to be printed.

Reverend the Hon. FRED NILE [11.05 a.m.]: I move:

That the House take note of the report.

As honourable members know, a reference was passed by the House and referred to General Purpose Standing Committee No. 1 for an examination of the 2004 mini-budget delivered by the Treasurer, the Hon. Michael Egan, MLC, on 6 April 2004 because it fell outside the normal estimates process for review of government budgets. The committee has examined the 2004 mini-budget with particular reference to the New South Wales Government's financial position and outlook, the development of the proposed tax changes and their impact, and the effects of some of the proposed savings measures. On behalf of the committee, I express our appreciation to

all those who gave evidence, particularly the Treasurer, officers of the Treasury and other government departments, and other witnesses.

Debate adjourned on motion by Reverend the Hon. Fred Nile.

PETITIONS

Gaming Machine Tax

Petition opposing the decision to increase poker machine tax, received from **the Hon. Rick Colless**.

Freedom of Religion

Petitions praying that the House reject legislative proposals that would detract from the exercise of freedom of religion, and retain the existing exemptions applying to religious bodies in the Anti-Discrimination Act, received from **the Hon. Tony Burke**, **Reverend the Hon. Dr Gordon Moyes** and **Reverend the Hon. Fred Nile**.

Blue Circle Southern Cement Alternative Fuels Application

Petition calling for disallowance of the application by Blue Circle Southern Cement to burn alternative fuels, received from **Ms Sylvia Hale**.

Alcohol Industry Deregulation

Petition opposing national competition policy amending legislation that would lead to the deregulation of the liquor industry and failure to control liquor licences, received from **the Hon. Jennifer Gardiner**.

Australian Defence Industries Site Redevelopment

Petition requesting that the Australian Defence Industries St Marys site be protected as a conservation area and that development consent be denied, received from **Ms Sylvia Hale**.

LEGAL PROFESSION AMENDMENT BILL

Bill received, read a first time and ordered to be printed.

Motion by the Hon. Tony Kelly agreed to:

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

Second reading ordered to stand as an order of the day.

ADMISSION OF THE TREASURER INTO THE LEGISLATIVE ASSEMBLY

Consideration of the Legislative Assembly's message of 2 June.

Motion by the Hon. Tony Kelly agreed to:

That this House agrees to the request of the Legislative Assembly in its message dated 2 June 2004 for the Hon. M. R. Egan, MLC, Treasurer, Minister for State Development, and Vice-President of the Executive Council to attend at the table of the Legislative Assembly on Tuesday 22 June 2004 at 11.00 a.m. for the purpose only of giving a speech in relation to the New South Wales budget 2004-2005.

Message forwarded to the Legislative Assembly advising it of the resolution.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by the Hon. Michael Gallacher agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 106 outside the Order of Precedence, relating to the censure of the Honourable Edward Moses Obeid, MLC, be called on forthwith.

Order of Business

Motion by the Hon. Michael Gallacher agreed to:

That Private Members' Business item No. 106 outside the Order of Precedence be called on forthwith.

THE HONOURABLE EDWARD MOSES OBEID

Motion of Censure

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [11.22 a.m.]: I move:

That this House censures the Honourable Edward Moses Obeid, MLC, for being absent from Parliament for the purpose of trying to secure his preferred result in a local council election in Metrit, Lebanon.

In commencing this censure debate it is imperative that I point out, given that this motion stems from the Hon. Eddie Obeid being granted a pair to exempt himself from Parliament, that this motion has nothing to do with the practice of pairing. Pairing is an informal arrangement that exists in parliamentary systems throughout the world to assist individual members who, due to an immediate personal hardship, are required to absent themselves from Parliament. On this occasion the Hon. Eddie Obeid requested and was granted a pair. That pair, like all others, relied on trust and honesty in the reason for the request. It is the view of the Opposition, given the public exposure on the absence of the Hon. Eddie Obeid, that that trust and honesty has now been revealed as having been broken.

The question honourable members need to consider is not whether the Hon. Eddie Obeid was entitled to, and subsequently granted, a pair, or whether the pair was legitimate to allow him to absent himself from the State and therefore his parliamentary duties from 4 May 2004 until today; rather, honourable members need to consider whether the information that the Hon. Eddie Obeid provided to the Whips—and, therefore, the Parliament—in seeking that pair, was legitimate. It is my submission today that that was not the case.

The first application for a pair was made by the Hon. Eddie Obeid on 18 February 2004, some 76 days before the request to absent himself from Parliament was to take effect. Yet the request was on the basis of travelling to Lebanon on urgent family business. What we do not know is whether the Hon. Eddie Obeid left the State prior to 4 May. The last sitting day prior to 4 May 2004 was 1 April, and the member was present on that day whilst the House was in session. The question therefore remains: On what date did he leave Australia to fly to Lebanon? As the Opposition Whip will detail later, we were led to believe that this urgent family business related to settling the estate of a deceased relative. On 28 May we all became aware of media commentary on forthcoming elections in Lebanon set down for the weekend of 29-30 May and the role of the member in that campaign.

The media reports detailed how a number of the member's close relatives and friends had allegedly flown to Lebanon to participate in that election—some 17 people in total. The sources of this information were relatives of the Hon. Eddie Obeid who were angered by his involvement in an election campaign against another family member, Yolla Obeid—the daughter of Joseph Obeid, the member's deceased brother, whose estate, it would appear, the member had sought absence from Parliament to attend to. Joseph Obeid died on Christmas Day 1998—five years ago. Some might correctly argue that arranging and moving 17 people from Australia to Lebanon to participate in an election is no easy task. An airlift of that proportion must take some planning and time; perhaps 76 days, in fact.

On 29 May media reports cited a spokesperson for Ms Obeid stating that "Eddie Obeid had organised for the area to have the election and the normally harmonious village was up in arms about it". Also in that same report another relative, Rita Obeid, in support of her uncle—the member—said that the Hon. Eddie Obeid had come home to Lebanon for a holiday. In fact, the Premier said in the same article that he thought the member had gone to Lebanon on holidays. Media reports on 31 May allege that a correspondent for the *Australian*, Rania Obouzeid, whilst in Metrit, Lebanon, was rushed by a crowd of 15 supporters of the member and was allegedly threatened in Arabic, "There's only two ways out of Metrit and you're not getting out of either of them if you take a photograph."

Are those the actions of family or friends supporting a person who has come from overseas to assist in the finalisation of an estate or on holiday? I do not think so! When one considers that the first public mention of those allegations was a little over 48 hours old, why was there such volatility if he was in Lebanon only to settle

a family estate? It is alleged also that the member travelled to Syria last year to meet the influential Syrian Vice-President to raise support for the member's preferred candidate! That is another question he needs to answer. On 1 June, press reports cite that another relative of the member stated that the Hon. Eddie Obeid's presence in Metrit at the time of the election was purely coincidence and that he was there to resolve a chicken production dispute involving the village.

When it comes to excuses—so far we have a holiday, local elections and a chicken dispute—we have no mention of a death in the family. Of course, the Government Whip, the Hon. Peter Primrose, was left in no doubt, according to an interview he had with the *Sydney Morning Herald* when he said that the Hon. Eddie Obeid had sought a pair because a family member had died and he had to sort out the estate. Did the Hon. Eddie Obeid inform his whip that the death was five years before? I bet he did not, because the first we heard of the proximity of that death was when Obeid family members first spoke out on what was really happening in their homeland. I am sure that we will all shortly hear how slow the Lebanese legal system is in determining disputes over estates and how the five years delay is not unusual.

Of course, it will be impossible for honourable members to make informed decisions on any such claims. However, honourable members do have before them, as I have already indicated, a series of statements that raise questions of doubt surrounding the actual reason the member was in Lebanon. Remember, this censure motion is based on the premise that the member sought to absent himself from Parliament for the purpose of trying to secure his preferred result in a local election in Lebanon and, therefore, was not truthful in seeking that authorised absence. In my consideration of this matter I was drawn to an interview that took place between the Hon. Eddie Obeid and the *Sydney Morning Herald*, as reported on 1 June. Mr Obeid is alleged to have said:

> I just happened to be here during this election. I'm a landowner here—I inherited it. I am interested in the affairs of the town.

He went on further to state:

> I took leave from Parliament because if I didn't sort things here, my kids can't inherit what I inherited.

Those two statements indicate without any doubt that the Hon. Eddie Obeid returned to Lebanon to sort out an issue that involved the future of his town, but in reality the issue related to his personal investment. That is supported by comments that the honourable member made as recently as last night upon his return to Sydney. He said:

> I said it was about my family estate and things to do with my brothers' estates, who holds land in trust for the whole family.

He was reported in the 1 June article as stating:

> A major producer of chickens has bought a lot of land in the area of the town—he's sprinkled plants around the town. The whole question is if the town is turning into a chicken-producing town and it's polluting the entire area.

That statement tells us that the Hon. Eddie Obeid used his skills to turn his concern over his investment into a political issue by stating, "It is bad for the environment." This was not a coincidental visit to the town of Metrit; the visit was timed to coincide with the lead-up to an election. I guarantee that with the honourable member's preferred candidate winning all six positions on the ticket there will be no expansion of the chicken industry in Metrit. The vaguely worded request for urgent family business should have correctly read, "Stack election; protect investments."

Honourable members need to satisfy themselves in relation to the following issues. Was the matter urgent? I do not believe that it was given the fact that the application was made 76 days before the leave was required. That fact dispels any suggestion that the leave was urgent. Eddie Obeid's brother had been deceased for some five years. Surely the matters could have been addressed between 1 April and 4 May when the House was not sitting, or at the end of this month when the House rises for the winter break. There was something else that made the need to address issues relating to the estate urgent. There was another factor that determined the date by which family estate issues had to be resolved—it was the local election in Metrit. The honourable member had to secure a victory to ensure the future of his investments.

The second issue about which honourable members need to satisfy themselves relates to the legitimacy of the reasons given for the honourable member's absence. The avenue taken by the Hon. Eddie Obeid to seek permission to be absent from the Parliament was by applying for a pair. Honourable members must now consider whether the information that he supplied to his whip to seek permission to absent himself from the

Parliament was an honest representation of why he was required to be absent. If we accept the first premise that there was no true urgency in matters relating to the family estate and, further, that the real urgency lay in the need to effect the outcome of an election campaign and that a lengthy time away from the Parliament was required to conduct a successful campaign, we have satisfied the elements of the censure motion that the Hon. Eddie Obeid was absent from the Parliament for the purpose of trying to secure his preferred result in that election.

A number of members have raised with me the value of a censure motion. It is true that it is not as strong as to call for the member's seat to be declared vacant, but it does say to each member and to the community that we are prepared to hold members accountable for their actions. This censure motion is the first step in a self-disciplining process. It spells out to a member that his or her behaviour, such as that which is the subject of this motion, is unacceptable. It is not only unacceptable to the House, it is unacceptable to the community. We pride ourselves in this Chamber as being the people's House. If we truly are the people's House, we cannot ignore the public anger over this abuse. This is not simply a case of a member being absent for seven sitting days; this is a case of a member being absent from his responsibilities as a member of Parliament on a false premise. The Opposition and, therefore, the Parliament, was led to believe that this urgent request was as a direct result of a death in the family. That has now been shown to be false. I commend the motion to the House.

The Hon EDDIE OBEID [11.35 a.m.]: I seek leave to incorporate in *Hansard* two letters that I sent to the Government Whip. Those letters are dated 17 February and 30 March.

The Hon. Duncan Gay: Do you have the original letters?

The Hon. EDDIE OBEID: I do not have the original letters.

The Hon. Duncan Gay: The letters are not signed.

The Hon. EDDIE OBEID: I will sign the letters.

The Hon. Duncan Gay: Can we verify from the Government Whip whether these are the letters?

The Hon. Peter Primrose: Yes, they are.

Leave granted.

_____

17 February 2004

Dear Peter,

I formally seek leave from the Legislative Council to go overseas to Lebanon on urgent family business.

I require leave from 4th May to 31st May 2004.

I note that the Legislative Council is only in session in this time from 4-6 May and 11-13 May.

Your urgent approval of this matter would be greatly appreciated.

Yours sincerely,

The Hon. Eddie Obeid OAM
Member of the Legislative Council

_____

30 March 2004

Dear Peter,

I write with respect to my successful request seeking leave from the Legislative Council to go overseas to Lebanon on urgent family business.

I initially requested leave from 4th May to 31st May 2004.

Further to the earlier request, I require an extension of leave to the 7th of June to conclude the matters pertaining to my family's affairs in Lebanon.

This extension of time would cover the sitting week of June 1st to 4th.

Your urgent approval of this matter would be greatly appreciated.

Yours sincerely,

The Hon. Eddie Obeid OAM
Member of the Legislative Council

_____

The Hon. EDDIE OBEID: Honourable members will note that there is no mention in those letters of a death and there is no request for compassionate leave. All that the letters refer to is urgent family business. Those issues have been referred to in the media and the Opposition has referred to them. It just does not add up. I did not refer in those letters to the word "compassionate" and I did not state that there had been a death in the family. The truth of the matter is that I have an estate that I inherited from my father, as did my two brothers, Joseph and Albert.

Some outstanding issues have been going on for a number of years. My brother Joseph was my trustee up until he died in 1998. As a consequence of his death, the trustee of his estate became Yola, his daughter, who is a lawyer. I asked her to become trustee of my estate. So Yola was both trustee of her father's estate and my estate. We own considerable tracts of land and some family homes. For quite some time certain matters relating to the estate should have been settled. My brother, Joseph, using the family income, bought other properties outside the town that were basically held in trust for the whole family.

I made it quite clear to my brother on numerous occasions that I did not want my share of that holding but the family of my other brother, Albert, wanted its share. That issue, which was still outstanding, needed to be resolved. My brother, Albert, died and his family wanted to split up its portion of the estate. On 17 February I wrote a letter to the Government Whip and stated that it was urgent that I be there in May. That letter states quite clearly that that was the time I should have been there. The reason that I wanted to go in May was simple and I would not accept any other time.

A number of events have occurred in the area. A saint was canonised in Rome on 14 May. A lot of people from the little village of Metrit wanted to celebrate the canonisation. It just so happens that across the valley from Metrit one can see the house of the saint who was canonised. It was an important event and a number of family members wanted to be there during that period. My three nephews—Albert's sons—wanted to be there for various reasons. They did not want to be there simply to celebrate the canonisation of the saint; they wanted to renovate some of the homes that they had inherited and they wanted to sort out the affairs of family members who are in Australia and who are Australian citizens.

May was a very convenient time to be in Metrit and, hopefully, settle affairs with the family, who could then go on their way, splitting the estate among the seven children. My family also wanted either to renovate or to build a new home in the town in which I was born. That is a legitimate goal for most migrants, who want to introduce their children and grandchildren to the town from which they come. We hoped to make that decision at that time in order to get an early start on the project in the summer months. It is now late spring in Lebanon and renovations or building work can only be done in the summer as the winters are extremely severe and there is not much activity in the town. So the date of 17 February and my request to travel to Lebanon in May are not related: it is simply that May was the most convenient time for me to make the trip. I revealed clearly and openly the reasons why I was making the trip, and nothing else.

Much play has been made of the council elections. Metrit received approval for a council in December 2002. However, the Government for some reason or another held off conducting any elections until it had organised a series of elections in different parts of the country. As far as I was concerned, the elections were not going to happen because there was a unity ticket. That is what I had heard from relatives and others who telephoned me in Australia. There was no dispute about there being two tickets until 27 May. I happened to leave Australia on 7 May and I arrived back on 2 June—yesterday evening. There has been a lot of hype and commotion, but the Opposition has no basis for its claims other than what has been reported in the press.

Wherever one comes from, every family has a black sheep—someone who is in dispute with the rest of the family and who has an axe to grind. I do not propose to air my dirty family linen in this place. Nevertheless, the source of all the information supplied continuously to the *Sydney Morning Herald* in the past three or four years is a niece of mine named Janet Obeid. She is married to Maurice Obeid. They were employees of the *El Telegraph* newspaper, which the family owns—Maurice for 24 years and Janet for 14 years. They were asked to

resign four years ago for reasons that I am not prepared to air in this place. They have waged a malicious campaign for four years. Unfortunately, Maurice is offside with all his family—his brothers and sisters—and the Obeid family, as is Janet. This rumour mongering and malicious campaign of getting square with Eddie Obeid simply because I am a member of Parliament is an easy take. It is quite alarming that the media and parliamentarians on both sides of politics are prepared to take for granted anything that is said by someone from an ethnic background. They do not look into the matter further or establish the facts.

Reputations are so easy to tarnish. I am prepared to cop that. I am prepared to accept that the *Sydney Morning Herald* has waged an ongoing campaign of vilification against me not only when I first came to Parliament but when I became a Minister. It has progressed to the stage where I have sued the newspaper for defamation. That issue is before the courts. The case has passed the first stage and a judge has determined that the newspaper's Oasis allegations against me were defamatory. We are now at the critical second stage where a jury must assess whether it warrants an award of damages. Of course, the Queen's Counsel and lawyers for Fairfax are playing games and extending the case. I accept that that is their intention. Mike Carlton has a commercial relationship with the *Sydney Morning Herald*—they are a tag team. They work off each other and promote the same causes. I accept that; it is part of being in public life. One cops the good and the bad. Nothing will stop me from having my day in court.

Non-factual information has been used to run a campaign against me and the Opposition is trying to withdraw the long-held convention of organising pairs privately. It has nothing to do with this Chamber. It is not part of any sessional or standing orders. It is a matter of honour between two people: the Government Whip and the Opposition Whip at the time. I sent my letter and put in my request. I still stand by the very reasons why I went to Lebanon because ultimately these issues had to be sorted out with Yola, the trustee of my brother's estate. Such matters are very important to every family member. It does not matter whether it is one dollar or $100,000; it is a matter of principle that the issue is sorted out fairly and squarely and put on the table. As the only living uncle, I felt it was my duty to be there to try to talk some sense and, at the same time, to make a decision for my side of the family whether to renovate or build. They are the main issues.

It is not new for any blue-blooded Australian, especially someone in politics, to visit many countries to pursue many different issues. It does not matter whether one is a greenie, a civil libertarian or a humanitarian. We get involved in matters that are not relevant to the politics of our community, whether it is civil liberties in Burma or the slaughter of seals in Alaska. We are all aware of those issues, we get involved in them and visit other countries. As a son of Metrit—I was born there and arrived in Australia when I was six years old—I went back there. Arrangements were running smoothly for the inaugural council elections. By the way, Metrit has about 150 residents. About 1,250 people are on the electoral roll, most of whom—more than 500—live in Australia. I think it demeans my position in politics to claim that I would need a month to convince anyone to vote in any way—and there are only 150 voters in Metrit. I am supposed to be a numbers man and a powerbroker in the Labor Party and I am insulted by suggestions that I need a month to work on 150 people in a small village to get a council up. Think about that again. It is not the case.

I was alarmed by the ferocity of anti-Muslim sentiments. The Metrit community is about 850 metres above sea level, located in a beautiful mountainous area that overlooks the plain of El Khoura to the sea. Shi'ite Muslims and Maronite Catholics have co-existed there for more than 300 years. At present the Shi'ites constitute about one-third of the town's population and the Maronites constitute about two-thirds. Even during the war—I have stated this publicly—there were never any disputes, arguments, sectarianism or political issues in the township. But all of a sudden there is a campaign in a certain section of the community. Unfortunately, the person leading that campaign is an Australian citizen who has been gaoled twice in this country for drug running. As a consequence he fled to Lebanon, where he was also gaoled. He is a main source of information to the *Sydney Morning Herald* and the Coalition. I find it most offensive that a person of that standing should try to run an anti-Muslim ticket.

This has repercussions for the area. Once it is established that a person has taken a sectarian line it is likely that that person will not get to any Muslim minister. I can understand why that should happen. I do not believe one should treat people according to their colour, religion or ethnic background, so I found that offensive. So of course I got involved. Of course I told the town that it was wrong and that they should not treat people on the basis of their religion. Alan Jones and others have told me that it was bandied around this place that Hezbollah would take over and run the Christians out of town and that something fundamentalist was going on.

For Heaven's sake, these people have lived together for 300 years without any outside interference and suddenly we have a chicken farm owner who has bought land in the town and sprinkled chicken farms all

around the place. I think the Greens would be proud of me in the way I defended the environment. Believe it or not, that person had two of his employees run on the ticket and was financing the whole ticket and the person that was running the main campaign—the Australian that was gaoled twice in Australia and once in Lebanon—was going to benefit by selling a lot of his land to him.

If I saw that in front of me how I could I stop being involved? I am very proud of the fact that I stood up for the Muslims. They did get a representation of two out of the nine councillors and that is the way it should have been; that is a unity ticket. That was not necessarily why I went over there because I would find it much more beneficial to me financially if I had just picked up a phone and spent an hour talking to each one of them. It would have been much cheaper than getting air tickets over there and spending the time and looking after my relatives there, as one does. There was never going to be an election until 27 May. So it was always going to be a unity ticket and that is what was being promoted. But suddenly the press took umbrage and was fed all these malicious lies. Before I knew it, it was a major issue.

Instead of looking at the facts the Coalition is trying to undo a well-held convention that this is a private arrangement between the Government Whip and the Opposition Whip. If this Chamber wants to change the rules and guidelines, whatever may be, I would be happy to comply and so should every other parliamentarian comply. This is not an issue that is especially for me. I made my position quite clear. I told them this was important family business for me. It was important family business for me, and I stand by that. If any other issues want to be raised or any other connotations want to be made about it, this Chamber is more than welcome.

I find it amazing the way the press—in particular, a representative of the *Sydney Morning Herald*—behaved in that little township that has 150 voters. All of a sudden there was a line of press there. It is typical when they have elections there, no matter what the size of the village, they send the Army and the local constabulary. In this particular instance the press were photographing women wearing the hijab who found it insulting to be photographed. People did take offence at that as any other Australian would take offence if every time someone walked in to vote they were photographed. It was amazing that they had such an interest in a little community in who was entering those polling booths.

The real issue is whether what I stated in my letter for a pair was true. I stand by those words. It was true. As far as I was concerned that was what I was mainly there for 3½ weeks. As I said, the council elections were never supposed to happen. There was going to be a unity ticket up until 27 May. No doubt, both parties were talking to me about it and I was suggesting that they should have a unity ticket, and that was the total issue. For all of the commotion that has been made and all the malicious gossip that has been going on, fed by two aggrieved people who have in special circumstances been asked to resign from the newspaper, for the press to take hold of that and to make it into a national issue—I thank them for putting Metrit on the map by the way. I think it has been very beneficial for the town.

There have been suggestions like "Is Eddie going to become a politician in Lebanon? Has he been asked to be a Minister?" For Heaven's sake, I do not even read or write Arabic so I do not know how in the hell I could be expected to be a parliamentarian in a language which I do not read or write. By the way, I will be here for a long time to come to make sure the Coalition remains on the opposition benches. The Leader of the Opposition made some inference that I went to Syria. Yes, I did get invited to go to Syria for one day in 2002. I am glad that Barry O'Farrell, the Deputy Leader of the Opposition in the lower House, is in the Chamber because he has been to Syria, as has every other parliamentary delegation that goes to Lebanon. They are courteously invited to go to Syria and there is nothing wrong. I have been openly against Syrian presence in Lebanon. I have been marching, I have been on delegations for the past 25 years saying, "Syria out of Lebanon," but that does not stop me as an Australian politician of Lebanese descent talking to the Syrians, as has Barry O'Farrell and many of The Nationals and Liberal Party members who have been on delegations. I do not want to name the people whose backgrounds are questionable that took them on those delegations.

The Hon. Michael Costa: Name them!

The Hon. EDDIE OBEID: No, I will not because I am not here to slag people. The opportunity has now come that I am defending my right and integrity as a person who is entitled to take leave and attend to family business. If the Parliament wants to question that, it is up to it. Let us question whether Barry O'Farrell was going to enter into Lebanese politics. He will not be, because simply he is not of ethnic origin. They will not question someone of Irish descent that goes to Ireland and gets taken up with local issues. I am amazed that we are still at the stage where we look at the ethnicity of the person and start slagging them predominantly

because of their ethnicity. The Opposition noted that I somehow went to Syria to seek some support for a Shi'ite Muslim in the town of Metrit, which has 150 voters. [*Extension of time agreed to.*]

I find it humorous and insulting to the intelligence of any normal Australian that in a community of 150 voters with nine councillors—and all that has been asked is that two Shi'ite Muslims be represented amongst those nine councillors and they be given representation—I need to get Syrian support to do that. For heaven's sake, what is it up to? Is the Coalition trying to sell that line to this Parliament and to the Australian community? This is a lot of hype. This is a situation where the *Sydney Morning Herald* has a vendetta, its cause for vilification of me. I accept that. I am an open target and I will handle that in the courts of law. It is laughable for the Opposition to jump in and question my legitimate reason for being in Lebanon, when it has no evidence other than what it has read in the press—which has been fed to it by two people who have a malicious campaign against me and my family. They are trying to paint the picture that Eddie Obeid suddenly, because he wants two Shi'ite representatives in Metrit, is anti-Christian and does not believe in the Christian cause. That is what it has been peddling in the community. It is a joke for the Coalition to push that issue.

If the Coalition is really moving a motion to change the conditions and terms of these pairings, and whether anyone's pay is docked if anyone for any cause or issue goes other than for specific political Australian issues if they go overseas, it is more than welcome to do it. What is good for the goose is good for the gander. I am not going to change the rules to suit me, but I have only done what I am entitled to do, that is, to ask for leave well in advance as this was an important time. I wanted to be there because others of my family members are there, and we can co-ordinate things and maybe settle the matter once and for all. Unfortunately, because of the malicious campaign that was run from here by a niece and a nephew we never got to settle anything in Lebanon. As a matter of fact, it was very difficult to even get a meeting with the trustee. I ask a question of the members of the Independents and the Opposition: How long could you sustain a relationship if you have a trustee of an estate but you cannot talk to them and you cannot get any sense out of them?

If that is not something that is important to you, it is important to me. I have never mentioned the word "compassionate". I have never related to the pair being associated with the death of my brother. My brother died in 1998, and I was there for his funeral and participated in all the necessary matters that arose there. This was a time to try to sort things out while other members of my brother's family were there. They were there for their own very good reasons.

I assure you that this is what the legitimate reason was. There would be no need for me to get involved in any council elections if it became obvious that it was run on a campaign of sectarianism, of anti-Muslim. I think any Parliamentarian that would not have got involved at the time and stood up for what they believed was right would have been hounded anyway. So there it is. I leave it in the hands of the House. If they want to change the conditions of pairing, it is up to them, but it is a convention that has been—

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

CITYRAIL TRAIN FIRE

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Transport Services. Has the Minister seen reports indicating that a fire occurred last Friday night at 7.15 p.m. on a city-bound train at Kingsgrove railway station? Can the Minister provide the House with full details about this fire, given that yesterday the Minister gave details about a fire allegedly lit by offenders on a Heathcote-bound train on Saturday night?

The Hon. MICHAEL COSTA: I have been advised that matter is currently under investigation. I am happy to provide details of that investigation once it is concluded.

The Hon. MICHAEL GALLACHER: I ask a supplementary question. Is the Minister therefore suggesting that there were two distinctly different fires on two trains, one on Friday night and one on Saturday night?

The Hon. MICHAEL COSTA: I don't even understand what the honourable member's question is implying.

The Hon. Duncan Gay: You are a strange bit of gear!

The Hon. MICHAEL COSTA: Well, I do not understand it

The Hon. Michael Gallacher: Were there two fires?

The Hon. MICHAEL COSTA: I freely admit that I do not understand.

The Hon. Michael Gallacher: Did you get the facts wrong in answering yesterday's question?

The Hon. MICHAEL COSTA: If I have my facts wrong on what occurred yesterday, I will take steps to correct the record.

The Hon. Michael Gallacher: Today?

The Hon. MICHAEL COSTA: The fact of the matter is the Leader of the Opposition engaged in a stunt on the day that I was in hospital, and that stunt was to produce somebody that made a range of claims. As a result of those claims being made, there was an obligation on RailCorp to respond, because those claims were made publicly. I referred in my answer to the advice I received from RailCorp.

FOOD REGULATION

The Hon. CHRISTINE ROBERTSON: My question is addressed to the Minister for Primary Industries. Can the Minister inform the House on outcomes from last week's Ministerial Council for Food Regulation? Specifically, what will be the impact of policy decision for the food industry in New South Wales?

The Hon. IAN MACDONALD: As honourable members of the House would likely be aware, the important relationship between nutrition and health is taking on more focus not only in Australia but also around the world. This is driven by a number of factors. Generally, consumers today are much more health conscious than were previous generations. We are facing an ageing population that will rely on nutrition to help them maintain longer-term health. Science is also teaching us more about how our bodies process foods, and what nutrients we need at different stages of our lives.

Global and Australian food manufacturers are tapping into this science to maximise nutritional benefits. As a result, the food we eat, as well as the way it is processed, has changed dramatically in the past few decades. Today, more than 100,000 products are available on supermarket shelves, and that number is growing faster than ever before. One of the goals of the Food Regulation Ministerial Council is to make sure our national food policy keeps pace with the emerging science, yet also protects consumers. Last week's ministerial council tackled several critical issues facing the food industry, including fortification and health claims.

On the positive side, I can inform the House that Australian food and drink manufacturers will soon be able to tap into lucrative new markets after State and Territory Ministers agreed to broaden the types of foods that can be fortified with key vitamins and minerals. This is a win for consumers and manufacturers. By broadening the realm of fortified foods, we enhance consumer choice and at the same time create new opportunities for our manufacturers. For instance, some Australian-made items such as sports water currently cannot be fortified with vitamins and minerals. Yet Australia already imports a range of fortified drinks made in New Zealand. These imports are valued at approximately $260 million a year. This has put Australian manufacturers at a severe disadvantage. This is especially true for those in New South Wales and Victoria, which represent the vast majority of this country's food manufacturing industry.

Given Friday's decision, local manufacturers in the future will be able to compete on a more level playing field with imported products. Unfortunately, the industry suffered a major setback on the process to approve biomarker maintenance and health claims on foods. I am not talking about enhancement claims, just maintenance claims. These types of claims would, for instance, indicate that a certain product "helps maintain the normal level of cholesterol". Last December the ministerial council members agreed that biomarker maintenance claims should not be heavily regulated. This was a reasonable position, as such claims do not imply a product will actually alter a person's state of health, which are matters dealt with by other regulative frameworks. Of course, stronger claims about enhanced health benefits or serious disease would absolutely need to undergo more stringent pre-market assessment and approval.

Yet at Friday's meeting a number of States with little or no food manufacturing essentially reversed this important position. Now, all biomarker health claims—both maintenance and the more serious claims—must go through a very lengthy approval process. This process would include a public consultation phase, which means food companies would have to release their intellectual property for consideration by the general public, including their competitors. This will be a major disincentive for those that want to invest in cutting-edge research and innovation. And it could limit the ability of Australian manufacturers to keep pace with international competitors.

Part of a healthy food sector means our food companies have the capacity, and the incentives, to create products that meet consumers' ever-changing needs. They also need a regulatory framework that lets them do so in a timely manner. Without such a framework, our food industry will suffer. The flow-on effect will be felt in the form of less economic investment, untapped exports and fewer jobs in our communities. The ultimate casualty will be a less informed consumer. I will be placing this item back on the agenda of the next meeting of the ministerial council for further discussion, hopefully to achieve a sensible resolution.

MILLENNIUM TRAINS AND KELSO EDI CONTRACTS

The Hon. DUNCAN GAY: My question is directed to the Minister for Transport Services. Has the Minister met with the honourable member for Bathurst, Mr Gerard Martin, in the past fortnight to discuss the future of the Kelso EDI site and its employees' prospects following the Minister's decision to cancel the third stage of the Millennium train project? Has Mr Martin brought a deputation to the Minister's office, as he indicated to the regional organiser of the Australian Miscellaneous Workers Union, Mr Vince Overton? If so, when did the Minister receive that delegation? And what was the result? What upcoming government contracts might EDI be entitled to bid for to replace the Millennium deal that has been cancelled by the Minister?

The Hon. MICHAEL COSTA: This is a very good question, and I can provide a detailed response. In fact, I was fortunate enough, at the request of both Gerard Martin and other people in the local community of Bathurst, not only to meet at the recent Cabinet meeting that was held in Lithgow delegates from the EDI workers but also to go out and actually address the whole of the workforce at what was an informal mass meeting. They turned up to express their concerns about their future employment as a result of the loss of the third stage of the Millennium contract by EDI. I had the opportunity to talk to their delegates about their concerns and also, as I said, to address an informal mass meeting in the car park.

It was a very productive meeting. They expressed their concerns about the future. I was able to inform them that, rather than being concerned about the long term, they ought to revel in the fact that the Government has made an historic commitment to purchase 498 new pieces of rolling stock and the additional 60 carriages that would have been in stage three of the Millennium train. They welcomed that, and I indicated to them, after consultation with the union, that it would—

The Hon. Michael Egan: Was that 558 or is it still 498?

The Hon. MICHAEL COSTA: No, it is 558 now. The configuration of those contracts is a matter for RailCorp to determine after the registration of interest process, which I can advise the House has been announced commencing from today. There will be a registration of interest process followed by an expression of interest process followed by a tender process to secure that rolling stock. They were concerned about the criticism—I say this in the spirit of answering what I consider to be a good question—primarily from the Opposition about the Millennium train. They were concerned that it would jeopardise EDI in any prospective bids for rolling stock. I advised them that the Government regarded the Millennium train as a good train, one that is currently performing well above its contract performance levels.

The Hon. Duncan Gay: Why did you cancel it?

The Hon. MICHAEL COSTA: I will explain that. Just wait. We have resolved the problems with the Millennium train. The honourable member wants to know why we did not go ahead with the third stage. The reason was made clear at the time. Since the design of the Millennium train a number of changes have been made to the standards, one of which is crash worthiness. Those who have been following the Waterfall inquiry would be familiar with that. The outer suburban train that RailCorp has currently contracted with Goninans has a crash worthiness standard of 55 kilometres per hour whereas the Millennium train has a crash worthiness standard of 50, which is only natural as standards change. On the basis of standards and because we were purchasing such a large component of rolling stock we thought we would get a better deal by rolling the 60 carriages into the 498. They understood that.

The important point I made, which we should all bear in mind, is that this is an opportunity to reform some of the skills within railway rolling stock production. The way we traditionally purchase rolling stock has been problematic. As I have said on many occasions, we purchase rolling stock every 10 or 15 years. There have been lumpy purchases, which have led to lots of problems not only in relation to the introduction of new technology but also in relation to maintaining skills within the industry. The current method of purchase will enable us to maintain the skills base. They were very happy with that, particularly my assurances that EDI could bid for the new rolling stock.

DEPARTMENT OF AGEING, DISABILITY AND HOME CARE GROUP HOME CLIENT

The Hon. JOHN RYAN: My question is directed to the Minister for Disability Services. Why has the Department of Ageing, Disability and Home Care not acted to get a 17-year-old-boy with autism and a significant intellectual disability out of a State-funded group home at Yagoona where for weeks, and I have seen this myself, he has been spending some of the coldest nights of this year sleeping in a filthy room on a bare floor with nothing more for warmth than a thin foam mattress and a flimsy cotton blanket, wearing the same clothes day in and day out? What action has she taken to address the concerns that his mother recently wrote to her about, including the failure of the department to provide him with decent treatment and support programs? When will this State have a proper regulation, inspection and monitoring program for group homes to ensure that this kind of abuse no longer happens to young people with disabilities in State-funded facilities?

The Hon. CARMEL TEBBUTT: On many occasions I have indicated to this House that it is my view that prosecuting individual cases through question time is not the appropriate way to achieve either a good outcome for the young person to whom the honourable member has referred or his family. The Hon. John Ryan knows my view and I do not believe that he has ever found me, or my office, uninterested, closed or unwilling to follow through on cases he has raised. There is no doubt, and I have never denied, that the portfolios for which I am responsible, Community Services, and Ageing, Disability and Home Care, contain many tragic circumstances that involve difficult and complex issues that require ministerial intervention from time to time.

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

The Hon. CARMEL TEBBUTT: Nonetheless, I do not believe that this is the appropriate way to resolve the matter. There is no way I can come into this House and be aware of the case to which the honourable member has referred, and he knows that. He cannot use the young person's name, quite rightly. He also knows that I have never refused to examine issues he has raised with either me, or my office. I am happy to take on board the matter raised by the honourable member. I am happy to investigate what sounds like a distressing set of circumstances and to ensure that my department is doing the right thing to provide appropriate support to the young person to whom the honourable member has referred. It is not edifying for this House to spend its time trawling through the circumstances of individual families. I would accept it if the honourable member could say that he does not find me, my office, or the department I administer, responsive.

The Hon. Melinda Pavey: That is not an answer.

The Hon. CARMEL TEBBUTT: How can I provide an answer? The honourable member cannot even give me the name, quite appropriately.

The Hon. Catherine Cusack: It is the policies of your department you need to answer for.

The Hon. CARMEL TEBBUTT: And I do on many occasions.

The PRESIDENT: Order! I call the Hon. Melinda Pavey to order.

The Hon. CARMEL TEBBUTT: As I outlined yesterday, this Government and the Department of Ageing, Disability and Home Care is committed to improving services for families with a child with a disability, including families with a child with autism. Obviously, there was a lot of debate and discussion after the sentencing of Daniela Dawes yesterday. I have made it very clear, and outlined, both the funding the Government currently provides and the increased funding we announced in the mini-budget. Nonetheless, I do not believe that to bring up individual cases is the right way to go about resolving the matter. I will follow up the matter for the honourable member.

BAIL LAW REFORM

The Hon. PETER BREEN: I direct my question without notice to the Minister for Justice, representing the Attorney General. Is the Attorney aware of criticism regarding lenient bail rulings in Federal courts in relation to terrorist suspects? Does the Attorney, as a result of that criticism, have any plans to introduce tougher bail laws in New South Wales? Can the Attorney indicate the impact of tougher bail laws on already overcrowded prisons? If the Attorney is considering introducing tougher bail laws, can he indicate what steps will be taken to ensure more speedy trials?

The Hon. JOHN HATZISTERGOS: Earlier in the week the Attorney General made some comments about a review of the Bail Act, of which the honourable member would be aware. He should await the outcome of the review. Ultimately, the outcomes depend upon court decisions, but our bail laws have already resulted in an increased number of people in custody, as he would be aware. As a result of the amendments we have already instituted, more than that 300 offenders are now in custody. I am quite happy to refer the question of speedy trials to the Attorney General to ascertain his views. I will inform the House in due course.

The Hon. PETER BREEN: I ask a supplementary question. I am not aware of the revelations made by the Attorney earlier in the week on tougher bail laws. Therefore I ask that that part of the question also be referred to the Attorney.

The Hon. JOHN HATZISTERGOS: I am surprised because the Hon. Peter Breen seems to follow these matters with diligence. The Attorney indicated that the Bail Act was very old legislation that had been revised in piecemeal fashion from time to time. As the honourable member would be aware, the Repeat Offenders Act 2002 commenced on 1 July 2002 and is the legislation to which I referred that has resulted in a substantial increase in the number of people who have been refused bail compared to previous years. The issue is essentially one of policy, but I am happy to refer it to the Attorney General and leave it to him to respond to the honourable member in whatever way he deems appropriate.

ISYS SEARCH SOFTWARE PTY LTD SCOTLAND YARD CONTRACT

The Hon. EDDIE OBEID: My question without notice is addressed to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. Will he inform the House how a Sydney company is helping Scotland Yard and other international investigators tackle criminal cases?

The Hon. MICHAEL EGAN: I am pleased to advise the House that a Sydney software company, which has been assisted by the Department of State and Regional Development, has recently won a major contract to provide its software to Scotland Yard. The firm is ISYS Search Software Pty Ltd, which has its headquarters in Crows Nest. It is a global supplier of search software for businesses and public sector organisations. The Scotland Yard contract means that the ISYS range of search software is now used in 45 per cent of United Kingdom police organisations. The software enables investigators to find information that may appear in a range of different reports, databases and other law enforcement resources.

Investigators can use it to perform key word searches to uncover any relevant information and use features such as synonyms to find occurrences of similar words or aliases. The software can also be used during court proceedings, allowing prosecutors to quickly check facts and transcripts while a trial is actually under way. In Australia the software is used not only by sections of the NSW Police but also by the police forces in Western Australia and Victoria, the Australian Federal Police, the New South Wales Attorney General's Department and the Commonwealth Director of Public Prosecutions. The company also has a number of other United Kingdom police forces that are prepared to buy its software. I congratulate the company on its latest win and wish it all the best while working with Scotland Yard.

BOWRAL RAIL COMMUTERS

The Hon. PATRICIA FORSYTHE: My question without notice is directed to the Minister for Transport Services. Has he listened to the audiotape provided by radio 2ST in Bowral containing recorded comments of several local rail travellers who are outraged by his "Bowral millionaire stockbroker" slur? Has he responded to the letter from the honourable member for Southern Highlands who undertook, on behalf of angry local callers to 2ST, to ensure you received the tape? What response will he be making to those callers?

The Hon. MICHAEL COSTA: No, and no.

CORRECTIONAL CENTRES PERFORMANCE

The Hon. TONY CATANZARITI: My question is addressed to the Minister for Justice. Will he provide the House with further information concerning the contents of the *Report on Government Services 2004*, specifically in response to matters raised following the answer that has been given to the House previously on this matter?

The Hon. JOHN HATZISTERGOS: At the end of the last sitting a couple of weeks ago, the Hon. Greg Pearce made a hysterical attack on me in an adjournment debate following two attempts to obtain further information by asking me questions on notice about the Productivity Commission report. He could not structure his question in a manner that would allow me to provide some form of meaningful response. It is necessary when I provide information to the House, particularly information that the Hon. Greg Pearce would want to listen to, that he does a few things. First, he should listen to the question. Second, he should digest the answer and refer to the reports to which the answer relates. Third, although this is very difficult for him, he should exercise, in what could be described in very broad terms as his mind, on things before attempting to structure a question such as the one that eluded him on that occasion. I deal first with the issue of assaults in correctional centres.

The Hon. Duncan Gay: I do not know how you can keep a straight face.

The Hon. JOHN HATZISTERGOS: That is why I am turning away from the Deputy Leader of the Opposition: I do not want to see him. If the Hon. Greg Pearce had read my answer, he would know that the assault rates in New South Wales have dramatically declined. I have indicated on a number of occasions to him and at estimates hearings that there are no compatible figures that could be used for interstate comparisons. The Productivity Commission and the Auditor-General have acknowledged that, and the reason for it is that each State captures information in different ways and each State has responsibilities for different facilities.

The Hon. Greg Pearce: What is your answer on recidivism?

The Hon. JOHN HATZISTERGOS: I will come to that in a minute. I am dealing with assaults, as that was the first question asked by him. The Hon. Greg Pearce does not realise that New South Wales also has responsibility for 54 court and police cells, which a number of other States do not have. Many people who are detained in custody are detoxing and are fairly aggressive, which is why it is necessary to be able to deal with them. Those statistics enter into our figures but they do not necessarily enter into the figures of other States. We also have in custody, and will have, forensic patients. At the end of this Parliament, that situation will change when a forensic hospital is built. The hospital will take out of the correctional system offenders who are not guilty of criminal offences and persons who are being detained because of orders of the court, notwithstanding that they have been found not guilty or are unfit to plead.

We also have a system in New South Wales that captures every single assault, irrespective of its severity. Because of all those reasons, the figures are not comparable. What they indicate and what is comparable are figures collected over time. Those figures show a noticeable decline. More than 95 per cent of recorded assaults in New South Wales are minor. The Inspector-General has acknowledged our efforts and has stated in his 2002-03 annual report:

> The decline in these categories of incidents is an exceptional result... The Department's strategies to combat... violence within the system are producing positive results.

I am sure that the Hon. Greg Pearce is able to understand that.

The Hon. Greg Pearce: What about outlining the costs? What about recidivism?

The Hon. JOHN HATZISTERGOS: I will now deal with costs. The Hon. Greg Pearce indicated that the costs of the Department of Corrective Services had blown out. He actually said that the costs related to four-star hotel style luxury. I am happy to offer it to him. He is wrong about the costs being the highest. [*Time expired.*]

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

The Hon. JOHN HATZISTERGOS: I am happy to dispel the Hon. Greg Pearce's thought that it is the most expensive system in the country. He is wrong. The most expensive custodial system in the country happens to be the Federal Government's detention centres. There is one offender in custody on Manus Island costing $30,000 a week. Does the Hon. Greg Pearce want to know how to cut costs?

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

The Hon. JOHN HATZISTERGOS: I will tell the Hon. Greg Pearce how the Coalition cut costs when it was in government—it cut out all the education. The Coalition did not have a single teacher in the New South Wales Department of Corrective Services. The Coalition Minister at the time, reinforced by the current shadow Minister, said that the provision of education was a way to get people out of gaol through the parole process. Cutting out education, which is 30 per cent of the costs, will bring the costs down. But there is another strategy—cut out the small gaols that every country community wants to have. The National Party seemed to support the location of small gaols in country centres. The New South Wales Government has gaols well dispersed throughout the system and many places are quite small.

The Hon. Greg Pearce: What about recidivism?

The Hon. JOHN HATZISTERGOS: Let me deal with recidivism because I am running short of time. Recidivism is very important. I point out for the benefit of the Hon. Greg Pearce that when the Coalition was in government, the rate was 2 per cent higher than it is now. Something else that must be said about recidivism is that the report, which the Hon. Greg Pearce does not seem to have read, acknowledges that one of the reasons recidivism figures are as they are in New South Wales is that we have the Drug Court which uses the correctional system as a method of punishment for persons who breach orders. So offenders are going in and out all the time, and each one adds to the statistics. That is why the figures are high, but it is also a product of policing. A more effective police force will have more people going into custody from time to time. The Opposition might not like that, but that is the fact. However, there is an easy way of reducing recidivism, and that is a suggestion that came from the Hon. John Ryan—that is, "We don't put drug offenders in gaol, we kick them out. That will reduce the figures." [*Time expired.*]

TRAIN DRIVERS OCCUPATIONAL HEALTH AND SAFETY

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question is directed to the Minister for Transport Services. Is the Minister aware that on 14 May a fully loaded coal train with 45 carriages was diverted to cross Menangle bridge not once, but eight times, at a speed of 80 kilometres an hour to test whether the bridge was safe? As trains may cross the bridge at a speed of only 40 kilometres an hour, is it now normal practice to use train drivers to test bridges in such a manner? Was that exercise not against regulations pertaining to occupational health and safety?

The Hon. MICHAEL COSTA: It is not unusual to have testing regimes in place, but I am not aware of that specific testing regime. I do not know the details of that testing, but I will find out and will bring the information to the House.

NEW ENGLAND AREA HEALTH SERVICE AND HUNTER AREA HEALTH SERVICE AMALGAMATION PROPOSAL

The Hon. JENNIFER GARDINER: My question without notice is addressed to the Special Minister of State, representing the Minister for Health. Has the Government commenced planning to amalgamate the New England Area Health Service with the Hunter Area Health Service? Is the Minister aware of community concern about any such amalgamation? Have any New England health councils been consulted on this matter? How can the Government justify the management from metropolitan Newcastle of health services in far-flung communities such as Mungindi, Tenterfield and Boggabilla? Will the Government rethink any proposal to amalgamate those two already large area health services?

The Hon. JOHN DELLA BOSCA: I thank the member for her detailed question about the administration of Health in New South Wales. I am sure my colleague the Minister for Health will provide her with a very detailed answer in the near future.

WORKCOVER INSPECTORS

The Hon. AMANDA FAZIO: My question without notice is directed to the Minister for Commerce. Will the Minister advise the House about WorkCover's new inspectors?

The Hon. JOHN DELLA BOSCA: Honourable members would recall that on 18 March I updated the House about how the Government is ensuring that WorkCover and its inspectors are making the workplaces of New South Wales safer. At that time, I informed the House of the recruitment and training processes being undertaken by WorkCover. Last year, WorkCover had two intakes of inspectors, one in February and one in November. For the past 16 months, those inspectors have participated in the nationally recognised Inspector Induction Program and have developed a comprehensive range of skills and knowledge in all aspects of occupational health and safety, workers compensation, injury management and dangerous goods. Yesterday I had the pleasure of meeting the new inspectors in the precincts of Parliament House as they took another important step in their training. In a special ceremony in the Jubilee Room at Parliament House, I presented 30 trainee inspectors with their Certificate of Authority.

I take this opportunity to congratulate WorkCover and its senior officers on achieving the aim of attracting more women to the inspectorate. For the first time, half of the intake of the 30 new inspectors were women. The new WorkCover inspectors will play a vital part in working with employers and employees to achieve safer workplaces across New South Wales. They are now able to enter workplaces throughout the State to conduct occupational health and safety and workers compensation inspections. In congratulating the inspectors, I reminded them of their important role in the creation of safe and secure workplaces in New South Wales. Now more than ever, WorkCover inspectors are asked to understand and apply the principles of risk management to achieve the goal we all share—fewer workplace injuries and deaths.

The Government has made a commitment to reduce workplace injuries by 40 per cent and workplace fatalities by 20 per cent before the end of 2012. Through regular workplace visits, education programs and compliance initiatives such as the recent construction industry blitz targeting working at heights, inspectors work tirelessly to educate employers and workers on the best ways to manage or eliminate risk in workplaces. Equally as important as the development of technical and legislative knowledge is the ability to communicate and negotiate with those who influence occupational health and safety behaviour. In order to strike that balance, new inspectors are teamed with experienced inspectors throughout the field-based stages of their training, and I reminded yesterday's group that they would do well to be guided by their mentors, managers and colleagues of longer standing.

At the conclusion of their training, each inspector will be assessed for the Diploma of Government (Workplace Inspection) and will join Australia's largest and most active workplace safety inspectorate. WorkCover carries out more than 400 successful prosecutions a year, almost twice as many as those in all other States and Territories combined. As I have previously indicated, the job of inspectors is not an easy one and all inspectors deserve the respect of the community and the industry. In that regard, I again congratulate those inspectors who received their Certificates of Authority yesterday and wish each and every one of them the best of luck for the remainder of their training and subsequent WorkCover careers.

BOUNTY OIL AND GAS NL SEISMIC TESTING

Mr IAN COHEN: My question is directed to the Minister for Primary Industries. Can the Minister inform the House whether contractors employed by Bounty Oil and Gas NL to conduct the seismic work in the PEP-11 permit area conducted testing over reef areas contrary to the environment plan they were operating under?

The Hon. IAN MACDONALD: As I said yesterday to the honourable member, the conduct of that testing has been carried out by the Minister for Mineral Resources, who still has responsibility for that policy area. I will seek an answer from him on this matter.

Mr IAN COHEN: I ask a supplementary question. If the contractors were operating over test reefs outside the environment plan, what measures will the Minister responsible for Fisheries take to ensure that Bounty Oil and Gas NL is held accountable for the breach?

The Hon. IAN MACDONALD: I will refer that question to the Minister for Mineral Resources and hear what he has to say. At that point I will consider my response, if, in fact, that testing did occur.

STATE TRANSIT BUS DRIVER REHABILITATION

The Hon. ROBYN PARKER: My question is addressed to the Minister for Commerce. Has the Minister investigated why a State Transit bus driver had to wait nine months for rehabilitation for a workplace

injury, which, as a result of the delay, meant that he lost his Lake Macquarie home? If the Minister has investigated that matter, what was the result of the investigation? Did the investigation reveal whether WorkCover considered this to be an acceptable outcome for a government agency?

The Hon. JOHN DELLA BOSCA: I echo the comments of my colleague the Minister for Community Services that it is difficult to answer such a specific question, especially as the forms of the House oblige the honourable member to ask the question without naming the individual involved. From her description of the case I am not familiar with the specifics. I do not recall personally dealing with that case. However, as the honourable member would be aware, often there are difficulties in contested matters of workers compensation. From time to time it is necessary for my office or myself to become directly involved in representations about WorkCover matters. I am happy to take the question on notice, make relevant inquiries and advise her of the outcome as soon as possible.

BIO 2004

The Hon. HENRY TSANG: My question without notice is directed to the Treasurer, and Minister for State Development. Would the Minister inform the House about New South Wales efforts at BIO 2004, the world's leading biotechnology event?

The Hon. MICHAEL EGAN: That question is not only important but also timely. Next week, from 6 June to 9 June, Bio 2004 will be held in San Francisco. BIO 2004 is, of course, the world's leading biotechnology summit and I can inform the Hon. Henry Tsang and the House that the New South Wales biotechnology industry will be very well represented.

The Hon. Patricia Forsythe: It is about time you took it seriously.

The Hon. MICHAEL EGAN: We have always taken it seriously, we have always been well represented at these events. A couple of years ago I went out of my way when I was in the United States of America on business to go to San Diego to speak with a number of biotechnology companies located in San Diego, which, in many respects, is the biotechnology hub of the world.

I acknowledge that the Hon. Patricia Forsythe has been urging the Premier, other Ministers and me to attend BIO summits for quite some time. I have never managed to get there because it is usually just before the budget and that always takes priority. But I can inform the House that the Premier will be going to BIO 2004 this year, which is expected to attract more than 16,000 biotechnology executives, investors, policymakers, scientists and journalists. More than 55 countries will participate in the event, which will consider a range of topics through seven plenary sessions, more than 150 panel sessions, 1,200 displays, a business forum of 200 company presentations and a career fair.

Australia will have one of the largest international delegations in attendance at BIO 2004 and about 100 delegates will represent New South Wales. The New South Wales Government is assisting nine leading New South Wales companies and organisations to take part in BIO 2004, while others will be there independently. The exhibition will be an important opportunity to promote New South Wales credentials as a leading centre for biotech research and development and business opportunities and it will also provide an excellent occasion for companies to identify new opportunities. I spoke recently in the House about an academic, Associate Professor Don Martin from the University of Technology, Sydney, who had been invited to chair a panel session at BIO 2004 on how miniature electronics can be used to assist human cells.

A second New South Wales academic, Professor Robert Henry from Southern Cross University, has also been invited to chair a session on bio-banking, which reflects the strengths of Southern Cross University in Lismore. The university has collected about 10,000 samples of Australian plant species. That is almost half of Australia's total 25,000 plant species, which represent about 9 per cent of the world's total plant biodiversity. Having two New South Wales speakers invited to chair sessions is a clear demonstration that biotech research in New South Wales is at the cutting edge. Another New South Wales company that will be taking part at BIO 2004 is Proteome Systems, a company about which I have spoken often in this House. It is a world leader in proteomics, which is a growing sector of research based on the analysis of protein. The company's founder is Dr Keith Williams, a Sydney biologist, who recently made a number of observations about Sydney and why it is an ideal location for international businesses such as his. There will be many New South Wales biotechnology success stories at BIO 2004. I look forward to informing honourable members about the outcome of this important event. [*Time expired*].

AUSTRALIAN DEFENCE INDUSTRIES SITE REDEVELOPMENT

Ms SYLVIA HALE: I direct my question to the Treasurer. Will he please explain why, on 11 May, he told this House that the Government had not entered into and had no plans to enter into an agreement guaranteeing development consent for the Australian Defence Industries site at St Marys? On Tuesday this week he contradicted that by stating that the Government might be exposed to legal action if it breached the development consent agreement that it had entered into. When was this agreement signed—before or after 11 May 2004? What would be the full extent of the financial exposure to the New South Wales taxpayers if regional plan No. 30 were revoked?

The Hon. MICHAEL EGAN: One thing is certain about the Greens: no matter what I do, I can never win. The honourable member asked me a question, she said, on 11 May. I gave her an answer based on advice I received at the time. It turned out that the answer was not entirely correct. So I came into this House, I think yesterday or the day before, and I corrected the answer. Now I am being taken to task for correcting that previous answer. I suggest I would have been taken to task if I had not done that. But with the Greens I can never win. The Greens called on me to abolish the budget lock-up, but when I abolished it they moved a motion condemning me for taking their advice. The question that I have been asked today by Ms Sylvia Hale really falls into that category. I cannot win, no matter what I do. If there is anything else in the honourable member's question that I have not answered, I will refer it to the appropriate Minister and obtain a response. But if it is wrong, I will not correct it!

Ms SYLVIA HALE: I ask a supplementary question. Will the Treasurer explain why, on Tuesday 1 June he said, "I wish to add the following clarification to my original answer?" It is not that he misled the House, or that he was contradicting himself entirely; he was merely clarifying something.

The Hon. Amanda Fazio: Point of order: The honourable member's question contravenes the sessional orders. It was full of argument. The honourable member knows better.

The Hon. Michael Egan: I have known the Hon. Sylvia Hale since I was 16 years old. She was at the very first Young Labor meeting that I attended. At that time it was called the Australian Labor Party Youth Council. That was the last meeting that she was allowed to attend. So I have known all about her for many years.

The PRESIDENT: Order! I remind Ms Sylvia Hale that supplementary questions must comply with the same guidelines that govern questions. A supplementary question may not contain argument.

GWABEGAR BRANCH RAIL LINE CLOSURE

The Hon. RICK COLLESS: My question without notice is directed to the Minister for Transport Services. Can the Minister confirm local reports this week that the Gwabegar branch line has been closed? Is this the second casualty of the five lines slated for mothballing in a recently leaked memorandum from the Rail Infrastructure Corporation obtained by The Nationals and the Liberals?

The Hon. MICHAEL COSTA: No branch line has been closed as a result of an alleged circulated memorandum referring to five branch lines.

The Hon. Patricia Forsythe: They were closed for another reason, were they?

The Hon. MICHAEL COSTA: No branch lines have been closed.

The Hon. Rick Colless: It has not been closed?

The Hon. MICHAEL COSTA: No, it has not been closed. I have said consistently that the Government will not take a decision in relation to branch lines until it has had discussions with the Federal Government, the Australian Wheat Board and others. I have invited Opposition members to participate in those discussions. I can advise the House that on Friday a discussion will be co-ordinated by the New South Wales Farmers Association. Included among participants will be representatives from State and Federal governments. I look forward to trying to work through and to resolve some of those issues. I do not want to state at any point that there are no issues relating to branch lines. The industry-based report that Vince Graham was commissioned to prepare clearly indicates that there are problems. The Government has not made any decisions to close any branch lines.

The Hon. Rick Colless: When is the next train going to Gwabegar?

The Hon. MICHAEL COSTA: I am not a walking railway timetable. That is an absurd question to ask. Throughout question time today Opposition members have been asking specific questions that should more appropriately be placed on notice. Ministers cannot be expected to know when every train runs on every rail line, given the fact that these freight trains are private trains; they are not even government trains. Alternatively, Ministers cannot be expected to know about individual workers compensation cases, or about cases involving disability or community services. It is absurd for Opposition members to continue asking me these questions.

The Hon. John Ryan: We should stop asking him hard questions.

The Hon. MICHAEL COSTA: They are not hard questions; they are silly questions. If Opposition members asked me questions about which they really wanted to obtain information, I would provide that information. But they should not ask me, "What time did the last train run on such and such a line", given that, in this case, we are talking about a private train. It is absurd. It shows that Opposition members have not done their homework on important issues of policy. Question time really is about policy, but Opposition members are bereft of policy.

QUEANBEYAN FAMILY SUPPORT SERVICES

The Hon. TONY BURKE: My question without notice is addressed to the Minister for Community Services. What is the Government doing to support families and young people in Queanbeyan?

The Hon. CARMEL TEBBUTT: A number of initiatives are in place to support families, children and young people in the Queanbeyan area. They include four new volunteer home-visiting services throughout south-east New South Wales, for which the Government provided $532,000 in funding. This comprised four separate grants under the Families First Program over 30 months. That funding will go to volunteer home-visiting services in the Queanbeyan, Bungendore and Braidwood areas, and in Bega Valley shire, Eurobodalla shire and Cooma-Monaro shire.

The four services will be provided by Campbell Page, which was appointed following a competitive tender process. On a recent visit to Queanbeyan I had the opportunity of discussing with Campbell Page its approach to these new services and how it will seek to integrate them with other services that are already available in the Queanbeyan area. On that visit I also announced funding for both a Queanbeyan youth worker and an adolescent and family counselling service for the Queanbeyan region. Queanbeyan City Council will receive annual funding of $28,000 for three years to establish a youth worker service plus an additional $24,000 in non-recurrent funding for set-up costs. The youth worker will liaise with both government and non-government agencies that provide services to young people. These will include local high schools, the YMCA, NSW Police youth liaison officers and health services.

The funding will provide for the establishment of innovative early intervention programs that meet the needs of young people. The youth worker service will work closely with schools to identify students who are having difficulty making the transition from primary school to high school. The service will provide programs and options to assist young people who are at risk of leaving school early. Recurrent funding in excess of $75,000 has also been approved for Barnardos to fund the Queanbeyan and Region Adolescent and Family Counselling Service. The service provides support to young people and their families who are homeless or at risk of homelessness. It will provide assistance on a range of issues, including drug and alcohol abuse, depression, anxiety, grief and loss, self-harming, aggression, violence, bullying, and parent and adolescent conflict. The Government is firmly committed to supporting families and communities. I believe the initiatives that I have outlined will provide important early assistance and support to parents and young people in the Queanbeyan area and will contribute greatly to strengthening families and communities in the region.

MULLET FISHERY

The Hon. JON JENKINS: My question is directed to the Minister for Primary Industries. Many recreational fishermen have witnessed disgraceful waste by commercial fishermen who catch many tonnes of mullet and then take only the roe from the mullet they cannot keep. Some commercial fishermen even bring a small bulldozer with them to bury the discarded carcasses. Will the Minister investigate this disgraceful waste of natural resources and will he put an end to this waste?

The Hon. IAN MACDONALD: In New South Wales mullet is harvested as part of the estuary general and ocean hauling fisheries. It is a commercial fishery. Traditionally, as many honourable members will be aware, mullet is a very low-yielding product. As a consequence—

The Hon. Michael Egan: It's not a very nice fish either.

The Hon. IAN MACDONALD: That is prejudice. I know of a place at Lake Illawarra that serves wonderful fried mullet. When the Treasurer visits I will make sure that he gets a good serve of it. Although mullet has been a low-value fish in the market in recent years, the export of its roe has provided a new baseline in the economic viability of this industry. In fact, it has grown significantly and at the moment has a farm gate value of about $6.5 million—making it a quite important fishery. I am aware that some members of the public have the perception that mullets are targeted for their roe and that the rest of the fish is dumped. But this is not the case. In 2000-01 NSW Fisheries conducted a survey and an assessment of the mullet fishery and engaged an independent consultant to look at the issue.

The Hon. Michael Egan: Why is it always the cheapest fish in the fish shop?

The Hon. IAN MACDONALD: It is because people like you are prejudiced against this really fine fish, which, if cooked properly, is as good as anything on the market.

The Hon. Michael Egan: Well, how do you cook it to make a good meal?

The Hon. IAN MACDONALD: I will give you a few lessons when we get out of here. An independent consulting firm looked into this issue and commissioned a marketing study to gain a better understanding of the distribution and economic value of mullet harvested in New South Wales. The study found that, while roe is the most valued part of the catch, none of it is dumped. All the fish is processed except for the scales. While approximately 5 per cent of fish are not sold, they are offered to fertiliser companies. NSW Fisheries has advised that it has not received reports for many years of mullet being dumped by commercial fishers. However, if the Hon. Jon Jenkins can give me some details about a specific incident, I will have the department assess the matter and report back to the House.

MATT WEBSTER GRANT OF PAROLE

The Hon. GREG PEARCE: My question is directed to the Minister for Justice. What is the Minister's response to the granting of parole to Matt Webster, who raped and killed Leigh Leigh at Stockton Beach, Newcastle? Has the Minister been informed that Mr Webster is fully rehabilitated, shows remorse and deserves to be released from gaol?

The Hon. JOHN HATZISTERGOS: Mr Webster was sentenced to 20 years imprisonment, with a non-parole period of 14 years. He first became eligible for release on parole on 16 February 2004. It is important to reflect on the remarks made at the time of sentencing by Justice James Wood—a very experienced judge of whom everyone would be aware. Justice Wood said:

> An adjustment downwards of the minimum term and the extension of the additional term to secure appropriate supervision of the prisoner on parole [is appropriate].

There was some criticism at the time of the sentence, but it was defended by then Attorney General John Dowd, who is now a Justice of the Supreme Court. On the sentence, John Dowd said:

> In this instance the offender will serve at least 14 years before he can apply for release and longer if he does not behave.

In February 2004 the Parole Board declined to parole this individual because of recommendations made by the Serious Offenders Review Council that he needed to undertake work release. He has been on day leave since 2003 and he has successfully completed a number of incidences of day leave without any incident. He has also completed a number of incidences of weekend leave, again without incident. He has also been on work release for a few months. His employer apparently indicates that Mr Webster is performing well and that the employer intends to keep him in that position. He has been reporting back to the prison after work release without any incident.

Mr Webster has completed all relevant programs that the correctional system has to offer, including the Custody Based Intensive Treatment [CUBIT] Program—in which a number of offenders decline to participate,

and many of those who do fail. He completed the program satisfactorily and was assessed by CUBIT as being at low risk of reoffending. The proposal to put him on parole—I have not read the reasons, which have not come to me yet—involves his not returning to the Newcastle and Stockton region without the consent of the probation and parole officer and that he remain for the immediate future in the halfway house where he has been performing some of his daily activities. Mr Webster will continue to be monitored by the Probation and Parole Service of the Department of Corrective Services, and any breaches will be reported to the Parole Board for consideration of appropriate action by the board, at its discretion.

I indicated earlier this week that I intend to bring before Parliament in the immediate future proposals that will further tighten the provisions in relation to parole. They will involve the ability to rapidly suspend a person's parole in the event of a breach. In other words, a full hearing of the Parole Board will not be required. It will enable a suspension to take place—which will be possible on a 24-hour basis if necessary through the duty judge scheme. The person will be arrested and brought back into custody and then the Parole Board can deliberate on the matter. I must also indicate that Mr Webster will be required to continue maintenance courses, as directed by the Probation and Parole Service, while he remains at large. He will be subject to urine analysis testing. In the event of any breaches of those guidelines, he will brought to account.

These are difficult decisions. Mr Justice Wood indicated at the time of sentencing that it was a very difficult decision. The choice that must be made is between determining whether Mr Webster remains in custody, having completed all the relevant programs, received recommendations from probation and parole, the Serious Offenders Review Council and other parties— [*Time expired*.]

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

The Hon. JOHN HATZISTERGOS: The issue is simply this: Do we continue to keep him in custody for an extended period of time when he has made progress—bearing in mind that at the end of his 20-year sentence he would be released and there would be no opportunity to supervise him? Or, alternatively, do we take it the next step further and, once he has satisfactorily completed all the relevant leave programs and appropriate courses, test him out in the community and give him an opportunity? As I have indicated on a number of occasions—and I have opposed parole in a number of instances—I have considered this matter very carefully. In the circumstances I do not disagree with the very difficult decision of the New South Wales Parole Board. I do, however, make it very clear to Mr Webster—and no doubt this will be communicated to him by the Probation and Parole Service—his progress will continue to be monitored. The test is not over. He will continue to be monitored not only by the Probation and Parole Service but also by the New South Wales Parole Board through regular reports they will have in relation to his progress.

The Hon. Duncan Gay: How long has he served?

The Hon. JOHN HATZISTERGOS: He has served 14½ years. In the event that he fails to comply with or meet his obligations under the parole order he will be brought back into custody.

The Hon. MICHAEL EGAN: If honourable members have further questions, I suggest they place them on notice.

POLITICAL ACTIVISM IN SCHOOLS

The Hon. CARMEL TEBBUTT: On 5 May the Hon. David Oldfield asked me a question regarding a journal of the Australian Education Union. I provide the following answer:

> The NSW curriculum is firmly based on the traditional three Rs. The curriculum embeds a strong sense of civic, community and personal pride that promotes the common values of our democratic society.

PROGRAM OF APPLIANCES FOR DISABLED PEOPLE

The Hon. CARMEL TEBBUTT: On 5 May the Hon. John Ryan asked me a question regarding the Program of Appliances for Disabled People. I have obtained the following answer:

> I am advised that the Program of Appliances for Disabled People [PADP] is administered by NSW Health. In 1987, responsibility for funding aids and appliances for residents of Government operated institutions and group homes was transferred from PADP to the operating budgets of those institutions and group homes. This arrangement was maintained when the institutions and group homes were transferred to the Department of Community Services and, subsequently, to the Department of Ageing, Disability and Home Care [DADHC].

The Minister for Health has advised that every year, more than 36,000 people in NSW access the Program of Appliances for Disabled Persons Scheme and over 65,000 aids and appliances are provided. In 2003/04 funding for the program was enhanced by $1 million, to meet the continuing growth in demand for aids and appliances. It is estimated that about 1,600 additional people will benefit from this enhancement.

The Department of Health and the Department of Ageing, Disability and Home Care [DADHC] are working together to determine how best to ensure equitable access to aids and appliances for clients of both DADHC and Non-Government operated group homes.

Residents of group homes operated by non-government organisations are eligible for assistance from the program where:

1. The resident of the non-government organisation group home has not been transferred from a DADHC funded residential facility, or,

2. The resident was not originally part of the Community Living Program operated by the Department of Community Services, now DADHC.

People living in group homes and Government institutions have access to aids and appliances. Where appropriate, funding to assist this access is provided either through PADP or DADHC.

Questions without notice concluded.

ROAD TRANSPORT (GENERAL) AMENDMENT (LICENCE SUSPENSION) BILL

Bill received, read a first time and ordered to be printed.

Motion by the Hon. Michael Costa agreed to:

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

Second reading ordered to stand as an order of the day.

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

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL

BAIL AMENDMENT (TERRORISM) BILL

Bills received.

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

Motion by the Hon. Ian Macdonald agreed to:

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

Bills read a first time and ordered to be printed.

COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION

Report

The Hon. Christine Robertson, on behalf of the Chair, tabled Report, No. 4 entitled "Discussion Paper on the Health Conciliation Registry", dated June 2004.

Ordered to be printed.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by the Hon. Michael Gallagher agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 106 outside the Order of Precedence, relating to the censure of the Honourable Edward Moses Obeid, MLC, be called on forthwith.

Order of Business

Motion by the Hon. Michael Gallagher agreed to:

That Private Members' Business item No. 106 outside the Order of Precedence be called on forthwith.

THE HONOURABLE EDWARD MOSES OBEID

Motion of Censure

Debate resumed from an earlier hour.

The Hon. EDDIE OBEID [2.32 p.m.]: To conclude my final contribution to this censure motion: I firmly believe that I have acted within the conventions of pairs, which are outside sessional orders and have no bearing on getting permission from this Parliament. I believe that I have acted in good faith. I went there at a time that was agreed with other members of the family to co-ordinate issues that were our family affairs. I believe that members of the Coalition should think twice about trying to change this convention; and if they do, they should think about the repercussions. Every time a member takes leave, at any time, during their parliamentary obligations, they can be questioned in detail about every issue they have attended to, with specific evidence to establish that they have carried out what they maintained they would do when they asked for a pair.

The Hon. Don Harwin: That is not a change to the convention.

The Hon. EDDIE OBEID: Basically, you are questioning my presence in Lebanon simply because some malicious person who has had a vendetta—

The Hon. Melinda Pavey: Your job is here!

The Hon. EDDIE OBEID: The Hon. Melinda Pavey should listen; she does not know the facts. Simply because some malicious person went to the *Sydney Morning Herald* and nominated some non-factual issues—which were in fact totally wrong—the Coalition has carried out this theatre today to censure me. I would have no problem with the motion, but members should consider the repercussions. Every member who is granted a pair is entitled to be looked at in exactly the same manner that the Opposition is asking today. I am prepared to cop that if that is what the procedure is going to be from now on. But, for all the hype that the media has played on, based on facts, based on non-factual issues, this Parliament should look and think again at what it is doing.

The Hon. Duncan Gay: So it's our fault!

The Hon. EDDIE OBEID: No, I am not saying it is your fault. I am saying when a member of Parliament asks for a pair based upon an agreement between the Government Whip and the Opposition Whip, it is a convention that it is on the basis of honour. If the Opposition wants to question that honour, it had better have very sound facts. As it stands now, its facts are built on allegations made by malicious people, whom I have named in this Parliament, who have given the media enough hype to run it.

As I explained, the *Sydney Morning Herald* in particular, with 2UE, as a tag team are prepared to run any issue. Even if someone made allegations that I was connected with Osama bin Laden, they would run it. What I am suggesting is that if these are the facts that the Opposition is basing this censure motion on, it will end up at a brick wall, simply because this is not the way members of Parliament should be treated. If we are not going to be taken on our honour when we require pairs, then everyone will be questioned. It will not simply be me; everyone who is given a pair for anything can be questioned.

The Hon. Melinda Pavey: That's fair enough. We agree.

The Hon. EDDIE OBEID: Fine. The pair was withdrawn simply because the media raised so many totally false issues that were not relevant to my trip—they never bothered to check the facts before they ran it to air. Would the Opposition suggest to Barry O'Farrell that he visited Syria for some ulterior motive?

The Hon. Michael Gallacher: Did he meet the vice-president?

The Hon. EDDIE OBEID: I met the Vice-President. Every delegation that goes to Lebanon gets an invitation to Syria. I will get together all the Coalition members who have been on delegations, and if I am pushed too far I will nominate the people who took them there—

The Hon. Melinda Pavey: Threats!

The Hon. EDDIE OBEID: —and their reputation, their standing in the community, and the activities they were involved in, because I know every one of them. But I said I am not here to do that.

The Hon. Duncan Gay: Is that a threat?

The Hon. EDDIE OBEID: Take it as a threat, because I am prepared to do it. I have not stooped so low as to do that, but if he is suggesting that a visit to Syria has any connotation other than a simple courtesy call, similar to visits made by every other parliamentarian, then he is barking up the wrong tree. The repercussions of this censure motion on any future pairing should be considered closely.

The Hon. DON HARWIN [2.40 p.m.]: The pairing system is not on trial today, although I suspect that one member may seek to put it on trial later in the debate. We have just heard comments from the Hon. Eddie Obeid which suggest that somehow repercussions will flow from the events of recent times. Nevertheless, the pair granted by me to the Hon. Eddie Obeid and my withdrawal of the pair is one part of this affair. Some crossbench members have requested that I provide some background information for their assistance, and I am happy to do that. Pairs are a feature of most legislatures, particularly those in the Westminster tradition, where the Executive Government holds office by virtue of the strength of its parliamentary representation. Perhaps I could start with a quote from Odgers *Australian Senate Practice,* 10th edition:

> By arrangement between parties in the Senate, a system of pairing operates, whereby a Senator who is absent and is expected to vote on one side in a particular question is "paired" with a Senator who is expected to vote on the other side and who is either also absent or who deliberately does not vote in order to cancel out the effect of the other Senator's absence ….
>
> This system ensures that the result of votes is not determined fortuitously by the absence of particular Senators. Pairing arrangements are determined by the party whips …
>
> Pairing arrangements are determined by the party whips and may last for days, weeks or months, or may be varied from vote to vote. Pairs are entirely an informal arrangement between the parties and not part of the procedures of the Senate.

The key point from this definition is the reference to an informal arrangement. The pairing system has no basis in the standing orders, although in divisions where the Government and Opposition are opposed pairs are recorded. Of course, it is our duty to be here for parliamentary sittings. We should be absent only in fairly exceptional circumstances. However, from time to time there will be reasons why a member cannot be present on sitting days. Mostly they are compassionate reasons relating to personal circumstances, including those of close family members. Sometimes it will be for official business connected to parliamentary duties, when a degree of latitude is appropriate. This is a Chamber where the Government does not have the numbers to pass legislation in its own right. It is the Government that has the most to lose from the collapse of pairing arrangements. Oppositions traditionally have provided pairs as a courtesy, but we are under no obligation whatsoever to do so.

The process I follow when an Opposition member seeks a pair is that he or she writes to me on a confidential basis and outlines why the pair is sought. Sometimes I will ask for more information to satisfy myself that a pair is justified. After I have satisfied myself of that I write to the Government Whip and ask for a pair, giving him a brief description of why the pair is sought. If more information is requested by him, of course it is supplied. For the integrity of the pairs system to be maintained it is obviously crucial that both whips are entirely truthful about why the pairs are sought. I have emphasised to Opposition members that I will seek a pair for them only if I have their permission to disclose the principal reason for which the pair is sought. I stress to them that if, while they are paired, they are found to be engaged in activities in conflict with the principal reason I have given to justify their pair then they are subject to withdrawal of the pair and unlikely to be granted further pairs.

For the Hon. Eddie Obeid to suggest, as he has just done, that what has happened in this case is somehow new is absolute nonsense. It is entirely the practice that in these circumstances a whip would ask for further information. In anything I have done I have followed long-established practice. To date I have received no complaints from the Government Whip relating to any of the pairs he has granted to Opposition members. I imagine that the Government Whip goes through a similar sort of process. In relation to pairs I have approved for Government members, I decide whether to approve the pair based on information provided by the Government Whip. His memoranda seeking pairs contain brief descriptions of why the pair is sought. On a number of occasions I have asked for more information to help me decide whether there is sufficient reason to approve the pair, and the Government Whip has always provided me with a response. There have been occasions in the past 13 months when I have had to ask.

Obviously, maintaining the integrity of dealings between the two whips is the key to the informal arrangement staying in place. I wish to place on the record that during the 13 months I have been Opposition Whip there has been no controversy after the event about any pair approved by me for a Government member. I have always been able to rely on explanations the Government Whip has given me, and he has not let me down. Therefore in this case I believe I was entitled to rely on the information I received from the Government Whip. In brief, the facts are these. On 18 February 2004 I received a memo from the Government Whip requesting my approval for a pair for the Hon. Eddie Obeid, MLC, to "go overseas to Lebanon on urgent family business". That is a direct quote. That was the basis upon which it proceeded. The following day I gave to the Government Whip approval for the pair.

On 31 March 2004 I was asked to extend the pair to 7 June 2004. I formally approved this extension on 20 April 2004, although I had foreshadowed that I would do so by email just prior to Easter to enable the Hon. Eddie Obeid to finalise flight details. Since the media speculation about his election activities in Lebanon began I have monitored reports closely, and I have listened to further information that has come to my office. Last Friday the whole situation descended into the absurd when the Premier made statements to the media implying that it was the Opposition Whip in the Legislative Council who makes decisions about whether Government members can travel, or words to that effect. In trying to deny responsibility for his members he was insinuating that if there were concerns about the honourable member's travel they should be referred to me. Suffice it to say the telephone has not stopped ringing since.

Given the Premier's extraordinary attempt to place some sort of onus on me I felt the appropriate response was to ask the member, the Hon. Eddie Obeid, and the Government Whip to reaffirm the particulars relating to the pair. I visited the Government Whip in his office at 2:30 p.m. on Friday 28 May to discuss the situation. In all the circumstances I felt the only course of action open to me was to ask the Government Whip to show cause as to why the pair should not be withdrawn. I gave him three full days to show cause as to why the pair should not be withdrawn. I gave him three full days until 4.00 p.m. on Monday 31 May to respond. I received a response from the Government Whip at about 3.30 p.m. on Monday 31 May. I quote directly from the letter:

> I have subsequently spoken with Mr Obeid who is still in Lebanon. He was aware of the articles in the Australian media. I asked him if the allegations regarding his involvement in political activities in Lebanon were true. He denied that they were true and confirmed that he was in Lebanon on family business, specifically to settle legal matters regarding an estate.

It should be of interest that this morning the Hon. Eddie Obeid confirmed that he was involved in elections in Lebanon. He tried to cloak his participation in some sort of pursuit of multicultural harmony, but only last Friday he was denying any involvement to his own whip.

Shortly after the Government Whip's reply was received, I made my decision to withdraw the pair and conveyed that decision in writing to the Government Whip. I stated in my reply that I was not satisfied that the principal reason for the Hon. Eddie Obeid's travel accorded with the reason given in the pair application letters. I was given no reason by him to dispel the media speculation or other information that I had received about the Hon. Eddie Obeid's involvement in the mayoral election in Lebanon; nor, as I stated in my reply to the Government Whip, was any information provided to me that would verify that the Hon. Eddie Obeid was in fact settling legal matters relating to an estate during May and early June 2004. In that respect, after being asked to show cause, I would have thought that the Hon. Eddie Obeid would have come back to me with something that might have persuaded me not to take the next step of withdrawing the pair. He did not.

I will make some very brief additional comments only about the substantive motion, having dealt with the issue of the pair. I have received information that the Hon. Eddie Obeid's characterisation of the election campaign in Metrit is deliberately misleading. The Hon. Eddie Obeid has been lobbying other Syrian and Lebanese regimes for two years to have a local council established in Metrit, which is a village that in normal circumstances is not large enough to qualify for a local council. Over a year ago he identified Mr Salame Salame as his preferred candidate for the position of mayor. He knew the election date when he applied for the pair. He has known for some time that Yola Obeid, his niece, would oppose Salame Salame, and he made preparations for the campaign for several weeks to ensure it succeeded. Of course the record shows that it did. I have also received information relating to the circumstances surrounding this travel: the telephone calls that have been made by the Hon. Eddie Obeid and others encouraging them to join him in Metrit; the follow-up calls that were made to reluctant starters; and the financial arrangements and intermediaries relating to air fares and spending money.

I will leave those matters for the House to consider, but in relation to the whole issue I must conclude that the Hon. Eddie Obeid set out to deceive the Government Whip and me about the real reason for his trip in

an attempt to justify his absence from parliamentary sittings. The evidence is clear that that was done so that he could secure his preferred result in a local council election in Metrit, Lebanon. In my view, the Hon. Eddie Obeid should be censured.

Reverend the Hon. FRED NILE [2.52 p.m.]: I join in debate on the motion moved by the Leader of the Opposition in this House for this House to censure the Hon. Edward Moses Obeid, MLC, for being absent from Parliament for the purpose of trying to secure his preferred result in a local council election in Metrit, Lebanon. I do not feel happy about this censure motion because it is based on what comes down to a question of whether members can accept the word of a member of this House who offers the main reason for his being in Lebanon and other activities in which he was engaged while he was there as an explanation for his absence.

I cannot recall any precedent for what this House is discussing: in fact, the debate is quite strange. In my 23 years as a member of the upper House, pairing has been part of the secret service of this Parliament. Members of the crossbench know nothing about it. The only time we know that someone has been paired is when we read *Hansard* after a vote and we see names under the heading "Pair". As far as crossbench members know, the paired members could be upstairs in their offices, at home, absent owing to illness, or overseas. In the past no reason has been given. I have never heard of anyone having to explain to this House where they are going, or why.

The whole pairing arrangement has been a confidential arrangement between the Government and the Opposition. The crossbench often discusses how we might get a pairing system but we have not yet come up with a way of doing it. We sometimes think that it may be possible to organise crossbench pairing in relation to a particular issue, but as other issues emerge events may cause a crossbench member to exercise their vote in a different way. This House adopts the procedures laid down for the Senate in relation to pairing. Pairing is a procedure decided by the two major players in the House, the Government and the Opposition. The reason for granting pairs is not disclosed to the House but is a matter kept between the Government and the Opposition. I assume from what has been stated by the Hon. Don Harwin that a right always inheres in either side to withdraw the pair, and that is what was done in this case. However, the same right can be exercised by the Government, which may withdraw a pairing arrangement if it finds the reasons given by a member of the Opposition are unsatisfactory. This debate, which concerns whether a member who applies for a pairing arrangement can be trusted, leads to the implication whether the pairing system will operate in the future as it has in the past.

The Hon. John Ryan: Apparently not.

The Hon. Don Harwin: It is a matter of whether we can trust the whip, actually.

Reverend the Hon. FRED NILE: No. It is a matter of whether we can trust the member who has given the reason for the application. Up until now, because the Legislative Council is supposed to be an honourable House of Parliament, we have usually accepted the word of a member on the reasons why they should be granted a pairing arrangement.

The Hon. John Ryan: That is what it is got up to be, but it is a tissue of lies.

Reverend the Hon. FRED NILE: I do not accept that. The Hon. John Ryan makes that statement but I do not believe that it is true. That is why we have to have some sense of whether we can actually trust a member on the basis of what they offer in this House as their explanation. I prefer to give a member the benefit of the doubt, irrespective of whether the member is a Government member or an Opposition member.

The Hon. Melinda Pavey: It depends on what the whip says.

Reverend the Hon. FRED NILE: That also raises questions. Again, that is an internal matter between the Opposition and the Government and the two whips as to the communication that takes place between the whips and whether a whip has summarised or added to an explanation which was not given to that whip by the member concerned or perhaps was given in good faith. That relates to the issue of whether the pairing arrangement is requested for compassionate reasons, such as the death of a family member. The Hon. Eddie Obeid has stated that that was not the reason and that he did not at any stage claim that that was the reason. If he had done so, that would not have been anomalous.

All honourable members tend to follow the media, which seem to run debates of this nature. I think this is a case in which the Opposition has been influenced by the *Sydney Morning Herald* to take up this issue in this

House. As indicated by the interjections, it is as though members of this House have an obligation to act in respect of allegations that have been made in the media, and it is as though this House as an obligation to act on those allegations. I do not believe that to be the case: But if the converse were true, where would it end if the *Sydney Morning Herald* or any other major media outlet decided to target a particular member of Parliament, and this House acquiesced?

A relevant factor in this case, which hopefully does not apply to any other member of this House, is that the Hon. Eddie Obeid is involved in a very detailed defamation case with the *Sydney Morning Herald*. I make the observation as an outsider that if the *Sydney Morning Herald* is able to encourage the Opposition to move a motion of censure against the member, that would certainly harm his reputation.

The Hon. Duncan Gay: Why would you say such a thing under parliamentary privilege when there are court proceedings under way?

Reverend the Hon. FRED NILE: That is the point I am making. We are now discussing censuring a member who is involved in a court case with a major newspaper concerning his honesty and his reputation. That is what a jury has to take into account. If this House passes this censure motion, it could unintentionally contribute to a decision that will be made by a jury in due course.

The Hon. Duncan Gay: You are way out of line.

Reverend the Hon. FRED NILE: No jury has yet made a decision. I do not believe this House should be involved in undermining the reputation of a member.

The Hon. Duncan Gay: If that is the case, you are sub judice.

Reverend the Hon. FRED NILE: The Opposition is sub judice because it launched the censure motion and is aware of the court cases. That is something the Deputy Leader of the Opposition should have taken into account before making this political decision. In my view, if the Opposition was sincere and felt that there was a genuine reason, at a minimum the matter could have been referred to the Privileges Committee where the Hon. Eddie Obeid would have the opportunity of answering questions to clarify the facts. It is not a positive approach for this House to develop into a court, like a kangaroo court, in judging a member and then moving a censure motion. That is the most serious motion that we could move, except to expel a member from the House. As the Hon. Eddie Obeid asked, will we now investigate each member who is absent from the House? Will we be suspicious of every member who seeks a pairing?

In my opinion, if there were a motion it should simply ask the Government to clarify the arrangements with the Hon. Eddie Obeid. It is a matter for the Australian Labor Party to discipline its own member, and that is not the role of this House. The same thing would apply to the Opposition, if a member of the Liberal Party infringed the rules. It is not for all of us to be brought into a controversial matter, such as this one. There are two options for members who are to be absent: they can apply for pairing, which is the usual practice, or they can seek leave for absence if they are sick, or have to go to hospital. They forward that request for leave to the President and that information is communicated to the House. On some occasions there is both pairing and a leave request. The request for leave is used on only a few occasions.

I checked the list of leave from Parliament, and all requests were genuine, mostly relating to illness. In Dr Pezzutti's case he was granted leave to serve our nation in the peacekeeping force. We were all happy for him to be granted leave on those occasions. Maybe, in future, requests for leave should be submitted to the President, and the President would examine the facts before granting leave when the House is sitting. Of course, if the House were not sitting it would not be necessary to approach the President.

The Hon. Duncan Gay: But leave is different from a pair.

Reverend the Hon. FRED NILE: Yes, they are two separate matters. In most cases pairing is arranged, and the House is not aware that a member is not present. The party may know and the Government may know, because it would have been involved in arranging that pairing. But members of the crossbench have no idea that someone is absent and has been paired with another member, often until we see the pairing names in *Hansard.* Pairings are not announced in the House, and maybe that could be considered at a future time. Legally, as honourable members know, the only way that members do not fulfil their duties, according to the NSW Constitution Act 1902 No. 32, is when they do not attend for a whole session.

The Act states that a member is not fulfilling his or her duty if the member fails for one day of the whole session of the Legislative Council and Assembly to give his attendance in the House of which he is a member. A censure motion or expulsion motion can be launched under those circumstances. As a minimum, the Privileges Committee could handle this matter, but preferably the Government should satisfy itself about the behaviour of a member of its ranks.

The Hon. JOHN TINGLE [3.03 p.m.]: This is a slightly curious debate. It seems to me that we are getting off the point. If I understood the Leader of the Opposition correctly this morning when he moved the motion, and I will be corrected if I am wrong, he said that this was not about the system of pairing. I am not quite sure why that point has become a major issue of this debate but I take on board the comments of the Hon. Don Harwin. What he said had a great deal of bearing on the general parliamentary system. I believe that if an Opposition or a Government has granted a pair, it also has the prerogative to withdraw that agreement if it believes that the pair has been granted through deception. That then brings us onto the nub of the motion.

Was deception involved? Did the Hon. Eddie Obeid mislead someone about the need for his leave? If he did mislead someone, whom did he mislead? In the media uproar, this whole issue has been clouded and unquestionably bad for this House, but I do not lay that at the feet of the Hon. Eddie Obeid or of the Opposition. I lay that at the feet of the media, who happily and gleefully seize on any kind of negative story about the Legislative Council, because so many of them do not think that we should be here. Well, one day they might turn out to be right about that, but not yet. We are here and, therefore, we have to deal with things that are put before the House that affect members of this House and the general perception of the House itself.

I have been a member of this House for nine years and have seen a series of things fall upon the Hon. Eddie Obeid. Older members of this House—and no-one is as old as me—may remember the Li'l Abner comic strip, in which there was a character called Joe Bfstplk. Joe Bfstplk was a little man who went around with a storm cloud following him over his head, which rained on him and struck him with lightning. Sometimes I think the Hon. Eddie Obeid should be called Eddie Bfstplk, because everything happens to him. I think that is the way we should be looking at this!

There has been a great amount of rumour about what he stated in his application for leave and request for a pair. The media told us quite definitely that he had sought leave to settle a relative's estate in Lebanon. This morning the Hon. Eddie Obeid read his letter and the Leader of the Opposition and the Deputy Leader of the Opposition looked at the letter and, apparently, accepted that the words he used were the words in the letter. The Government Whip confirmed that that was the letter he received. From my recollection his letter said that he sought leave to attend to urgent family business in Lebanon. This morning in his address to the House he said that the leave was urgent at the time he needed the leave, because all the family would be together and he could sort out some business.

We are missing a point: when we start to talk about an election in Metrit, in my humble opinion that is absolutely irrelevant to the business of this House, because we have no involvement in it. What we have to decide is whether the Hon. Eddie Obeid, in seeking leave and a pair, clearly stated the reasons why he needed that leave, and whether those reasons were valid. When he talked about urgent family business, and the way he explained that this morning, the election in Metrit could be called urgent family business. How could he decide what was urgent family business and what was not unless he was there? There was a suggestion that because he said he wanted to settle a relative's estate, and did something else as well, he had done the wrong thing.

I am only a journalist, I am not a lawyer. However, I was taught early in the piece that there is always a defence when someone tells me I have not done something which I said was going to do, and that is I can say, "I am just about to do it." The lawyers in this House may disagree with that. In my book, if what the Hon. Eddie Obeid did when he went to Lebanon was to attend to family business—and I am not saying that the Metrit election was the essential family business—then because the family was involved maybe in a broader sense we can say that the election was family business. As long as he attended to the sort of family business he was talking about while he was in Lebanon, as far as I am concerned the reason he stated in his letter to the whip, and ultimately to the Opposition Whip, is valid. He attended to family business.

In that context, what has the Hon. Eddie Obeid done that was a deception of this House? I cannot see it. For long time I have not been happy with the concept of censure motions. I remember the time we threw out the Treasurer. He went away for three days and came back all smiles. He said he had had a nice time having lunch with his mother and going to the movies. It did not have the slightest effect on his position or effectiveness in this House. Censure motions have been moved in other cases in which members have not been thrown out but

have merely been censured. Two seconds later that they are back in business and nothing has changed. Members could say that that does not matter because the important thing is the symbolism of this House expressing its displeasure at an action by one of its members. But there is another issue in this: this House is constantly under watch from the media. This House is seen by so many sections of the media as an old gentlemen's club. I do not know whether I am a gentleman, but I am old.

There has been talk about members snoring on red leather benches. I do not know how many people get a chance to sleep on the benches in this Chamber. We are under that sort of stress. We are told that we should not be here, that we are superfluous, or that we are ineffective. If this censure motion is successful but nothing happens as a result, I believe—and I have believed for a long time—that we will have demonstrated our impotence and our powerlessness to discipline one of our own. It will not affect the member's ability to stay in the House and it will not affect his function in this House. It is merely a token gesture that I believe could do us more harm in the external view than it would do us good within this Chamber. If I could be convinced that the Hon. Eddie Obeid had committed that sort of deception—

The Hon. Duncan Gay: So doing nothing is better?

The Hon. JOHN TINGLE: I did not say that doing nothing is better; we are having a debate about this matter. I need to be convinced that what the Hon. Eddie Obeid did was deception—either deliberate or unintentional—of his whip. That is where it stops. It is not deception of the Parliament because he did not talk to the Parliament about it; it is deception of the Opposition Whip, if in fact it is deception. The whips are the two people who are involved in arranging the pairs. If I could be convinced of that I would support the motion, if I were not so opposed in general terms to censure motions. But I cannot see what is offensive. Somebody said the other day that the Hon. Eddie Obeid has offended the rules of Parliament. I do not know what rules he has offended. Somebody else said that we are supposed to be here.

All of us try to be here, and we should be here, when parliamentary business is proceeding but legally, technically, under the Constitution—idiotic though it might be—we are required to be in this place for only one day in our term in order to qualify as being here. I think that rule could be changed but, while it exists, we cannot censure a member simply for not being in the House when the House is sitting. What is the honourable member's specific offence? We have heard a lot of obfuscation about what he might have done and what is his offence. I still do not know what it is. I will not support the motion.

Reverend the Hon. GORDON MOYES [3.12 p.m.]: I have been deeply concerned about the prolonged absence from the House of the Hon. Eddie Obeid. I do not believe that this issue is about pairing at all; it is about the reasons for which pairing was agreed. The media frenzy and the dispute over the reasons apparently given by the Hon. Eddie Obeid and members of his family have brought all members of this House under criticism and disdain. We understand that this was an unintended consequence of Mr Obeid's absence but the result of it deserves censure. We believe that no rules of Parliament or conventions have been broken. The pairing is a matter for the major party whips, based upon sustained good faith. Any discipline is the responsibility of Mr Obeid's party. I regret the censure because of Mr Obeid's personal friendship to me, in particular when I first became a member of this House, but because of the public disdain brought upon the reputation of the Parliament, which has hurt us all, the Hon. Eddie Obeid must accept the censure of at least some of his colleagues who do not accept his explanation for his absence.

The Hon. PATRICIA FORSYTHE [3.13 p.m.]: Matters such as this are always difficult to deal with but we should not step away from them when they confront us. The reputation of this House and the reputation of the honourable member are very much in the spotlight. We do not undertake censure motions lightly and we should not step away because this is a tough matter with which we have to deal. If we ignore this issue and we do not proceed with this censure motion we will be seen as giving tacit support to what I believe were wrong actions by the honourable member. As I listened to the honourable member today I recalled a line from a British Government report into the business activities of Al Fayed. As I recall it, the commissioner stated in that report, "Truth becomes lies and lies become the truth."

As I listened to the honourable member I thought that he sounded for all the world like an habitual liar, and I do not say that lightly. There was an excuse or a reason for everything, but he did not face up to some of the facts. Let us look for a moment at some of his arguments. He said that the *Sydney Morning Herald* was waging a vendetta against him. However, we first read about this story last Friday in the *Australian*. The *Sydney Morning Herald* did not cover the story until Saturday. If the *Sydney Morning Herald* has some sort of vendetta against the honourable member, why would other media outlets not have the same sort of vendetta? The newspapers were of the belief that this issue was in the public domain.

The honourable member said that every parliamentary delegation visiting the Lebanon goes to Syria. I went to Syria when I visited the Lebanon as part of a delegation, but I was travelling in an official capacity. The honourable member was in the Lebanon in a private capacity, which is very different. I was accompanied on my trip by the Australian ambassador. It is not the case that every time an Australian travels to the Lebanon in a private capacity he or she visits Syria. Can the Hon. Eddie Obeid tell me whether every time he visits the Lebanon he always visits Syria? I do not know about all his business dealings.

Earlier today he talked about the election, which he said had proceeded well until 27 May. If I recall correctly, the date of the election was 29 May. Two days prior to the election everything was okay but that does not explain why—if we accept the media figure—17 Australians just happened to be there. The Opposition Whip received advice to the effect that those people were there because they were specifically required to be there by the honourable member in order to participate in the election. The honourable member also suggested that he was there to save the environment. He said that one of the reasons he had chosen to go at that time was because the weather was good for the renovation of houses.

During our two-month winter break—July and most of August—the weather will be even better in the Lebanon. It will be the height of summer. The honourable member said that the issue of pairing was a matter of honour and that all of us could be called into question. Whenever someone seeks to be paired he or she has to be honest. To do otherwise would demean our role as members of Parliament. Last weekend I read an article in one of the newspapers that referred to something the Government Whip had said. He said that, in the circumstances, he believed the Opposition might well be within its rights to withdraw the pair. We did not hear today from the Government Whip. He did not inform us how he was able to come to that conclusion. As a result of the evidence that he received I believe he felt that he had been deceived.

It might have been important during this censure motion for the honourable member to focus on the environment in the Lebanon, but it is more important for him to focus on the environment in New South Wales. Our job as members of Parliament is to be present during the parliamentary sittings. From time to time we might be absent. We might be overseas on delegations, we might be attending functions in the city in connection with our work as members of Parliament and sometimes we might be absent because of personal circumstances. But we have to go about it in the correct way. The messages that we give to our whips must be honest. At the end of the day we have to be open and accountable. We have to be accountable to our party, to the Parliament and, ultimately, to the people of New South Wales. If the member was absent for reasons other than those that he stated today it could not be said of him that he was being open and accountable.

I have heard some unusual arguments in the course of this debate. For example, it has been argued that under the New South Wales Constitution members must be present for only one day per session, which is a low test of parliamentary service. But members do not abuse that rule. The media do not seem to be getting the message that members in this place work hard. This is a House of review and the committee system has evolved significantly in recent times. As a consequence, members are involved in parliamentary activities virtually every week of the year. We do not get guaranteed holidays or sick leave. I think some members in this place are guilty of denigrating the work and activities of all members by casting slurs on the House. When one member appears to abuse the privileges afforded to us, it makes it difficult for us all. That is why we have moved this censure motion. I have always been proud to be a member of this House, and I hope I always will be.

The Hon. Michael Egan: We're going to try to get you out at the first available opportunity, which will be 2007.

The Hon. PATRICIA FORSYTHE: That may well be, but Labor will have to work very hard because I am working very hard to stay here. Members in this place who seek to undermine us create difficulties for us all. That is what this motion is about. It is about not the actions of one member but the honesty and reputation of the entire House.

So what should we do? We have read the media stories—which the Hon. Eddie Obeid would have us believe are the result of some internal family dispute or vendetta. Yet the media across Australia have picked up those stories. The honourable member adopted his usual shoot-the-messenger approach, which was so apparent when, as Minister, he responded to criticism. He has failed to listen to the message in this case, but the media has listened. What should we do when the reputation of the House is called into question? The Opposition is acting responsibly and, based on the facts as we know them, is seeking to censure the Hon. Eddie Obeid for not being open and honest when seeking a pair. I do not make that claim lightly, but when I listened to the honourable member earlier he sounded for all the world like a habitual liar. He has a reason or an excuse for

everything; he never faces the facts. This motion is about facing the facts. We gave the honourable member an opportunity to put his case on the record, and frankly his explanation did not stack up.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.23 p.m.]: Eddie Obeid was first elected to the Legislative Council in 1991 on the Australian Labor Party ticket, with a total of 1,390 first-preference votes. He was a little behind the Hon. Tony Kelly, with 1,520 votes, and the Hon. Jan Burnswoods, with 1,474 votes—who were both behind Franca Arena, with 2,358 first-preference votes. In the 1999 election Eddie received 157 votes. I was elected in the same election, and received 14,078 votes.

The Hon. Michael Egan: I got 1.6 million votes—the highest vote ever recorded by anyone in any Australian election since 26 January 1788.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I do not have the figures for the below-the-line vote, but they were considerably less than that—and the Minister knows it. The Nationals never let me down, and today they have hassled me about my 14,000 votes. That was the highest personal below-the-line vote in 1999—but that is never mentioned. Nor is there mention of the fact that many major party members owe their election to the party name rather than to personal merit. But that is by the by.

Eddie came to the House to help the Australian Labor Party as its right-wing numbers man and because he was influential within his ethnic community. That is how the Labor Party gains control of the upper House. Eddie lives near me in Hunters Hill and, upon my election, he offered me a lift to Parliament. I accepted his offer. Eddie made some suggestions about what I should do as a new member of Parliament—I was keen to learn. He said, "Look, I'll give you the drum on what to do when you're here. You vote with us regularly and consistently and at the end of the day we'll give you a little win and you'll get back in." I said, "That's very kind, Eddie, but I've got a different idea. I've come here with a bunch of policies from the Australian Democrats. If you give me good legislation that's close to those policies, I will vote for it, but if you give me bad legislation that's a long way from those policies, I will vote against it." Eddie replied, "Oh no, you haven't got the right idea at all."

The second time Eddie gave me a lift we had almost the same conversation and he said that I was still not catching on. After we had virtually the same conversation on a third occasion Eddie simply turned up the radio, and I knew that I was a disappointment to him. I continued to catch a lift home with Eddie. Ferries to Hunters Hill run only once every hour. I could have used free taxi vouchers but I thought to do so would be a bit of a drain on the taxpayer so I hitched with Eddie whenever it was convenient. One day Eddie said, "You didn't vote for us. You should, you know, because I give you a lift home." I did not know whether he was being facetious—he may well have been—but I did not want it to appear as though I was compromising on the matter so from then on I caught the ferry. I do not think there was anything particularly wrong with Eddie's behaviour. He was trying to get me to vote with the Labor Party. That is his job and it is fair enough. I simply decided to vote according to my conscience. Eddie became a Minister and was criticised somewhat for his actions. Articles appeared in the media, some of which—

The Hon. Michael Egan: Who's Eddie?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It is the Hon. Eddie Obeid, for the benefit of the Minister who is having difficulty. As the Hon. Eddie Obeid said, those stories are now the subject of legal proceedings. The honourable member has not troubled Hansard with a speech since 5 December 2002. He ceased to be a Minister after the State election. Honourable members who lose their ministries, or even their shadow ministries, tend not to say very much after their demotion. They tend to be crestfallen and do not speak much in Parliament. Kim Yeadon and Richard Amery have been very quiet since losing their ministries. State and Federal members of Parliament who lose their ministries or shadow ministries return to the backbench and do not say much in Parliament—unless they are plotting a revolution to return to the frontbench as Prime Minister.

So Eddie became a backbencher and requested a pair so that he could go overseas. What is involved in that process? Pairs arrangements have operated for some time. Dr Brian Pezzutti used his pair to do good works in medicine in East Timor. The Hon. Charlie Lynn uses his pair to take books and soccer balls to Papuan school kids.

The Hon. Charlie Lynn: Point of order: The Hon. Dr Arthur Chesterfield-Evans is wrong. What he said is not true and I ask him to withdraw it.

The PRESIDENT: Order! It is not a point of order for a member to claim that he or she has been misrepresented. If the member wishes to have withdrawn a statement made by another member, he should seek to do so in accordance with the standing orders.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I withdraw, if the honourable member—

The Hon. Michael Costa: It was actually a compliment, I thought.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It was intended as a slightly facetious compliment. However, if it offends the honourable member, I withdraw it.

The Hon. Duncan Gay: That's why the Democrats are not doing very well.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Complimenting members of the Opposition is obviously a hazardous business. Alan Corbett was not able to get a pair when he took time off to look after his very sick wife. Pairs are only available to the major parties, at the discretion of the major parties. The crossbenchers simply do not get a pair, and that makes a lot of difference to the votes. When members of the major parties are granted a pair there is no difference to the votes because the numbers of the parties remain balanced. In fact, numbers could get to an almost critical level and still there would be no difference to the functioning of the House in terms of the votes cast. That fact should be taken into account. If the Opposition were seriously concerned about the functioning of this House and what the public think of us, we would be debating more substantive issues and talking about democracy in New South Wales.

I have talked on many occasions in this House about the gerrymander of single-member electorates in the lower House, which gives major parties far more seats than they have votes and effectively skews the whole electoral system in favour of this rather sad duopoly under which we all suffer. One wonders about the impact of absent backbenchers. They are certainly never able to cross the floor! They are not able to do anything but offer the most veiled criticism of their party policy in this Chamber. If they are indeed tigers behind closed doors, they certainly get no publicity for their heroic efforts. One cannot help wondering if obedience behind closed doors leads to promotion within the major parties and stifles any sort of initiative or original thought. But that might be just me looking at appearances. I have suggested crossbench members be granted a pair in the interests of more honest democracy in New South Wales.

The Hon. Michael Egan: Who could they be paired with?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I would suggest that the crossbenchers should be paired with Government members. If they supported the Government, the Government could bring on the legislation and it would not matter. If they were going to oppose the Government, the pair would be allowed. If they supported the Government, the Government would have the option not to bring on the matter to be debated. In other words, if a crossbencher were paired with a Government member, it would be assumed effectively that the member was voting with the Opposition. If the crossbencher decided to vote with the Government on an issue, the Government would have an option to debate the matter. It would be a minimal disruption to the House.

The Hon. Duncan Gay: Get on with the substantive motion.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Without the interruptions, it would be a hell of a lot easier to get on with it, thank you. The member should not tell me to hurry up and then proceed to hassle me for half an hour. If members of the crossbench were paired, the votes of all members would be counted and democracy would work. Crossbenchers have to be present to have their votes counted—something that members of the major parties do not have to put up with. In reality, pairs are most frequently used to enable members to attend social functions. It is really a bit rich for members to complain about the pairs arrangement.

With regard to actions of the Hon. Eddie Obeid, one could argue that justice not only has to be done but it has to be seen to be done. Parliamentarians are expected to work hard, and it sticks in one's craw when one sees them not working hard. I suggest that it is more important to analyse how government works. If we want good government, we need proportional representation. That would provide a far greater diversity of views than the tired duopoly we have at present. But that would require the removal of single member electorates. We could have either the Hare Clark multi-member system a top-up seats system. The problem with a top-up seats system, as has been seen in New Zealand and other countries, is that sometimes retired party hacks are elected to

Parliament—and people complain about that. Far be it from me to relate that system to the system that applies in this House. The alternative is to break down party discipline, as happens in the United States of America. But, of course, that is more difficult to achieve, given the history of disarray within the Westminster system. We have to look for a more realistic view of democracy than simply to criticise Eddie Obeid to keep up appearances. On 17 February the Hon. Eddie Obeid wrote in the following terms to the Hon. Peter Primrose:

> I formally seek leave from the Legislative Council to go overseas to Lebanon on urgent family business.
>
> I require leave from 4th May to 31st May 2004.
>
> I note that the Legislative Council is only in session from 4-6 May and 11-13 May.

He later wrote seeking to extend his leave to three weeks. He said he initially requested leave from 4 May to 31 May and he now required an extension to 7 June "to conclude the matters pertaining to my family's affairs in Lebanon". The extension of time would cover the sitting week from 1 to 4 June. Why he wanted to go to Lebanon is his own business but the question is: What effect will it have on the House and on democracy in New South Wales? I contend that with the pairing system it would have very little effect and would have far more effect if he were a crossbencher. The Hon. Eddie Obeid has been criticised for preferring a local election result in Lebanon. Surely what he does when he is not in this Chamber is, to some extent, his own business.

The Hon. Duncan Gay: Even though Parliament is sitting?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It may have been important to him to be at his ancestral home or to look after his business affairs in Lebanon for a time. The question is: What effect does his absence have on democracy in New South Wales? I suppose it would have been more acceptable had he been on medical service in East Timor, helping villages in Papua, doing humanitarian work or looking after a sick wife. But the point is he has not breached any formal guidelines. He merely stated that he was going on urgent family business, and matters relating to his family and its welfare in Lebanon may be urgent even if at that time an election was held that involved the subdivision of properties adjacent to his property in Lebanon. I take the point, however, that members should not mix their private business with business of the House.

The Hon. Duncan Gay: Would you schedule your medical work while the House is sitting?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I would not. I do not schedule my work while the House is sitting, no. The anachronism that members need only be present one day each session has not been addressed. Obviously, it would not be acceptable that a member presented in this Chamber one day each session. It is a tribute to the present members of this House that they were not aware of it. Members do not practise it and it is irrelevant. This is a beat-up. If one is really concerned about democracy, one has to look at far more substantive issues than the pairs arrangement. It is all very convenient for the Opposition to be concerned about such an arrangement when it is not concerned about a gerrymander, proportional representation and issues relating to the reform of this House. It is not concerned about democracy. I am afraid it is more concerned about scoring a few political points.

The Hon. ROBYN PARKER [3.40 p.m.]: I support the censure motion. As one of the newer members of this Chamber, I am saddened to be speaking on a censure motion. Since my election only last year this is the second occasion on which a member has brought this Chamber into disrepute. The honour I felt at being elected to this House I hold very dearly. It is really disappointing having to defend the honour of members of this Chamber when talking with members of the wider community. I find myself having to explain our role in this place, what we do, and the value of the Legislative Council.

This is not a debate about the efficacy of the pairs system. It is a debate about honour and integrity. It is a debate about someone's honesty and the acceptability of the reasons a member gives for seeking leave of absence from this place. It is about justifying to the people of New South Wales that we are all here serving them well—and in a full-time capacity whenever we possibly can. I have been a member for a little over a year and today is the first time I have heard the Hon. Eddie Obeid speak in this Chamber. It was some time before I actually saw him in the Chamber, and now I have heard him speak—not only to defend himself but to ask a question!

The Hon. Melinda Pavey: He must have been shamed into it.

The Hon. ROBYN PARKER: Exactly! It took a censure motion to awaken him. If that is what it takes to get a member to participate in the business of this Chamber, then so be it. I regard it as an honour to be a

member of this place. The member has been missing for 14 days of the past 56 sitting days. We have a pairs system that operates with honour. It operates because members who avail themselves of it have reasonable and legitimate reasons for doing so. Urgent family business may well be one of those reasonable and legitimate reasons. But the success of the system is dependent on honesty. If urgent family business was the reason for the member taking leave, fair enough. But was that the real reason in this case? I have not been convinced that it is.

The Hon. Dr Arthur Chesterfield-Evans: Do you give him the benefit of the doubt, or not?

The Hon. ROBYN PARKER: Not so far. He is not doing very well so far. I find it difficult to believe that a whole year can go by without a member of this place making an utterance, yet this member has had plenty to say in the past week to defend himself, and has had plenty to do outside New South Wales—getting involved in council politics in Metrit, Lebanon. While the member has been away this House has dealt a number of local government issues. The member could have involved himself in those issues. He could have used his position as a power broker in the Labor Party to do something about forced council amalgamations. The people of Merriwa, near where I live, may have appreciated a demonstration of the member's asserted enthusiasm for these matters. Indeed, his newfound environmental status could have been put to good use to try to save the fig trees outside Parliament House.

The Hon. Duncan Gay: He is an environmentalist now!

The Hon. ROBYN PARKER: Yes, he is. He could have participated in that debate. There is still time for him to contribute to debate on the Filming Approval Bill, which deals with environmental issues. Currently on the agenda of the House is a motion relating to regional development. Perhaps the member could put his newfound skills in that regard, gained in small regional communities, to good use for the people of New South Wales. After all, that is what he was elected for. He was elected by the people of New South Wales to be their representative. To me, that is what this motion is about. It tells the people of New South Wales that our members are here working for them. The people of New South Wales pay their taxes—and goodness knows, they pay plenty of them in this State!—and their taxes pay our wages. The least they can expect is that members are present in this Chamber representing them. The least they can expect is honesty from a member who is seeking to take leave of absence from this Chamber.

The member apparently sought an extension of his time of absence to conclude family business. I will be interested to hear what that urgent family business was. Was it local government elections? If the member had a quite legitimate reason to be away in Lebanon, why on earth did the Hon. Tony Kelly have to concede what he did in the press this week? I asked him: Is there any chance the Hon. Eddie Obeid could make it back? He assured me he would be back on the next plane. I am pleased he is back to defend himself, and I am pleased he is back to defend the policies of this Government—because they need defending!

The people of Karuah would appreciate the member's skills in poultry farming. The Government has approved a new development at Karuah, and the poultry producers in that area would have appreciated some lobbying to the State Government by one of its power brokers to stop that development, especially as he now knows how to work on behalf of poultry producers. The case for censure is fairly clear. I support this censure motion.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [3.46 p.m.]: I indicate that at the conclusion of my contribution I will seek the leave of the House to enable the Hon. Eddie Obeid to answer the series of questions that I will pose, and that others have posed, if he so wishes, before the Leader of the Opposition speaks in reply to the censure motion.

The Hon. Michael Egan: I will not be giving leave for that!

The Hon. DUNCAN GAY: A series of questions put forward by the Leader of the Opposition, the Opposition Whip and other Opposition members must be answered. The House is the master of its own destiny. If the Treasurer, as he indicates, does not want the honourable member to be given the opportunity to answer these serious questions that have been put forward, we believe we have a responsibility to request that the questions be answered. Many of the questions arise from comments made by the honourable member. I do not think we could be any fairer than that. The censure motion asks whether the reasons given by the Hon. Eddie Obeid to absent himself from the Parliament last month and to secure a pair from the Opposition were legitimate, or whether his trip to Lebanon was for the purpose of trying to influence the result of a local government election in his family's home town of Metrit.

In this case we must ask, as several members including the Hon. John Tingle have indicated, whether the member misled the whips of this House in seeking that authorised absence under the pairing system. The information that has been provided will enable us to decide whether the member should be censured for bringing the House into disrepute. There is a certain sense of deja vu about today's debate. Two years ago we were in this Chamber debating the honourable member's pecuniary interest. During that debate the member's attitude towards his position in this House and his responsibility was as questionable as it is today. He was asked a series of questions, and the answer to each was, "I have answered that. I answered it before." When one critically analyses the answers to questions without notice and on notice, they are technically wrong. An examination of the reasons the member was away when this House was sitting has found them to be wrong. Reverend the Hon. Fred Nile is a good Christian, benevolent gentleman who accepts, as is his right, that there is no malice and that the honourable member has done nothing wrong.

Reverend the Hon. Fred Nile: That he was in Lebanon on family business.

The Hon. DUNCAN GAY: We do not believe, given the facts that have been put forward, that this is the case. Since flying into the airport last night the Hon. Eddie Obeid has blamed the media, the Opposition, his family and just about everyone else—

The Hon. Peter Breen: Chooks.

The Hon. DUNCAN GAY: And chooks, for conducting a vendetta against him. This is not a vendetta. It is about a member of Parliament who has been taking this House and the people of New South Wales for a ride regarding the reasons for his absence from this House. He now wants to blame us. The Hon. Eddie Obeid requested three weeks of urgent leave from his duties in this House. He was granted leave and the Opposition agreed to pair him, as we should. He had led this House to believe that he was going to Lebanon to settle the estate of a deceased relative. As my colleague the Leader of the Opposition pointed out, pairing is an informal arrangement that relies on trust and honesty in the reason for the request. We are of the view that on this occasion the Hon. Eddie Obeid has broken that trust.

The motion asks this House to consider whether the honourable member provided legitimate information to the Government and Opposition whips of the Legislative Council in seeking a pair from 4 May until today and, in doing so, missing a total of eight House sitting days. We are of the view that his reasons for seeking absence from a sitting of this House and representing the people of New South Wales were not legitimate. As my colleagues have outlined, the honourable member claimed urgent family business as his reason to be absent from this House in May. He made his requested 76 days before he needed the pair, which makes one wonder about the urgency. This House did not sit for the majority of April. We are left with one of the many still unanswered questions: On what date did the honourable member leave Australia to fly to Lebanon?

The Hon. Ian Macdonald: On 7 May.

The Hon. DUNCAN GAY: Thank you. That is one question answered. What exactly was the reason for this trip? Why was it so absolutely necessary to miss a House sitting period if it was not for compassionate leave? So far we have heard excuses running the gamut from Bob Carr saying he believed the Hon. Eddie Obeid was on holiday, to local elections, to a chicken dispute and Eddie the environmentalist, but no mention of a death in the family. The Government Whip, the Hon. Peter Primrose, told the *Sydney Morning Herald* that the Hon. Eddie Obeid had sought a pair because a family member had died. The Hon. Eddie Obeid denied this in his explanation this morning. What is going on? The death was five years ago. Surely the estate could have been dealt with between 1 April and 4 May and not while the House was sitting.

The curious timing of the trip and the fact that it coincided with Metrit's local government elections raises even more questions. The Opposition believes that the Hon. Eddie Obeid was in Metrit because of the elections and because he had an interest in the outcome, which could protect his investments in the town. As all honourable members are aware, the media—not the *Sydney Morning Herald* but the *Australian*—reported the story on 28 May. The Hon. Eddie Obeid's absence from this House and his involvement in local council elections in his home town of Metrit have been widely circulated. Another question to which we are still waiting for a satisfactory response refers to allegations that the honourable member travelled to Syria last year—

The Hon. Eddie Obeid: 2002.

The Hon. DUNCAN GAY: —in 2002, to meet with the influential Syrian Vice-President to raise support for the honourable member's preferred candidate. We must now decide, based on everything we have heard today, whether the Hon. Eddie Obeid provided an honest representation of the reasons he sought absence from his parliamentary duties. My colleague the Leader of the Opposition said this morning that this is the people's House and as such we cannot ignore public outrage over the Hon. Eddie Obeid's actions. They must be investigated and responded to appropriately, because if they are not the House will continue to fall into disrepute. Following the explanation of the Hon. Eddie Obeid this morning the Opposition has identified a concerning number of unanswered questions.

The questions are: If the Hon. Eddie Obeid is an Australian citizen and a member of Parliament, on what basis does he have voting rights for an election to be held in Metrit? Is it on the basis of citizenship or property ownership? When does he intend to return to Lebanon, given his statement that, after all, he never got to settle anything in Lebanon? In the House he said the pair was requested on the basis of urgent family business, but he also told Alan Jones it was to solve family issues and issues concerning his brother's estate. In the House he said, "I never related to the pair being associated with the death of my brother." Which one of these statements is the truth? If there was no problem with his trip, as he indicated, why did Bob Carr, through the Hon. Tony Kelly, demand his return? Did the Hon. Tony Kelly demand the Hon. Eddie Obeid's return? Did the Hon. Tony Kelly say that it was Bob Carr recalling him, or was it his idea, as he indicated in the media this morning? It cannot be both Bob Carr's idea and his idea. Why did the Hon. Eddie Obeid threaten in this House, and indicate that I could take it as a threat, to detail where Coalition members benefited from travel in Syria from people of dubious reputation?

The Hon. Don Harwin: That is what he said.

The Hon. DUNCAN GAY: That is what the Hon. Eddie Obeid said during this debate. At the end of the day, it is the Hon. Eddie Obeid who has given the Opposition, the Parliament and the people of New South Wales the information showing that his request for leave from the Parliament was the result of a death in the family, when every other indication provided to this House shows that that is not the case. Because of the questions I have asked, I seek leave for the member to be given the right to address any of the questions that have been raised, if he so wishes, before the Leader of the Opposition, the Hon. Michael Gallacher, replies.

Leave granted.

The Hon. RICK COLLESS [4.01 p.m.]: It somewhat saddens me to speak in support of a motion of censure against the Hon. Eddie Obeid because, as has already been said, when these issues are debated in the House, they do nothing but bring this House into disrepute. Despite the Hon. Eddie Obeid's protestations of innocence and statements "he just happened to be in Metrit" when the election occurred, the chronological record of events shows that some things simply do not add up to support what he has been saying. An article published on 31 May in the *Sydney Morning Herald* states:

> When Eddie Obeid brings democracy to a village, everyone comes—irate relatives, disgruntled locals, the army and the gendarmes.
>
> Yesterday, thanks to the former NSW minister's zeal, the tiny village of Metrit, perched 850 metres up on a coastal spur of the Mount Lebanon range, went to the polls for its first municipal elections. But it was anything but a smooth introduction to democracy. The drama began about 2pm when the Obeid entourage, most of them from Australia, arrived at the polling station, with no sign of Eddie. About 10 of the group threatened waiting journalists and tried to grab a camera from a female reporter. Mr Obeid's cousin Charlie Obeid, a Strathfield tiler, warned this reporter: "I tell you if you take my f---ing picture I'll break your f---ing head."
>
> As the fracas developed, more armed police arrived to back up the half-dozen gendarmes posted outside the ruined schoolhouse housing the polling station.

That account is hardly consistent with the gentle address given by the honourable member this morning when he claimed innocence in relation to this issue. Later the article states:

> "We never had a council here before," said Lara Lahoud, a local. "The village is too small. We don't are even have the right to a council but he fixed that. He has very good contacts in government—Michel al-Murr, the Interior Minister, is close to him."
>
> But not everyone in the Middle East is grateful to Western politicians who burst in shooting ballots. "We didn't need a council and we told him that," Ms Lahoud said.
>
> "Everything was fine here, and there were no problems between Christians and Muslims. But he said, 'What, after I worked my arse off to get you a council?' He has no right to impose himself on us."

That is one very significant statement, and another is that just a minute ago the honourable member said he was asked to come back after the pair had been withdrawn by the Opposition Whip. However, on Monday 31 May 2004 Australian Associated Press reported at 1.07 p.m.—which was before the Opposition Whip had withdrawn the pair—that the Minister for Emergency Services, the Hon. Tony Kelly, said:

> "I have made contact with Eddie Obeid and he's assured me that he will be back on the first available plane"

That statement was made before the pair had been withdrawn.

The Hon. Duncan Gay: So that is another fib.

The Hon. RICK COLLESS: Another fib! On Tuesday 1 June this news was reported:

> Mr CARR says it's been made very clear to Mr OBEID that he's required back in parliament, and he'll have to explain the issue of the family circumstance.

On Tuesday 1 June a newspaper report stated:

> "Mr Obeid maintained he went to Lebanon on family business, adding he'd only become involved in a council election in his native village of Metrit after being asked his "opinion"...
>
> "I sought leave from NSW parliament to come and attend to some family business and some issues relating to the estate of my deceased brother.
>
> "While I was here some council elections took place"...

However, the *Sydney Morning Herald* article I cited earlier quoted Ms Lara Lahoud as having said:

> Everything was fine here, and there were no problems between Christians and Muslims. But he said, "What, after I worked my arse off to get your council?'

The Hon. Eddie Obeid was involved in the local council elections.

The Hon. Eddie Obeid: I do not know her.

The Hon. RICK COLLESS: Irrespective of whether the Hon. Eddie Obeid says he knows her, the article certainly indicates that she knows the Hon. Eddie Obeid. The point is that the Hon. Eddie Obeid is attempting to mislead this Parliament in respect of a number of matters. Even his close relatives have denied what has been going on. I again refer to the *Sydney Morning Herald* article of 1 June, which states:

> But Mr Obeid's close relative, who requested anonymity, yesterday rejected his claim that he had to travel to Lebanon on compassionate leave to sort out the estate of a deceased relative. "The last relative of Eddie's to die was his brother Joseph, and that was on Christmas Day five years ago," the family member said.

In conclusion, I refer to a report in the *Daily Telegraph* which states:

> Government Whip Peter Primrose said Mr Obeid rang him from Lebanon on Friday night to deny he was campaigning in the election, even though some of his relatives have confirmed it

The Hon. JON JENKINS [4.07 p.m.]: This is the second motion of censure I have been asked to vote on since being elected to this House. In the first motion of censure debate I literally had been here only a few days and had never actually met the Hon. Michael Costa. I was being asked to censure someone I had not met and had barely seen in Parliament.

The Hon. Charlie Lynn: You did not need to meet him.

The Hon. JON JENKINS: I acknowledge the interjection because it is a very important point.

The Hon. Rick Colless: But that is the role of the Parliament, is it not?

The Hon. JON JENKINS: Yes, it is. It is very important to make decisions, but members have to make those decisions on the basis of evidence that is in front of them.

The Hon. Duncan Gay: You have probably hardly met Eddie, either, because he has not been around.

The Hon. JON JENKINS: I will get to that point shortly. I have to say that voting on my first motion of censure was a very difficult decision to make. In hindsight, not having had any experience with either Parliament or the Hon. Michael Costa, I should probably have abstained from voting, as some other members did, although I did not realise that I could do so. In hindsight I would have to say that I would still prefer not to have supported the motion of censure. Minister Costa is overtly and obviously arrogant in the way he treats the Opposition and some of the crossbench members. However, he has not yet proved himself to be a liar, and he is not a criminal or anything other than as he presents himself to be.

In combination with what was said in the House last night, I ask for some latitude to explain myself so that honourable members will understand the reasons for my decision. Last night I was accused of being naive. I wish to say that I am not naïve; I simply choose to live my life by the philosophy that I take people as I find them. I refuse to be cynical; I refuse to distrust by default, and I refuse to look for deception in people. To me this is a very Australian attitude to life. My philosophy is to give people a fair go, to give them a chance to prove themselves before I make a decision about them. That is one of the reasons I probably could not join one of the major political parties.

Ms Lee Rhiannon: Even though you tried.

The Hon. JON JENKINS: I have not tried at all.

Ms Lee Rhiannon: Haven't you?

The Hon. JON JENKINS: No. Would the Hon. Lee Rhiannon care to elaborate?

Ms Lee Rhiannon: No. I am pleased you have corrected everybody.

The Hon. JON JENKINS: Good. Perhaps the only major party I could contemplate joining would be The Nationals, but I would certainly be a small "n" national, a green national, or a left national, or whatever—

The Hon. Rick Colless: We have no factions.

The Hon. JON JENKINS: No factions? I might start one. Rather than change and become a cynical politician I hope to change this House. Will I succeed? No, not a chance in Hades. Will I give up trying? No, not a chance in Hades.

The Hon. Michael Gallacher: Will you make a difference?

The Hon. JON JENKINS: I hope so.

The Hon. Michael Gallacher: You should make a decision; you cannot sit on the fence.

The Hon. JON JENKINS: I am going to make a decision.

The Hon. Michael Gallacher: You get splinters every day you sit there.

The Hon. JON JENKINS: I know. If I could change the attitude of one person to adversarial politics in this House, I would leave the House happy. I warn honourable members that, as I declared in my inaugural speech, they will always have my basic trust in their honesty and passion until they prove themselves otherwise. That is not naivety: rather, it is the philosophy by which I choose to live my life and the way I treat people. One thing I do not like about this parliamentary process is how the press sensationalises an issue, and the facts often get lost in the blaze of publicity and cheap sensationalism. I also dislike the way both sides of this House are subservient to that process.

Generally, censure motions are more of a publicity stunt, and they actually achieve very little. On several occasions when Ministers and members have been ejected from the House, they have been photographed bouncing down the front steps while laughing. Ejection achieves very little, except publicity and a few days break for the member. Ejection does not change member's behaviour, so far as I can see.

The Hon. Duncan Gay: Members have not been ejected from this House several times; only once.

The Hon. JON JENKINS: Only once, alright, but there were several photographs. When the House voted on whether to bring on this debate I supported the Opposition, basically because I wanted to get it out of the way as quickly as possible. I did not consider it to be very important. Censuring the Hon. Eddie Obeid will have absolutely no effect on him. It will not change his behaviour, nor that of the Government, in any respect, so why are we doing it?

The Hon. Duncan Gay: Should we send him a letter of congratulations instead?

The Hon. JON JENKINS: No, we should not. It has been explained to me by some members of the Opposition that a censure is a step in the process to potentially expel a member, or to impose an even greater sanction. It is a step along the way, a system of warnings, a notice. In that sense censure motions do serve some purpose. If we were voting to remove the Hon. Eddie Obeid, it would be a different matter altogether and would have much more significance. It is quite obvious that a member would not be expelled from his House on a permanent basis unless he or she were guilty of a gross criminal act. Obviously, there is some history of this. There is no suggestion that the Hon. Eddie Obeid is guilty of any criminal offence in this case and, therefore, censuring him as a warning of a potential permanent expulsion for a criminal offence—

[*Interruption*]

The Hon. Eddie Obeid should listen to this debate, although he is not in the House.

Reverend the Hon. Fred Nile: He has gone to get the answers to those questions.

The Hon. JON JENKINS: He should take note that if it were proved—

The Hon. Don Harwin: You should acknowledge that, so we can send it to all the people in the country whose votes you will try to get.

The Hon. JON JENKINS: I would like people to listen to this because it is important. The Hon. Eddie Obeid should listen to the debate and take notice. Were it to be proved that he had signed a false statement, which may constitute criminal behaviour, my opinion, and that of the House, would almost certainly change significantly. I certainly would not censure the honourable member without his having the opportunity to reply in his own defence—I wrote those words prior to his return, and I have heard his defence. The advice I have received from the Clerk is that the Hon. Eddie Obeid has not committed any offence against this House and he has not breached Federal or State laws or the rules of this Parliament. The final question I would ask is: Has the member's behaviour been such that he has misled the Parliament, either directly or indirectly, through communications with the Whips? In that respect there is some dissent and there has been some debate.

The Hon. Duncan Gay: It is pretty clear cut. He did.

The Hon. JON JENKINS: I will come to that. I have to say that I would not convict a member based on media reports alone. As I have already mentioned, the press has a habit of sensationalism and selective reporting, to which I have been subject, and the facts are not allowed to interfere with a good story. If the Opposition wants my support in this censure motion it will have to provide me with proof that the member deliberately and knowingly offered a false reason for his travelling overseas and being absent from Parliament. It is not enough to merely say he was involved in activities overseas. The Opposition must prove that the member intentionally misled his own party.

The Opposition must prove that he had no intention of dealing with any family matters while he was in Lebanon. I repeat, the press report alleging involvement in a local council election in which his cousin and other family members were engaged does not negate the fact that he may well have been involved in family matters prior to or during other activities. In any case, they could be called family matters. Perhaps for any future issues the Whips should explain to the crossbenchers about pairs, and the reasons for pairing. I now understand a little about that, but perhaps the letters could be published as part of the record. Unless the letters contain private medical information that he may not want to disclose, they could be published.

The Hon. Duncan Gay: They usually do.

The Hon. JON JENKINS: If they do, perhaps we could come to some arrangement to have parts of the letters published.

The Hon. Duncan Gay: You are not party to this arrangement. You could apply for that.

The Hon. JON JENKINS: But you are asking us to vote on this arrangement.

The Hon. Duncan Gay: No, we are not.

The Hon. JON JENKINS: You are specifically asking us to vote on a private arrangement between the Opposition Whip and the Government Whip. You are asking the crossbench to vote on whether the Opposition Whip and the Government Whip were misled by a member of this House. If we are not allowed into that private arrangement, how can we vote on it?

The Hon. Melinda Pavey: That is not the point.

The Hon. JON JENKINS: It is very much the point. It is the only point, so far as I am concerned. Perhaps for any future issues the Opposition should ask for applications, and an exchange of letters could be published, at least at some point, in *Hansard* so we can see what has happened and make a consistent decision. In effect, if the honourable member has misled anyone, he has really misled his own party, at least in the first instance. The humiliation of being castigated—

The Hon. Duncan Gay: You want details of a member's private life, or the lives of their sick children, to be published? Come on!

The Hon. JON JENKINS: The Deputy Leader of the Opposition interjected by asking do I want details of someone's private life to be published in *Hansard*. No, I do not. If certain parts of the letters could be published, the crossbench would know what has happened, and the reason for it. It is not necessary to specify that a member had gallstones removed by laparoscopic surgery; it would be sufficient to say he or she went to hospital for a medical procedure—end of story. It does not have to be an all-or-nothing response. I have listened to the debate carefully and thoughtfully, trying to find some proof that the member has deliberately lied or misled the House, either directly or indirectly.

If I am not shown that proof I will not support the censure motion. Earlier I mentioned to the Hon. Don Harwin that one piece of proof could be a council voting ticket that did not indicate a unity council election before 27 May. If I could see such proof I would support an even stronger sanction, because it would indicate that the Hon. Eddie Obeid's statement that the election was not a council election before 27 May was false. If that is the case, there would be some evidence of it. I am sure that if the newspapers, especially the *Sydney Morning Herald*, had a smoking gun, it would be here. But there is no smoking gun.

The Hon. GREG PEARCE [4.19 p.m.]: I support the motion to censure the Hon. Eddie Obeid. My views about the fitness of this member to be a member of this House are well known. I am pleased to note that the Premier accepted my view about the fitness of the member to be a Minister and after the last election duly sacked him. I do not have anything against the honourable member but then I suppose I have never had a business dealing with him and I have never had a factional falling out with him. So I do not really have any reason to have any concerns about him. In fact, the honourable member is often charming and erudite. The problem is that he simply does not understand that it causes difficulties when he intermingles his personal affairs with his parliamentary duties.

The honourable member used parliamentary resources for his business and personal affairs and he used his influence, which he undoubtedly had as a Minister and as a member, in a way that was totally inappropriate. This morning the honourable member was heard to state that his problems had arisen because of a conspiracy between various sections of the media. I have some sympathy for him in relation to that fifth-rate radio jockey Mike Carlton. I have never listened to Mike Carlton and I do not think many people do. Apparently he uses his radio program to engage in personal vendettas against various members of Parliament. However, that in itself has nothing to do with this member's troubles. He has an endless list of problems, which were outlined in the media and in this House.

There are instances of misuse of parliamentary resources, business conflicts of interest, and interference in his own party, in councils and in major projects around the place, and he has associated with a litany of unsavoury people. For somebody who expects to be treated as a member of Parliament and who expects to be treated as though he has a reputation, those associations are beyond belief. The problem is that this honourable member does not have a reputation to protect. As I said earlier, he does not understand the difficulties that are

created as a result of intermingling parliamentary and personal business resources and activities. That has led to all sorts of rumours and innuendos about him.

Only this morning it was alleged that the honourable member used his official parliamentary passport for private travel to Lebanon and Syria. If he did, that is a breach of his obligations as a member, which are set out in the Legislative Council members' guide. I would like him to produce his travel documents. One of the things we have learned about this member is that we cannot believe what he says. We have to have the bits of paper to prove what he has done. Another issue that became evident today was that the honourable member has no qualms about blaming family members for his problems. He has done that on many occasions. He blamed his accountants, his sons, and everybody else. This morning I think he said that one of his family members was paranoid.

The Hon. Melinda Pavey: A psychopath.

The Hon. GREG PEARCE: He called one of his family members a psychopath, which is an interesting example of where his problems lie. The son and daughter of this so-called psychopath were given jobs by government departments because of the member's influence. Greg Robinson, the now sacked chief executive officer of Sydney Water, employed Vanessa Obeid when he was at the Sydney Foreshore Protection Authority.

Reverend the Hon. Fred Nile: Is that relevant to the motion?

The Hon. GREG PEARCE: Yes, it is. Albert Obeid was about to get a job in Mr Iemma's office. It is interesting that Minister Iemma is in the Chamber. I could table the application from Albert Obeid to Mr Karl Bitar, who is well known in the Labor Party. Part of the honourable member's problems is that he inappropriately uses his influence. Two of the children of the person that the Hon. Eddie Obeid now calls a psychopath were engaged in government jobs. However, as part of his retribution he had both those people sacked. They are the problems that this member has. He obviously will not learn his lesson, and he deserves to be censured.

Ms LEE RHIANNON [4.25 p.m.]: The Greens support this censure motion, but we do not believe that the issue is merely what Mr Obeid was doing in Lebanon or what he said before he left. This morning Mr Obeid set out his reasons for leaving this Parliament, his reasons for missing sitting days, and his reasons for returning to Lebanon. However, there are still many unanswered questions and inconsistencies in Mr Obeid's story that need to be addressed. When Mr Obeid concluded his story prior to question time I observed that a number of Labor members of Parliament in this House appeared to be pleased with Mr Obeid's performance. Mr Obeid's comments about his recent conduct have only added to my concerns and the concerns of my colleagues.

Over the past week many reasons have been advanced for Mr Obeid's trip to Lebanon. The Premier, Mr Carr, said he was on holiday. The Government Whip, Mr Primrose, said he had urgent family business to attend to. One of the most serious omissions in Mr Obeid's speech was any explanation as to why he had to go to Lebanon when the House was sitting. The best reason that he gave was the weather. Apparently, there is only a short time each year when Mr Obeid can carry out the renovations that are needed on his properties. Mr Obeid's justification for going to Lebanon while drawing his full salary and entitlements and missing parliamentary sitting days was to work on renovating his properties.

Is it any wonder that the public are cynical about members of Parliament? Mr Obeid, who until today had not spoken once in the Parliament in the past 18 months, who is not a member of one parliamentary committee, who is not known for any activities he has undertaken to serve the people of New South Wales since he lost his ministry, took paid leave to travel overseas to make more money. Mr Obeid's arrogance towards this House and the people of New South Wales is breathtaking. Does he believe that such an explanation is all that is required to wipe his slate clean? Some of his colleagues think that everything has now been explained with regard to his latest unparliamentary behaviour–and that highlights why Labor has such problems.

Many Labor members are out of touch with community standards, and today's behaviour has further highlighted that fact. Mr Obeid's actions underline the need for the work regime under which members of Parliament operate to be dramatically overhauled. The Greens still believe that Mr Obeid has not satisfactorily explained why he could not have visited Lebanon when the House was not sitting. We understand that Mr Obeid was given permission to visit Lebanon to wind up a family estate, and not to engage in renovations. The Greens also believe that it is time that obligations were enforced with respect to the work standards of members of Parliament. The Greens believe that these standards should be tougher.

We believe that the system of entitlements is simply not transparent enough. We believe that there is inadequate financial reporting and too many perks. The Greens also believe that section 13A of the Constitution should be amended to bring work standards for members of Parliament into line with those by which the majority of workers have to abide. We understand that, according to section 13A, as long as a member of the Legislative Council is present on only one sitting day in any one session, he or she can avoid being disqualified from service as a member of Parliament. The lack of obligation to turn up to Parliament is at the heart of the major party arrangement with regard to pairing.

We acknowledge that, at times, members would have legitimate reasons for being absent from the Parliament, but the latest affair has shown how that informal arrangement can be abused. We need rules to ensure that members do what taxpayers ask of them: to attend regularly in Parliament, to make representations on behalf of constituents, to debate legislation, to ask questions, and to engage in political debate. If an employee in just about any other job took time off with pay outside his or her entitled leave to engage in home renovations, he or she would not have a job for too long.

As we all know, members of Parliament do not have entitled leave. This arrangement needs to change so that members of Parliament are more accountable and our work obligations are defined more clearly. In this case Mr Obeid not only think it is okay to leave work when he chooses but thinks it is okay to continue drawing his salary and allowances when he is not at work. Most people in a similar situation would take leave of absence—that is, leave without pay. But not Mr Obeid. He has continued to draw his full salary and electoral allowance, totalling $11,812.25 per month. This is a classic example of the kind of arrogant behaviour that brings all members of Parliament into disrepute. Once again, we see that members of Parliament have one rule for themselves and another rule for everybody else. Everybody else must tighten their belts. Everybody else must cop whatever pay rise the boss gives them. Everybody else has to abide by the rules governing leave and entitlements. But too many politicians think they are somehow different and can write their own rules—or even break them.

That is why we run into problems time and time again. The Greens have argued consistently that, instead of abusing the trust of the people of New South Wales, members of Parliament should remember their duty to show leadership and to be exemplary in their conduct. As members of Parliament, we are entrusted with an important task, and we have unusual authority and responsibility to carry out that task. Members of Parliament should therefore be more mindful, more careful, and more diligent, not less. If mistakes or transgressions occur they should be rectified, not covered up or papered over.

If for the past two months Mr Obeid has been engaged in renovating his properties—as he admitted—and in other activities not associated with serving the people of New South Wales, he should surely have taken leave without pay. This fact should be acknowledged and Mr Obeid should pay back his salary and entitlements for that period. He should not hide behind some constitutional furphy that apparently allows members of the Legislative Council to be away from Parliament as much as they please. We are talking about the spirit of responsibility and public service, not the letter of the law.

I ask my fellow members what is more important to them: protecting Mr Obeid from the consequences of his actions or protecting the reputation of the Legislative Council? We have a duty to this Parliament. We are the only people who can restore and enhance the reputation of our House. We can do that only if we act transparently, fairly and responsibly. If we do not censure Mr Obeid we will send the message that it is okay for members to simply abrogate their responsibilities as legislators.

If we do not censure Mr Obeid we will be telling the people of New South Wales that it is okay to draw a salary while on leave of absence, it is okay to mislead our employer, and it is okay to stop doing our job. Members who are thinking about voting against this censure motion should consider what they are voting for. If we do not support this censure motion we will be failing to hold members of Parliament to account. I acknowledge that the censure motion is not worded strongly and will have no immediate ramifications. However, it is an important statement to the public, and I urge members to support it.

In addition to his inactivity over the past 18 months and now the Metrit affair, we have seen Mr Obeid blame his accountant for failing to declare his pecuniary interests correctly. We have seen his name appear in controversial business deals. Perhaps his performance as a fundraiser for the Labor Party outweighs the constant headaches he causes for his party and this Government. Is it enough to override the damage that the latest Obeid affair has done to the Legislative Council's reputation and to the reputation of other Labor backbenchers who are hardworking and honest? We will find out when the vote is taken. The Greens will vote in favour of this motion

because it seeks to uphold the integrity and reputation of the Legislative Council by censuring one who has failed the test. We urge other members to vote in support of the motion.

The Hon. CATHERINE CUSACK [4.34 p.m.]: I congratulate Ms Lee Rhiannon on her comments. We often disagree, but on this occasion I could not have put it better. Ms Lee Rhiannon cut to the heart of this issue. Anybody concerned about the condition of our democracy would be worried about the tenor of much of the debate in the upper House on this issue. The community is becoming increasingly alienated. There is a feeling that members of Parliament do not listen to the people or respect their views and that they have double standards. The media is a major communication medium and I am particularly disturbed today by the criticism and blame levelled at media organisations. It is as though this House should be impervious to the views of the media and its efforts to bring issues to our attention.

As members of Parliament, who are elected democratically to this place, we have an absolute responsibility to be conscious of what is happening in the media. This Chamber has many problems with the media. Many of us are working very hard to try to forge a new future for the Legislative Council to help it realise its full potential. But we often find that a few centimetres of progress is undermined by an issue such as this which drags us back two or three metres. I am incredibly disappointed.

I congratulate the Leader of the Opposition on this motion, which is properly researched. He put his argument logically to the House and supplied the necessary evidence. It is a moderate motion that does not seek to eject the Hon. Eddie Obeid from the House. In a sense, it is about not the Hon. Eddie Obeid but the House, the way it sees itself and our concept of what is acceptable behaviour. I will deal with some of the remarks by crossbench members. Several honourable members have said that the passage of this motion today will make no difference and that the Hon. Eddie Obeid may continue to behave in this manner. I think that is a grave error. The passage of this motion will make a huge difference. It will make a difference to people to know that we find such behaviour unacceptable. If we vote down this motion we will send the message that this kind of behaviour is acceptable and may continue. As Ms Lee Rhiannon said, that is a critical point.

It has been said that the Hon. Eddie Obeid has not breached the New South Wales Constitution and is therefore not guilty of a gross criminal offence. No-one has accused him of either transgression. We are considering in this debate the concept of acceptable behaviour. Reverend the Hon. Fred Nile said that a key issue was whether we could accept a member's word. He attaches great importance to that point. However, the Constitution does not say that we must accept a member's word. My point is that because certain behaviour does not breach the Constitution does not mean it is not offensive. Regardless of whether someone gives his or her word, particular behaviour may cause offence to other members and damage the reputation of this Chamber. That is why I believe the Hon. Eddie Obeid does not have to be found guilty of a criminal offence before we take action to safeguard our name and make a statement about the acceptability of his behaviour.

Several crossbench members said they do not understand the pairing arrangements. One does not have to understand the details of those arrangements to appreciate the spirit of this motion. I feel sorry for the Government Whip, who I suspect, like his colleagues and the Opposition Whip, is a victim of duplicity. If the House is to function properly Opposition members must be able to rely on the word of the Opposition Whip and on the operation of the pairs arrangements. That is why those arrangements are significant. The Hon. Eddie Obeid said he was on family business. If we split hairs we could concede that that explanation might cover his activities but it certainly does not cover the thrust of his activities or help our understanding of them. That is why his behaviour so offends the pairs arrangements and the ability of this House to operate ethically and effectively.

I ask the Hon. Eddie Obeid to consider carefully what his purpose in this place is now. He has caused an enormous embarrassment to himself, his colleagues, and the rest of us in this House. I can see that he does not care too much about that. I also suggest that this lack of concern may also be an indicator that he has lost the drive for public service because no public service is being done by causing this kind of damage to the House. I urge the Hon. Eddie Obeid to consider carefully, irrespective of the vote, how long he wishes to operate in this way.

The Hon. MELINDA PAVEY [4.40 p.m.]: I will be short, sharp but not sweet. It was a very charming display today. No wonder the Hon. Eddie Obeid holds so many votes in caucus for his mate Carl. But I have a problem with the Hon. Eddie Obeid doing personal family business when Parliament is sitting and at a time when we should be setting a higher standard. The Hon. Eddie Obeid deserves the censure of this House because he has shamed his party and he has shamed this Chamber.

The Hon. CHARLIE LYNN [4.40 p.m.]: I did not intend to participate in this debate because I was sure that comprehensive arguments would be debated in both the prosecution and the defence of the censure motion again and again by honourable members as they sought to have their contributions recorded in *Hansard.* In this case I believe the Hon. Eddie Obeid neglected his primary responsibility of being in this House when Parliament is in session. The Leader of the Opposition quite rightly pointed out that we are approaching our winter recess, which will provide ample opportunities for members to attend to family business.

In his defence the Hon. Eddie Obeid advised that his absence was not due to any compassionate grounds which were not related to his family business. I was not convinced by his argument that it was urgent family business. The reason the public is up in arms about this issue is because honourable members are paid by New South Wales taxpayers, who believe we should be in Parliament when it is sitting, not overseas on personal business.

I am concerned about the tactic that the Government employed in trying to spread some of the blame, I suppose, in an attempt to deflect some of the flack it was copping. I refer to an interview earlier this week when on ABC radio you, Madam President, referred to a Liberal member who was on a pair to go to Papua New Guinea. I think I am the only Liberal member who travels to Papua New Guinea so I should explain why I requested that pair, to clear up the grubby inference that the trip was somehow associated with personal business.

I had that pair because I was invited to take a bunch of Lebanese Muslim students from Punchbowl Boys High School across the Kokoda Track. I did that on a voluntary basis because I feel for that school, which had been headlined as the worst school in Australia. The parents of the boys were born in Lebanon and do not feel connected to Australia. The students had been stigmatised with headlines about attending the worst school in Australia. The stigma attached to their Islamic Faith at the moment and the crime issue in south-western Sydney. I volunteered to take them across there with young Brett Murray from Camp Dare. The only reason I applied for a pair, which was granted, was because the airline rescheduled and I had to request a pair for one day to get back to Parliament. I totally reject the inference that somehow I was over there on personal business.

The PRESIDENT: Order! I interrupt debate pursuant to Standing Order 186. In normal circumstances at this time the mover of the motion would speak in reply for not more than 10 minutes. However, leave has been granted to the Hon. Eddie Obeid to address the House.

The Hon. EDDIE OBEID [4.43 p.m.]: I believe I answered all the questions in my address to the House.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [4.43 p.m.], in reply: I will start my reply with an observation, as I did when I commenced this debate. During the course of this very long debate the Hon. Eddie Obeid did not go anywhere near to apologising to honourable members of this House for his actions that firmly and squarely resulted in all members of Parliament being criticised and attacked for somehow looking out for one another like in a club.

At the end of this debate I thought that if the Hon. Eddie Obeid were truly innocent he would have said, "I apologise if I have in any way brought down the good name of this House by my actions." I thought he would have shown some remorse, but he did not. It was also remarkable that despite all protestations and claims, the Hon. Eddie Obeid did not ask the one person from the Government who could have clarified the situation. Although the question of what exactly took place when allowing the Hon. Eddie Obeid to be paired has not been answered, certain members of the crossbench have indicated they are prepared to vote with the Government.

Prior to the debate we heard discussion about the Hon. Eddie Obeid being in Lebanon on a holiday, having to assist in a family estate, and being involved in an election. Today we heard about him being there for a Christian celebration and to renovate a house. But we have not heard that the Opposition agreed to the pair and his absence from the Parliament because he was there to assist in the settlement of an estate following the death of a relative. It is quite simple: the Opposition agreed to a pair based on incorrect and false information, as has been revealed today. If any honourable member is in doubt they have their head in the sand. The Hon. Eddie Obeid has dug himself further into a hole in relation to his defence of providing new excuses and reasons for his actions.

The Hon. Eddie Obeid went to Lebanon to become directly involved in an election campaign to assist in the protection of his investments in Lebanon. Not once did the honourable member indicate to the House his

relationship or involvement with his 16 fellow travellers, if he was one of the 17. It is obvious to members of the Opposition that he was the one who orchestrated the flight in of the troops. The troops were brought in to do the job. To use Bob Carr's expression, "Mission accomplished." He won the election and got all of his people up on the ticket.

The Hon. Eddie Obeid: Hear! Hear!

The Hon. MICHAEL GALLACHER: I note his interjection. He knows what I say is absolutely spot-on. His contempt continues and it will continue beyond the vote on this matter. Mission accomplished: he has control in the village in Lebanon and he can come back to Sydney and continue his fine work for the Australian Labor Party and all will be forgiven. I can assure the honourable member that the community will not forgive or forget. I do not believe that this issue will be resolved in any definitive way.

The feeble submissions of some honourable members demonstrates they did not listen to the debate in this Chamber. I congratulate my colleagues on this side of the Chamber who systematically, clearly and step by step went through the evidence to show how we have been misled. I congratulate the Ms Lee Rhiannon on her mature and sensible approach to this debate, which I can assure her surprised a number of members on this side of the Chamber. I commend the motion to the House.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 17

Mr Clarke	Mr Gay	Mr Pearce
Mr Cohen	Ms Hale	Ms Rhiannon
Ms Cusack	Mr Lynn	Mr Ryan
Mrs Forsythe	Reverend Dr Moyes	*Tellers,*
Mr Gallacher	Ms Parker	Mr Colless
Miss Gardiner	Mrs Pavey	Mr Harwin

Noes, 23

Mr Breen	Ms Fazio	Ms Robertson
Mr Burke	Ms Griffin	Ms Tebbutt
Ms Burnswoods	Mr Hatzistergos	Mr Tingle
Mr Catanzariti	Mr Jenkins	Mr Tsang
Dr Chesterfield-Evans	Mr Kelly	Dr Wong
Mr Costa	Mr Macdonald	*Tellers,*
Mr Della Bosca	Reverend Nile	Mr Primrose
Mr Egan	Mr Obeid	Mr West

Question resolved in the negative.

Motion negatived.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by the Hon. John Ryan agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 107 outside the Order of Precedence, relating to fees for intercountry adoptions, be called on forthwith.

Order of Business

Motion by the Hon. John Ryan agreed to:

That Private Members' Business item No. 107 outside the Order of Precedence be called on forthwith.

INTERCOUNTRY ADOPTION FEES

The Hon. JOHN RYAN [4.56 p.m.]: I move:

That this House:

(a) does not approve of the Government's decision to increase fees to the Department of Community Services for intercountry adoptions by 270 per cent, and

(b) calls on the Carr Government to abandon the proposal before the planned date of introduction on 1 July 2004.

There could be no clearer demonstration of how much the Carr Government has become totally callous, uncaring, and out of touch with the New South Wales community than its recent decision to increase fees for overseas adoptions. The Government announced in the April mini-budget that fees charged to adoptive parents for overseas adoptions by the Department of Community Services would increase from $2,967 to $9,700—a staggering 270 per cent increase. This massive increase for overseas adoptions will make starting a family a financial impossibility for many couples in New South Wales. It shows that this Government has no compassion for people who want to start a family by intercountry adoptions. It has no compassion for people who are particularly affected by infertility.

The measure will raise only $700,000—less than 0.002 per cent of the State's $36 billion budget. But, while it will have almost no impact on the State's bottom line, it will have a massive impact on the families who are hit by these charges. By any measure, intercountry adoptions are already fairly expensive. Even without these increased fees, the overall cost of an overseas adoption for a couple is around $30,000 to $40,000. In addition to the New South Wales Government application fees, there are costs associated with health checks, psychologists' and counsellors' fees, legal fees, travel expenses, and accommodation.

Then, of course, the parents face the actual cost of raising the child. Adopting couples would also have to meet the additional financial burden of a requirement that at least one of the parents has to take a minimum of 12 months off work after the child has been placed in their care. The massive increase in DOCS application fees means that adoption will become a luxury for the rich in New South Wales. The Government and the Department of Community Services should support people who seek to set up new families, not fleece them as another potential source of revenue to make up for the Government's waste and mismanagement. Contrary to the policy of the Carr Government, which is seeking full cost recovery from adoptive parents, the Coalition believes that adoptive parents have a right to some government assistance similar to the assistance people receive through the health care system when they have children naturally or by IVF procedures.

This is a mean and miserable decision by a government that has no compassion for couples who, in many cases, have no other choice but to adopt overseas to fulfil the normal and, I believe, noble goal of starting and raising a family. I intend to be brief, as I have already spoken about this matter in some detail in a speech I gave on 24 May 2004 in reply to the State Revenue Legislation Amendment Bill about the Government's so-called mini-budget. The Opposition has a particular point to make in raising this matter in the House today in this form. I am informed that the Government will not seek to introduce the new fees by regulation that could be scrutinised and possibly even disallowed by the House. The Government does not have the courage to do that.

Some time before 1 July 2004 these thieving bushrangers opposite plan to introduce their massive 270 per cent fee hike by having the Director-General of the Department of Community Services issue a non-reviewable notice in the *Government Gazette*. The current fees paid by people applying for intercountry adoptions were originally set out in the Adoption of Children Regulation 1995. Fees made under regulations can be reviewed and, if necessary, disallowed by either House of Parliament. But disgracefully, by stealth in 2000 the Carr Government introduced new powers into the Adoption Act that allow the Director-General of the Department of Community Services to do the dirty work for the Government of increasing the application fees without the scrutiny of Parliament.

Section 200 of the Adoption Act 2000 allows the director-general or any other information source to demand fees for the provision of services. Debating this matter and passing this motion today is our only means of indicating that this House disapproves of this outrageous decision to impose on families the highest fees in the nation for intercountry adoptions. The passage of the motion today is intended to demonstrate clearly that had the Government tried to increase these fees by regulation, it would have failed because this House would have disallowed those new regulations.

Pursuant to sessional orders debate interrupted. The House continued to sit.

The Hon. JOHN RYAN: I should point out that if the Government were inclined to have some respect for Parliament and democracy, it could still impose the new charges by regulation because section 200 (5) of the Adoption Act also provides that regulations may make provision for or with respect to fees and charges payable. The passage of this motion today not only enables us to clearly demonstrate how little community support the Government has for increasing fees but also demonstrates that the decision is illegitimate and undemocratic.

Before I conclude I wish to respond to the Government's weak justification for this incredible fee hike. It claimed that the increases are justified because other States seek to recover the costs of intercountry adoptions and that unless fees are increased to what the Government claims is a realistic level of cost recovery it will not be able to encourage any new non-government providers of intercountry adoption services to enter the field and become established.

Make no mistake, the New South Wales Government is the only government that proposes to seek full cost recovery for intercountry adoptions. While other State governments seek a contribution from applications for adoption, and some already have non-government providers operating, they do not seek to recover all of those costs. This Government is seeking to recover the rent of the premises used by the adoption branch and all the salaries paid to the adoption branch. One can even imagine that the salaries and expenses involved in preventing illegal adoptions will be passed on to those who pay for legitimate adoptions. The only other State that claims to recover most of the cost of adoption is South Australia, where the fees are between $2,000 and $3,000 less than the proposed charge for full cost recovery in New South Wales.

Victoria attempts to recover only 70 per cent of the cost and charges $6,250, which is $3,450 below the proposed fee for New South Wales. For the information of honourable members, the following fees apply in other States: Tasmania, $1,998; Western Australia, $2,236; Queensland, about $2,000; and Australian Capital Territory, $2,285. Far from being the norm in the other States a policy of full cost recovery is the exception. The fee charged by New South Wales will be $2,000 more than that charged in any other State, and by that I mean the most expensive fee in any other State. It would appear that the charge has been massively miscalculated in the Government's favour. One of the most expensive components of an adoption application is the social worker's report on the family For some time the fees for social workers have been frozen. To some extent the Government is crying crocodile tears when it complains that the actual application fee has not changed in 10 years.

It is not the Government that has been carrying the load for the cost of applications. If anyone has been carrying the load, it is social workers. Recently, social workers have been given a substantial increase in their hourly rate from $65 to $95. Adoptive parents were informed recently that the Department of Community Services estimates that the average adoption requires 20 hours work from a social worker—14 hours for the interview process and 6 hours to write up the report. I have yet to meet a couple who have been grilled by a social worker for 14 hours. That estimate more than covers the work of the social worker. The cost of the report by the social worker should be 20 hours multiplied by $95, which equates to $1,900. Yet the DOCS discussion document says that in working out the amount required for full cost recovery the department has allowed $4,600 for the social worker's report, which is $2,700 more than it will actually cost.

What is the Government up to? Does it expect to be paid a broker's fee for finding social workers? The current costing of $9,700 includes $2,700 in overcharging for the social worker's report. Government promises to accredit non-government providers for intercountry adoptions are nothing more than talk. The Government has been promising to open up the field for adoptions to private adoption agencies for more than six years. There has been absolutely no progress. But even if new agencies are accredited, why is it necessary to commence these charges now? It is not as though the applicant for adoption needs practice in writing big cheques. The only outcome of increasing fees at this time when there are no non-government adoption agencies in the field is that the Government will get the benefit of additional revenue. We believe that parents and families seeking intercountry adoptions have a greater need than the Carr Government's need for money.

If the Carr Government wants to find an additional $700,000 for its budget, I suggest that it spend something less than the $3 million it currently spends and wastes on media monitoring. I believe that the Carr Government has some sort of prejudice against people who seek to start a family by an overseas adoption. It is as if it believes that people seeking to adopt from overseas are doing something wrong. That could not have been made clearer than when we all heard the Hon. Carmel Tebbutt, Minister for Community Services, interject across the House with the words "Poor people don't adopt." The interjection was neither acknowledged nor recorded, but we all heard it and it will not be forgotten. The Government's decision to increase fees for intercountry adoptions is unfair, mean, and miserable. It should be scrapped. I ask the House to strike a blow for families today and support the motion.

The Hon. JOHN TINGLE [5.09 p.m.]: I commend the Hon. John Ryan for moving this motion and for not letting this quite remarkable action go unremarked. I believe this is a debate we should not be having, because the proposal to increase fees for intercountry adoptions should not have been put forward. It is also a debate doomed to frustration because the House has no say in this proposal. It can and will be done by gazettal. It is a savage impost on ordinary people whose only problem is that they want to have a family and, for whatever reason, nature has denied them that joy. There was a time when adoption was much easier in this country for childless couples. Until the early seventies, babies were available for adoption inside Australia, and the waiting period was normally not much more than 12 months.

I speak with some experience of this, having been an adoptive parent some 40 years ago, and having known the joy of being able to take charge of a small life and bring it into a secure and loving family environment. But by the early seventies, that changed. The advent of the contraceptive pill curbed the number of "unexpected, unwanted" pregnancies, and then the social welfare programs of the Federal Government of that time made it unnecessary for mothers to give babies up for adoption, by providing welfare benefits that allowed a great many of them to keep their babies.

For childless couples, the waiting time for a baby then blew out into years—not months—and there were so few Australian-born babies offered for adoption that most couples had virtually no hope of ever being able to adopt. Coincidentally, intercountry adoption began in Australia in 1972 with children being brought here in the Vietnam airlifts. Today, there are only half a dozen countries subscribing to The Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, and the number of children being offered is relatively small.

The process is long, drawn-out, expensive, and, perhaps, more emotionally difficult than that involved with adopting an Australian-born baby. The tests and checks prospective adoptive parents have to go through are far more rigorous and distressing than for local adoptions. They include fingerprint checks and comprehensive house checks. The cost is massive; even before the proposed new fees come into place, it can amount to $40,000 or more, depending on the country involved. In addition, there is a need to travel and stay in the country involved. It might be said that, in the context of this cost, the extra fee sought by the Department of Community Services [DOCS] is not very great.

In fact, DOCS will charge an extra $6,800 for a first adoption, bringing the fee to $9,700. The fee for a second adoption will increase from $2,900 to $6,900. For an average couple, this could be the straw that breaks the camel's back. But worse than that is the feeling these prospective parents have that they are being specially picked upon and discriminated against; that one more hurdle has been placed in the way in a process that is already painful and frustrating. These people are being deprived of hope. They are being deprived of the wonderful experience of parenthood. And although the main philosophy overriding all other considerations in adoption must be the welfare of the child, this is also being ignored, and a child that might have otherwise been adopted by one of these couples is deprived of the opportunity to become part of a secure and loving family in the best country in the world.

This is an unnecessary and pointless impost to produce a revenue increase of what—$1 million, or even $2 million? I would say to the Government that many things are more important than money and one of them is children and their right to a secure, happy, healthy life. This money is a fleabite for the revenues of the State, a heartless piece of bureaucratic penny pinching, a soulless dismissing of the hopes of many childless couples, a negative, hurtful, uncaring, pointless, mean-minded act of offhand deprivation. I support—totally support—this motion.

The Hon. CARMEL TEBBUTT (Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Youth) [5.13 p.m.]: I appreciate that members contribute to this debate with strong feelings derived either from their own personal experiences, from the experience of people they know, or from views they hold on this issue. I reject categorically the comment by the Hon. John Ryan that in some way the Government is prejudiced against people adopting children from overseas. That is simply not true. If that were the case, quite clearly the Government would not be ensuring that those types of adoptions remain available, given that the Government is opening up the facilitation of intercountry adoptions to a range of other providers. The statement is just not true and, frankly, I think it is a cheap shot.

On numerous occasions the Hon. John Ryan and many other members come into this Chamber and demand extra funds for a whole range of different services, some of which are justified and others which are perhaps not so justified. That is the reality of what governments have to deal with. People might justify their

demands by saying, "This will cost only $1 million and that is only a very small amount of money", but the reality is that budgets for services that governments deliver comprise a whole lot of $1 million items. That is the truth of the matter. The role of the Government is to balance all the priorities associated with services for vulnerable children and families in New South Wales, statutory child protection intervention services, support for families with a child who has a disability, and health services, housing and education. The Government has decided with regard to intercountry adoptions that it is not inappropriate to request a greater contribution from those who seek to adopt a child from overseas than is currently the case.

On many occasions I have indicated that the fees for intercountry adoptions have not changed in this State since 1995. A number of people have made much of the issue of fees, but the fact still remains that the costs involved in intercountry adoptions are far greater than the $10,000 of $9,000 fee that the Government is seeking to impose through a changed regime. Everyone acknowledges that when people adopt a child from overseas, they incur many costs and they undertake to expose their entire financial situation to scrutiny by the country from which they are seeking to adopt a child. The fact of the matter is that the fee is only one component faced by families who seek to adopt a child from overseas. The suggestion that in some way by increasing the fee the Government is imposing an enormous barrier upon families who seek to adopt children from overseas is strongly rejected because the reality is that families who seek to adopt children from overseas face a range of significant hurdles.

It is the view of the Government that the Department of Community Services has many priorities and many calls upon its budget. The priority for its budget must be the children and families who are most in need. For that reason the Government believes it is not inappropriate to seek a greater contribution from families who are seeking to adopt a child from overseas and to recover the costs of providing that service to those families. I will examine the Opposition's comments because people who invest hope in the Coalition in this matter need to be aware that last Sunday, 30 May, when asked why he had waited several months to raise this issue, the Leader of the Opposition stated:

> Well, I guess no particular reason on the timing... I mean, it's just a case of wanting to allocate stories to make sure they get the best coverage, to be honest with you.

They are the words of the Leader of the Opposition, John Brogden, and they reveal no sense of urgency. It was just a matter of when the media cycle was right. I suggest that if the Opposition really feels strongly about this issue, it will not seek to use it as political capital or just a chance to get a story up when the time is right but, rather, will be genuinely committed to the cause. It is interesting that when the Leader of the Opposition was asked about the new charges he did not say he would scrap the new fee. Nor did he answer a question about when the current fee would be increased under a Coalition government. His response was that he would "maybe [index it] to make it fair in terms of covering increased costs". The Government is entitled to interpret that comment to mean that the Coalition also will increase the fee. That is the only reasonable inference that can be drawn from the Leader of the Opposition's remark.

What fees would the Coalition charge? Perhaps the Coalition should come forward and tell us. The Coalition has conceded that there should be a link between the cost of providing this service and the fee charged for using the service. The Hon. John Ryan has said that the Government's action is mean and penny pinching and will raise only a very small amount of money. However, I remind honourable members of this House how the Coalition would fund its program. It would do so by not going ahead with the 875 extra caseworkers for the Department of Community Services, by not going ahead with the early intervention programs that the Government is rolling out, and by cutting back on improvements to the out-of-home care system. None of us likes to have to make hard decisions or impose fees on people, and the Government would not do so if there were an alternative. But there is a limited budget and what the Government has chosen to do is far more equitable, far more honest, and far more caring than a cheap political stunt from the Opposition. We know that the Opposition would rip the guts out of the Department of Community Services and that people could forget about decreased fees for intercountry adoptions. That is what the Coalition did last time it was in government.

The Hon. John Ryan: Rubbish.

The Hon. CARMEL TEBBUTT: It is not rubbish. The Opposition's costings show it.

The Hon. John Ryan: Let us have some logic.

The Hon. CARMEL TEBBUTT: I will turn to logic now. I have already outlined the principle that has underpinned the Government's approach to this issue. Previously I informed the House that the fees for

intercountry adoptions have not increased since 1995. I have also said that the Government is doing what a number of other jurisdictions have already done, and that is to recover a greater proportion of the actual costs of providing intercountry adoption services. Other revenue will be directed towards recovering other costs and to funding system improvements. A great deal of work has been done by the Department of Community Services and the consultants, KPMG, that were engaged by the department to determine the proposed fees.

The proposed fee is actually lower than that determined by KPMG. For first applications the fee proposed by the Government is more than $1,000 lower than that put forward by KPMG. For second applications the fee proposed by the Government is approximately $1,800 lower than that put forward by KPMG. There are a number of costs throughout the various stages of the intercountry adoption process that are not controlled by the Government. In that regard the KPMG report noted a 56 per cent increase in private social worker fees in 2003-04. I am advised that the increased assessment fees came into effect in June 2003. The KPMG report also noted that four other jurisdictions currently charge total fees in excess of what is charged in New South Wales. In some cases other jurisdictions charge fees that are double the current New South Wales fee.

The reform paper contemplates that the Children's Guardian will assume the role of accrediting service provider under the Adoption Act through delegation from the Director-General of the Department of Community Services. I understand that any non-government service provider who received accreditation may propose a fee lower than that now proposed by the department. If the department's fee is as unreasonable as people are suggesting, families will not use the department as a facilitator of intercountry adoptions.

I turn now to the suggestion that this will price some families out of being able to adopt children from overseas. I have already indicated that the Government acknowledges that some applicants on low incomes who might seek to apply for an intercountry adoption would be disadvantaged as a result of the shift towards cost recovery. That is why I have flagged that a hardship provision will be developed whereby financially disadvantaged applicants will be charged a reduced rate for intercountry adoption processes. It is not the intention of this Government to try to price intercountry adoptions beyond the means of people. We simply believe, as I have indicated on many occasions, that it is a reasonable premise to recover a far greater proportion of the cost of intercountry adoptions from people who are generally already contributing a significant sum to adopting a child from overseas.

The Government understands that there is concern among some in the community regarding the fee increase, but we believe it appropriate that New South Wales shift towards a model in which costs are recovered, as has occurred in other jurisdictions. Appropriate applicants may qualify for fee relief, based on financial hardship. That represents a reasonable approach to public policy and acknowledges the principle of the capacity to pay. The Government has set out that justification in the reform proposal. Our commitment is to deliver a system that is equitable and delivers a professional service to families who wish to adopt from overseas. I believe that is what is observed in the proposal outlined by the Government.

Reverend the Hon. FRED NILE [5.23 p.m.]: The Christian Democratic Party supports the motion moved by the Hon. John Ryan, which states:

> That this House:
>
> (a) does not approve of the Government's decision to increase fees to the Department of Community Services for intercountry adoptions by 270 per cent,
>
> (b) calls on the Carr Government to abandon the proposal before the planned date of introduction on 1 July 2004.

I note that current adoption costs are very high, even without this increase. The Minister has admitted this is a user-pays approach in this very sensitive area, one which I believe should not apply at all. The Minister said that people already spend a great deal of money, and asked why should they not pay more money to the Government. That seemed to be an opposite argument. Although the New South Wales charges have increased, people wishing to adopt already pay a lot of costs, including fees for joining a parent support group, fees and other charges levied by the overseas agency, and overseas travelling expenses. I have written references for some folk who have travelled to the Philippines. Sometimes they have made three overseas visits to get all the adoption procedures finalised.

Overseas accommodation and legal costs, together with update reports every 18 months, are expensive. Some folk who have been involved with overseas adoptions have said the charges could total as much as $30,000 or $40,000. That is an argument for lower fees, not higher fees. The previous fees in New South Wales

were lower than those in Victoria, but certainly comparable with those in Tasmania, Western Australia, Queensland and the Australian Capital Territory. The current fees already include an expression of interest at $41, education at $180, application at $417, assessment at $1,400, preparation of documents at least $350, and allocation and post-placement reports at $800—a total of $3,188 before the increase. There has never been a handout; applicants have never been involved with heavy expenses.

It is almost impossible to adopt a child in Australia, mainly because people are not putting children up for adoption as they did in the past. Many young mothers are now caring for their own children, and I commend them for that, although it would be economically difficult for young single mothers. However, I prefer that decision to someone having an abortion. Each year 100,000 abortions are carried out in Australia. Perhaps the Department of Community Services and other departments throughout Australia should spend more time on counselling and on financial support so that if it is impossible for the mother to care for the child, the child could be born and put up for adoption. That would solve some of the tension in society suffered by loving infertile couples who wish to have a child. On the other hand, some adults do not wish to have children. I am speaking about people who have a great longing to be a parent, and we should do all we can to assist them.

Ms SYLVIA HALE [5.27 p.m.]: At the outset I will comment upon some of the remarks of the Minister. She accused the Hon. John Ryan, and presumably everybody else who speaks in this debate in support of his motion, of cheap political stunts. Obviously the Minister has not read the correspondence that many of us have received over the past two or three weeks. I have received numerous emails and letters from people who are really anguished at the prospect of the possibility of adoption being put beyond their reach. I have received letters not only from people who have not had the opportunity to adopt children from other countries but also from people who have already adopted children but feel very strongly that their chance to adopt a second child will be, in effect, eliminated, or that people who have not had the opportunity are being unfairly discriminated against.

There is a perception that the Government is discriminating against families. I think the Government is pandering to the common misconception that only the extraordinarily wealthy would even contemplate adopting a child from overseas. There is also a perception that somehow the adoption of children from a country other than Australia should be discouraged. The Minister talked about facilitating intercountry adoptions, but the letters and correspondence that I have received indicate that the department has been extraordinarily tardy. It has done everything it possibly can to hinder the process of adoption and to drag its heels.

The final straw after all this delay and obfuscation is the proposal to apply a series of user-pays charges. The fees that apply to the adoption of children from overseas do not apply to the adoption of children in Australia, which is the essence of discrimination. There are two standards. We have one standard for children who are not born in Australia and we have another standard for children who are. This proposal is just one of the mean and small-minded approaches to cost cutting that has been adopted by this Government. At lunchtime today a rally was held outside Parliament House for participants who have been involved in the Mature Workers Program or the Skilled Migrant Workers Program.

These people, who are unemployed, are desperate to get back into the work force. They have relied on various programs that up until now have been financed. That funding will now be cut and they will be denied the training that will enable them to re-enter the work force. The significant thing about the cuts to the Skilled Migrant Placement Program and the Mature Workers Program is that they will save the Government about $5.5 million. Honourable members would be aware that the move by the Department of Community Services [DOCS] to impose additional intercountry adoption fees would raise about $1.4 million. So that represents a total of $6.9 million. The Minister asked where on earth that money would come from. Let me tell the Minister where it would come from.

Within 24 hours the Treasurer found $23 million to put in a bid for the SuperDome. If $23 million is available at the snap of a finger to be used for whatever purpose Gerry Gleeson or Arena Management want, it could be used to extraordinarily good effect by DOCS. I refer more directly now to the adoption issue, which is obviously vexed and emotionally charged. As a society we tend to shy away from discussing the matter with honesty and candour. Until quite recently children were not even told they were adopted. Thankfully, that is no longer the case. Intercountry adoption is often viewed as somehow different. As a nation we are proud of our multiculturalism, but interracial families still arouse curiosity.

The fact that this discussion takes place in the shadow of the stolen generation and Third World inequality makes it all the more difficult. We are not talking today about stolen children. Intercountry adoptions

to Australia have, as the Hon. John Tingle pointed out, been occurring since 1972, with the first children arriving after the final stages of the Vietnam conflict. Over the past 32 years intercountry adoption services in Australia have been continually supported by numerous community organisations, collectively known as intercountry adoption support organisations. In New South Wales intercountry adoptions are regulated by the State and come under the statutory responsibility of DOCS.

The 1965 Adoption of Children Act and its amendments give the Director-General of DOCS responsibility for assessing applicants for intercountry adoptions. In May 1993 the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption came into effect and was signed by Australia. All signatory countries, including Australia, agreed to a transparent and rigid set of guidelines governing the process. Today the vast majority of overseas children adopted by Australian families come from a handful of countries—China, Korea, Ethiopia and the Philippines. All children from these countries come from orphanages. In those orphanages many, though not all, of the children have developmental and/or physical disabilities.

I will not dwell on the conditions in these orphanages but, tragically, hundreds of thousands of children die every year in orphanages in the developing world. Almost without exception, children who come to Australia from those orphanages escape lives of unimaginable misery. Last week a parent sent me the story of one girl, which I would like to recount. I rang the parent to ascertain that she was comfortable with these details being made available. For the sake of privacy I will call the child May. May's date of birth in China is unknown and, as a female baby with disabilities, she was abandoned and placed in an orphanage. Until she was adopted at the age of about three she had spent most of her life in a small room shared with 17 other children. Most of the other children also had disabilities.

Up until her adoption she had been physically and emotionally deprived. On adoption she could not run or jump and had difficulty with walking in general, even at the age of three. She did not know how to play with things as simple as blocks. She did not know how to look at a book or hold a pencil. Her language development was delayed and nerve damage caused at birth had affected nerves in her arm, pulling her hand into a deformed claw, and giving her only limited use of her arm and hand. Today, living in New South Wales, May can now run, jump, skip and swim. She enjoys playing with toys like Lego, she can read and draw, she has caught up developmentally, and she has gained enormous improvement in the use of her hand, which is now almost functional. She is almost age appropriate in her English language and is currently re-learning Chinese. Most importantly, she has learned what family means, and the security and love embodied in family. May's mother said:

> The point I would like to make is that children brought to Australia from orphanages overseas escape dreadful lives of poverty and deprivation—even death. Here these children are able to flourish and fulfil their potential in a way that would otherwise be denied.

The move by DOCS to adopt a cost-recovery policy is obscene and discriminatory. We are talking about finding homes for needy overseas children and helping Australian parents who would not otherwise be able to have children to form families. The proposals by DOCS to increase fees for intercountry adoption by about 270 per cent, while fees for local adoptions remain static, is symptomatic of a much more disturbing malaise within the department. DOCS views adoption as a solution to the problem of unwanted children. Finding homes for healthy Australian-born babies is no problem for DOCS. For most people the wait can be longer than 10 years.

A bigger problem for DOCS is finding homes for older children, children with disabilities, and those who have been removed from their biological parents. Those children need foster care. The department is desperate for good foster parents but fostering a child is not the same as adoption. Foster children can be taken from foster parents at any time. For some families, particularly those with children of their own, this can be a suitable arrangement, but for parents wanting to start a family of their own it is not a satisfactory substitute.

For the vast majority of prospective parents who want to start a family of their own and are unable to adopt from the extremely small number of Australian-born babies available for adoption, intercountry adoption is the only option. The problem is that DOCS does not believe its role involves helping Australians form families. I do not dispute that finding good homes for Australian children must be a priority, but helping Australians to form families, and in the process rescuing children from desperate lives of deprivation, is a responsibility of DOCS. People who wish to adopt children from overseas pay the same taxes as those who adopt Australian-born children. They have the same rights and are entitled to the same support and level of service from DOCS as it gives to domestic adoptions. There is no justification for imposing a cost-recovery ideology on the formation of any family, irrespective of how that family comes into being.

DOCS must be condemned for commissioning KPMG to undertake the report "Pricing of Inter-country Adoption Services" as a precursor to imposing a cost-recovery regime. This move by DOCS will save the department approximately $1.4 million per year—a minuscule proportion of its overall operating budget. Yet an increase of almost 270 per cent in fees for adopting couples may be crippling. I have spoken to couples who may be unable to adopt under this new fee regime. The Greens deplore the proposal and urge the Government to review the decision and adopt a more compassionate and equitable position. The Minister for Community Services admitted that the proposal would add to what she called a "range of significant hurdles". But the department's proposal will make those hurdles so high that ordinary people on average incomes will not be able to jump them. I think that is discriminatory, unfair and distinctly lacking in any sense of compassion.

The Hon. JON JENKINS [5.42 p.m.]: I confess that my wife and I have been blessed with two beautiful children. Many concerns have been expressed in this debate but I want to know why natural childbirth has no fee but adoption will now cost thousands of dollars.

Ms Lee Rhiannon: You find a fence to sit on when there isn't even a fence!

The Hon. JON JENKINS: I am asking for a moral justification.

The Hon. JOHN RYAN [5.43 p.m.], in reply: I thank the Hon. John Tingle, Ms Sylvia Hale, Reverend the Hon. Fred Nile, and the Minister for Community Services for contributing to the debate. I acknowledge that other members wanted to participate but we agreed to keep the debate short. The Minister was the only person to speak against the motion. She began her remarks by saying that this is a hard decision and that governments sometimes need to take hard decisions. The irony is that it is not a hard decision. The Government has made this decision because it is an easy decision. The Government is doing this because it can. It knows that the people involved have no other choice—there is nowhere else to go—and they will just have to pay the fee. Knowing the Australian Labor Party as I do, I suspect it has made some sort of political calculation and determined that none of its constituents will be affected.

The Minister said that the money raised from this measure will be put to good use. She then went on to quote the Leader of the Opposition, John Brogden. The statements she quoted have not been published anywhere; they are not on the public record. How did the Minister get them? Those statements were supplied by Rehame, the media monitoring service on which the Government spends $3 million a year. There could be no better demonstration of this Government's wastefulness. The Government spends $3 million a year so that Ministers can make smart debating points in Parliament.

The Hon. Carmel Tebbutt: As if you don't use them.

The Hon. JOHN RYAN: I do not spend $3 million a year. I would never do that. The Government spends $3 million annually so that Ministers can make obscure references to unpublished comments by Opposition members. As to the comments themselves, I am sure that the Government understands that the Opposition wanted to highlight the issue so we naturally chose to debate it on a day when we hoped it would get some publicity. I have no problem with that. The difference between my speech in reply to the debate and the speech of the Minister is that I will address every point she made, whereas she avoided dozens.

The Opposition will not cut the guts out the Department of Community Services [DOCS]. Some of the Government's additional funding for DOCS will be allocated immediately before the next State election—if it arrives on time—and most of it will come after the election. The Coalition said simply that before the last election we were not prepared to commit to expenditure that would occur another election hence. The Coalition has a program to increase the DOCS budget. We have no intention of resiling from increasing resources to that department.

The Government received billions of dollars in its stamp duty river of gold yet it considers it necessary to take $10,000 from couples who wish to adopt overseas—that is the highest fee of that type in this country. As to the balderdash about accrediting other agencies to compete with the Government, the Government has announced no implementation date for that program. It could occur at any time. Why is the Government increasing the fees now? Do we need practice paying them? Any fees should be introduced when the new regime comes into effect. The Government is introducing them now in order to raise funds. I assure the Minister that if the Coalition wins the 2007 election intercountry adoptions will attract a fee similar to the current one, plus perhaps a modest increase to accompany inflation. We certainly will not charge 270 per cent more in one hit and do it by stealth, so that Parliament cannot review or override the Minister's decision.

The facts speak for themselves. I ask honourable members to examine their own consciences and hearts. Is there any good reason to impose an extra $10,000 charge on people who are simply seeking to start a family? I see no reason for it. The Government has not given any decent reasons for the fee. The Minister responded to the motion by making cheap political shots, funded in part by the Government's $3-million media monitoring program. There is no better demonstration of this Government's callousness and heartlessness. It is getting increasingly out of touch with the needs and wishes of the community. I wish the Government luck, as I have no doubt that most people would oppose any fee increases for families in this position.

I am sure that would be the view if I did a straw poll of the public. If the Government continues to depart from what the community wants it should expect electoral consequences in the future. Today it is not really so much about politics, it is about pointing out to the Government that it should not go ahead with this illegitimate decision. Had the Government done this legitimately, that, is, by making a regulation which is reviewable by the Regulation Review Committee and by means of a regulation impact statement instead of documents purchased by the Government through a consultant, and allowed it to come to the Parliament, it would have lost, and lost in spades. That is what I believe the vote of this House will show. I commend the motion to the House.

Motion agreed to.

STATE WATER CORPORATION BILL

Bill received, read a first time and ordered to be printed.

Motion by the Hon. John Hatzistergos agreed to:

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

Second reading ordered to stand as an order of the day.

BAIL AMENDMENT (TERRORISM) BILL

Second Reading

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [5.52 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Government is pleased to introduce the BAIL AMENDMENT (TERRORISM) BILL 2004.

The threat of terrorism is a modern phenomena that governments everywhere must constantly monitor and address to ensure that all possible measures are taken to protect the community.

In 2002 Australian States and Territories including NSW referred power to the Commonwealth for terrorist matters, and as a result the Commonwealth enacted broad ranging terrorist offences in the Commonwealth *Criminal Code Act 1995*. These offences deal with every aspect of terrorist activity, including planning, training, membership, financing and organisation.

When persons are charged in NSW with these Commonwealth terrorist offences it is the NSW *Bail Act 1978* that is applied in any bail determinations.

On 13 May 2004 the Government announced a whole range of counter-terrorist measures including the amendment of the Bail Act 1978 to create a presumption against bail for persons charged with Commonwealth terrorist offences.

This bill delivers the first stage of the counter-terrorism package and inserts into s. 8A of the Bail Act all the offences created under Divisions 101,102 and 103 of the *Criminal Code* of the Commonwealth. Section 8A currently relates to the most serious of Commonwealth and State drug offences carrying high penalties of 20 years imprisonment to life imprisonment.

The Act will commence on assent and the presumption against bail will relate not only to any person charged with a terrorist offence after commencement but also to any review of bail under Part 6 of the *Bail Act*.

I commend the bill to the House.

The Hon. GREG PEARCE [5.52 p.m.]: The Opposition supports the Bail Amendment (Terrorism) Bill, which is very important though somewhat overdue legislation. The bill amends the Bail Act to remove the presumption in favour of bail for certain offences, and provides that bail is not to be granted in respect of those offences unless the accused person satisfies the officer or court hearing the bail application that bail should not be refused. The amendments relate particularly to offences under the Commonwealth Criminal Code and, in particular, offences which are known as terrorist acts, involvement with terrorist organisations and other related terrorist activity. Bail is an important right that has been developed and refined over centuries to protect the accused and to reflect the presumption of innocence, which is so fundamental to our legal system. It should not be tampered with except in the most serious circumstances.

Administration of the criminal justice system developed over time and among its safeguards are independent prosecutors, tough protocols and scrutiny of police and investigators. In the current circumstances in which we find ourselves, however, bail should not be an automatic presumption by people who are on charges of terrorist-type activities. It is almost three years since the terrorist attack on New York City, two years since the Bali bombings and several months since the Madrid train bombings. It does not take much for most of us to understand that we are living in very difficult times and that it is necessary to take steps to address those issues.

The Government has been studying these changes for some time. It is a pity that this legislation has to be rushed through as a result of the media coverage of the case of Bilal Khazal, who has just been charged with terrorist offences under division 101 of the Commonwealth Criminal Code. It is clear that the gentleman concerned has been charged with compiling false passports and with other overseas matters, and there is a probability or likelihood that he will not appear at trial and will abscond. It is therefore something of a mystery to us all that he was given bail. It will not be the case in the future. The Opposition supports the Government on this bill.

Ms LEE RHIANNON [5.55 p.m.]: The Bail Amendment (Terrorism) Bill is unnecessary. We are debating this bill because the Australian Labor Party is running scared that it will be left behind as the Coalition pushes ahead with its scare-tactic agenda to win the next election. This bill has been brought forward in great haste. We are told that the bill is urgently needed. The current political atmosphere, courtesy of Premier Carr and Prime Minister Howard, suggests that terrorists are in our midst, that our laws are weak, that we should be frightened and worried, and that we need a strong government with tough laws to protect us. Let us look at the case that the Labor Government argues justifies the change to the Bail Act in the legislation before the House.

Media reports suggest that ASIO had known about Bilal Khazal for a decade. Honourable members should consider the timing of the move against a Qantas baggage handler. Why now? Media reports say that Khazal had been writing fundamentalist Muslim literature on the Internet for at least six years. ASIO has questioned him over different matters for a decade since 1994. The *AM* program revealed that it has seen intelligence documents that show that on 13 February 1997 Mr Khazal published an article on line saying the Koran supports Muslims who use explosives to kill themselves and others. Six days later, ASIO visited Mr Khazal and questioned him about the article. *AM* understands the article was later withdrawn from a local web site. ASIO has known about that since 1997 but all of a sudden this bill is being rushed through. Waleed Kadous, a spokesman for the Australian Muslim Civil Rights Advocacy Network, commented on this case as follows:

> I find it quite curious, the timing, that it's happened just as this other business with the Abu Ghraib prison has just been finishing. It's just a particularly odd time to arrest him, given that ASIO have been following this particular person for 10 years.

Mr Kadous was at pains to say that he in no way identifies with the work or comments of Mr Khazal but, like many Australians, he is very committed to freedom of speech and to upholding laws. Mr Khazal was charged with making documents likely to facilitate terrorism, a charge that he denies. This bill is a scam, it is a con, it is a trick and, most importantly, it is an electoral ploy.

The Hon. John Della Bosca: What was in the documents?

Ms LEE RHIANNON: I think quite serious and destructive things were in the documents, but there is still freedom of speech. That is not a reason to rush this bill through the House and deny people their long-fought for rights. The Labor Government believes it has to play catch-up with the Coalition on terrorism. What did it do? The Government staged mock terrorism operations, had key government leaders making earnest announcements about international and local security, and introduced tough so-called terrorist laws. But the reality is that in New South Wales, with the swag of law and order legislation that has been passed during the past nine years of this Labor Government, judicial officers have massive powers.

Similarly, at a Federal level, a raft of so-called anti-terrorist laws are in place. Even with the excessive nature of these laws, we still do not live in a police state. All individuals have certain legal rights. Now our human rights are being steadily eroded because of the actions of major parties. The Greens oppose this bill because, first, human rights should not be reduced to suit a political agenda and, second, judicial officers already have power to deny bail in many circumstances. The right to access bail has been steadily eroded by the New South Wales Government, to such a degree that the population of this State's gaols is bursting. I make that comment because judges' discretion to grant bail has been wound back by laws passed through this Parliament. This trend goes against our obligations under international law.

The bail bill before the House tonight, if passed, will breach the United Nations International Covenant on Civil and Political Rights. It will breach laws that protect the right to free speech. The Government's proposed changes to the Bail Act, which provided that people charged with terrorism-related activities cannot get bail, undermine the independence of the judiciary. Australia is a signatory to the United Nations International Covenant on Civil and Political Rights. If the New South Wales Parliament passes these proposed changes, Australia will once again be in the international spotlight for attacking human rights. It has traditionally been, and should remain, the responsibility of the judiciary to decide whether a person is a threat to society or not.

The Hon. Jon Jenkins: Wrong!

Ms LEE RHIANNON: It is not wrong. The honourable member is wrong. The powers of the judiciary are being curtailed. If the government of the day is allowed to interfere in this process, we will have court decisions that are driven by the tabloids, instead of what is fair and just. I draw the attention of the House to the relevant international laws that cover bail. Article 9 of the United Nations International Covenant on Civil and Political Rights states in paragraph 3:

> Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

The Hon. John Hatzistergos: You did not read that carefully enough. Yes, generally.

Ms LEE RHIANNON: I acknowledge the interjection. I suggest the Minister listen to this.

The Hon. John Hatzistergos: Getting a lecture from you on law is always enlightening!

Ms LEE RHIANNON: I note the patronising comment of the Minister.

The Hon. John Della Bosca: You would not be a friend of hers, would you?

Ms LEE RHIANNON: And I acknowledge the comment of the Special Minister.

The Hon. John Hatzistergos: Do they have bail in the Soviet Union?

Ms LEE RHIANNON: Come on! Can't you make a new joke? You are really hard up for something to say.

The Hon. John Hatzistergos: I thought they had an instant show trial!

Ms LEE RHIANNON: Come on!

The DEPUTY-PRESIDENT (The Hon. Tony Burke): Order! Ms Lee Rhiannon has the call.

Ms LEE RHIANNON: Thus there is what can be a called a general rule in favour of bail. The Human Rights Committee, that is, the committee established by the treaty to aid interpretation and monitor implementation of the treaty, in its comment on this article, has interpreted this to mean—I urge the Minister to listen to this—that pre-trial detention should be an exception and as short as possible. I repeat, for the benefit of the Minister: pre-trial detention should be an exception and as short as possible. The United Nations International Covenant on Civil and Political Rights includes the following paragraph 5 in article 9:

> Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

That opens up the interesting possibility of compensation claims resulting from the atrocious laws that are now being rushed through this Parliament. Then there is the right to freedom of speech. I have received legal advice which suggests that the bill before the House, if passed into law, would be ruled invalid if a case was taken to the High Court. If the Greens have that information, I would be fairly confident that the Government has the same information. So why is the Government pushing ahead with this bill? The Attorney General should be ashamed. He does not deserve the job of the leading lawmaker in this State if he is willing to rush through a bill that will remove hard-won and fundamental rights with respect to bail and freedom of speech.

The Attorney General, Mr Debus, has told us that the new laws create a presumption against bail for people charged with collecting or making documents likely to incite terrorism. So far as I know, Mr Debus has not had the courage to detail how much damage this bill, when passed, will do to our hard-won human rights. Surely that should also be part of his responsibility as Attorney General. In these debates I often find the Greens' position is distorted, so I would like again to put our position on the record. The Greens support measures aimed at bringing to justice those responsible for acts of terrorism. Australians share certain values, and one of those values is a commitment to an open, free and democratic society. No matter what terrorist acts may occur, we must never abandon that value. As political leaders, we are entrusted with the protection of our open, free and democratic values. We must never allow them to be lost. We cannot defend our democracy by dismantling our democratic structures and processes. When this bill goes through, one more step will have been taken towards doing just that.

We cannot protect our open, free and democratic society by making our society less open, less free and less democratic. Yet, sadly, this is the path that the Carr and Howard governments are seeking to take us down. The Greens believe that this bill is unnecessary. The right to bail in New South Wales has already been seriously curtailed. Judicial officers in this State already have a wide array of powers that allow them to refuse access to bail to people who are charged. The bill, unacceptably, erodes our democratic freedoms. It runs counter to our commitment to an open, free and democratic society. We do not believe it is valid to defend democracy by dismantling and limiting our legal rights. We should defend democracy by reaffirming our democratic values, not by chipping away at them.

The Greens are also disturbed by the undemocratic way that the Carr Government is conducting itself with regard to this bill. One of the questions relevant to this debate is why the Government is rushing this legislation through. Sadly, the answer to that question is all too obvious. The Greens will support any lawful measure to bring the perpetrators of terrorism to justice, but we cannot support a bill that dramatically reduces the democratic freedoms of the people of this State without any substantial justification. The Government has failed completely to demonstrate that this proposed law is necessary. It has not presented a credible argument to justify defending democracy by reducing democratic freedoms. We do not believe that undermining the very qualities of openness, freedom and democracy, which make Australia such a special place in which to live, is the way to fight terrorism. The Greens will vote against the bill.

Reverend the Hon. FRED NILE [6.07 p.m.]: The Christian Democratic Party strongly supports the Bail Amendment (Terrorism) Bill 2004. Perhaps it could be called the Saleh Jamal bill. That person has been in the headlines in recent days. He had been charged with suspected terrorist activities and was able to get bail, and then we understand he obtained a forged passport and left Australia—in spite of being on bail for those serious terrorist charges. Bilal Khazal, who is now in prison, is alleged to have given Saleh Jamal the money in March to enable him to flee Australia while on bail for the drive-by shooting at the Lakemba police station in 1998.

Those events have brought to a head the need for this legislation. In 2002 the Australian States and Territories, including New South Wales, referred power to the Commonwealth for terrorist matters, and as a result the Commonwealth enacted broad-ranging terrorist offences in the Commonwealth Criminal Code Act 1995. Those offences deal with every aspect of terrorist activity, including planning, training, membership, financing and organisation.

When persons in New South Wales are charged under these Commonwealth terrorist offences it is the New South Wales Bail Act 1978 that is applied in any bail determinations. The Commonwealth and State laws overlap. The bill will bring our State laws into line with the new Commonwealth laws. On 13 May 2004 the Government announced a wide range of counterterrorist measures, including the amendment of the Bail Act, to create a presumption against bail for persons charged with Commonwealth terrorist offences. Terrorists are not normal criminals. They are ruthless people who operate within networks. If they can get bail they will be out of Australia in a flash. It is alleged that Saleh Jamal, who jumped bail and fled to Lebanon, planned terrorist acts when he was in Lebanon.

Saleh Jamal has been arrested by the Lebanese government, which regards him as a major terrorist threat in that country. When one considers the background of Lebanon, it must regard his activities in that country as serious to take such action. We cannot afford to have lax bail laws that treat terrorists in the same way as that in which we would treat individuals in Australia who are charged with serious criminal offences that do not involve terrorism. Terrorists lose some of their civil rights by virtue of their inhumane activity. Terrorists blew up a McDonald's restaurant that was full of families and children because it represents the American culture. Ruthless people lose some of their civil rights compared to the rest of the people in our society.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.11 p.m.]: On 3 December 2002 I said:

> The Democrats do not support the Terrorism (Commonwealth Powers) Bill. The Federal Government has said that we need education on how to recognise the terrorists. I say that we need education on how to recognise a decent foreign policy. If we strut about, slavishly following the United States of America and basically blockading, with the Australian Navy, a country half a world away that had been buying our wheat we will get a reaction. We will identify ourselves as a country that is totally committed to whatever the United States of America does with its foreign policy, and we will get a response of terrorism such as only the United States and Israel seem to elicit.
>
> We do not need to be involved in this fight. We have been foolish when we have fought the wars of other countries without any real benefit to our country. This is but another example.

Since that time, 18 months ago, we have gone into Iraq and now we are passing more laws against terrorism. We have had a foolish foreign policy and now we wait, frightened, looking at our position as top of the pops of terror targets, wondering when we will be attacked. I will say it now because I will not be able to say it when the attack comes: John Howard's foolish foreign policy has put us in this situation and we are vulnerable to terrorism because of our belligerent acts. We are spending a fortune on security guards. We are trashing our civil rights because we have foolishly bought ourselves enemies. The bill is part of our response.

Today's *Australian Financial Review* has an excellent cartoon of John Howard in the middle of a maze. Three corners of the maze have no pathway through to John Howard. One is the "Defence Department", another is the "Department of Immigration" and the other is the "Attorney General". The fourth corner has a pathway straight through the maze to "Alan Jones". John Howard is amenable to talkback radio, but he cannot hear messages from his own departments, intelligence that he needs to know. Presumably, the cartoon refers to the *Tampa* and the children overboard debacle. Now he does not know what is happening in relation to the torture of prisoners in Iraq. He seems to adopt an insular, yet populist, approach. But here comes Bob Carr! The editorial in this morning's *Daily Telegraph* called for no bail to be given to Bilal Khazal. In the morning a bill was introduced into the lower House and this afternoon it is in the upper House—fast legislation.

Last week a medical student called Izhar ul-Haque was granted bail by the Supreme Court. On 28 May the *Sydney Morning Herald* reported that Justice Peter Hidden had granted the 21-year-odd medical student bail on $200,000 surety. He was taken into custody on 15 April and charged with training with the banned terrorist organisation Lashkar-e-Taiba in Pakistan last June. Justice Hidden said that the Crown did not allege that ul-Haque was a danger to the Australian community. He acknowledged that he had no prior offences in this country, despite growing up in Pakistan. Justice Hidden said that it is important to note that it is not part of the Crown case that this young man poses any threat to Australian society. His family is in this country. He has undertaken study in this country.

He had to surrender his passport, report to Blacktown police three times a week and reside with his parents in Glenwood in Sydney's west. Following his arrest on 15 April he was reputed to have been kept in solitary confinement in Goulburn gaol until 27 May. On the steps of the court I said I thought it was bad that he was imprisoned in solitary confinement because it was not part of the Crown case that he was a danger to Australia. What on earth was he doing in gaol? I got an email from a contact who said that his parents would like to thank me, but he was too traumatised to do so himself. That is not a good situation, given that he is said to be a well-adjusted and popular medical student who is obviously very intelligent.

This man had not been to court to ask for bail; that is how trigger happy Australia has become with people's civil rights. It is worrying that we are in this situation because of our foolish foreign policy. It is true that an alleged terrorist skipped bail in this country and it is true that another was given bail. But it is worrying that we have a knee-jerk reaction every time courts make a decision that people find difficult to understand. In this instance it is the tightening up of bail conditions and our civil rights. The separation of powers seems quite divided. I believe that this is part of the same slippery slope. If a terrorism attack is launched on Australia, everyone will be upset and angry that people have been killed. I will share their reaction.

But if we had not put ourselves in this position by adopting a foolish foreign policy none of these measures would be necessary. It is time for people to take a stronger line on peace, against Australia's overseas

adventures, and against the American foreign policy, which seems so ill-informed. Once you set out on this slippery path of bombing people to send them a message, supposedly to find weapons of mass destruction or to overthrow a dictator, you might replace a secular regime with a fundamentalist one. If you achieve democracy, what do you do then? You find yourself mired in a Vietnam-like situation. The occupying force uses weapons that local elements cannot respond to, and they respond with weapons that are difficult for us to respond to. I refer to suicide bombers and terrorism.

The actions taken by Australia and the United States are not categorised as terrorism, but effectively we engage in a type of war to which people we classify as terrorists do not have the resources to respond, and they attack us by using weapons to which we have great difficulty responding. The definition of torture is to deprive people who are willing to die for their cause of the opportunity to do so. It is one thing for people to die heroically by pulling a pin and detonating a bomb, but it is quite another to endure pain from torture for some time without telling what they know. One of the significant difficulties with engaging in war and eliciting a terrorism response is that it creates a temptation to use torture with the intention of ensuring that people do not use weapons that are available to them against those administering the torture.

In trying to negotiate the slippery slope of a war that Australia should not have been implicated in, we have to try to build up security against retaliation, and part of that response has involved the use of torture, the concealment of torture from the Australian people, and the progressive abuse of civil rights. As many people who are involved in the criminal jurisdiction know, crimes are committed by people who have been granted bail. If someone intends to commit a terrorist act and plots a course of terrorist action, clearly at this late stage in international conflict it is better not to have that person walking free, forging a passport and leaving the country. Equally, it is not advisable for them to remain in Australia to continue their planning or carrying out of terrorist acts. However, in a sense a reversal of the onus of proof is merely a way of increasing pressure on judges. It is hard to believe that a judge would grant bail to a person who is serious about committing a terrorist act. To that extent this bill may be regarded as redundant. Its justification is to prevent an alleged terrorist from engaging in terrorist activities.

Newspapers display little photographs of people suspected of being terrorists and invite readers to make a judgment based on a small caption of two or three words beneath the photographs, thus provoking a visceral reaction. People begin to think that all terrorist suspects should be locked up. That is pure McCarthyism. While this bill may be fair in cases where one is absolutely certain about the facts, its provisions otherwise will be hard to oppose. As Australia is on the slippery slope of international conflict and military engagement, we cannot afford to cavil about trivialities. When considered in that framework, the bill is fine. However, I suggest that the framework should be changed at a national level by the Federal Government so that Australia can extricate itself from the absurd position that has led to the introduction of this bill. Even if one believes that it is appropriate or at least not unreasonable to deal with terrorists by keeping them in gaol, it is worrying that someone who, even by concession of the prosecution, is no threat to Australia has been kept in solitary confinement for five weeks without a bail hearing—that is, in the context of the weakening of the civil liberties and rights of the individual in Australia.

It is outrageous that Habib and Hicks are still being held in Guantanamo Bay. As Australian citizens, they should be brought back to Australia to face trial for any crimes they may have committed. If the reason for leaving them in Guantanamo Bay is that they have not committed any crime in Australia—which seems to be the Federal Government's position—it is absolutely outrageous. Effectively, the Federal Government is saying that we cannot bring them back to Australia because they might be innocent, or it is saying, without judicial process, that it believes they are guilty. Consequently, they will be left with the Americans, despite suggestions that they may have been tortured and that they are being left there to place them beyond the scope of normal protections afforded by the judicial system of the United States of America. As one of the weekend newspapers described it, they are being left in some sort of a black hole. There is uncertainty about whether they come within United States law or Cuban law because their enclosure is not on the United States mainland. Effectively the Federal Government is leaving Australian citizens under the control of another country, even though the validity of its jurisdiction is doubtful. Hicks and Habib have been abandoned because the Federal Government has determined the matter and has completely ousted judicial process.

It is very worrying when governments make decisions that impinge on civil liberties. This bill effectively removes the decision on granting bail from the courts and pushes the courts toward an ambit anti civil liberties position. The Federal Government has behaved appallingly in relation to Hicks and Habib, but particularly ul-Haque, who is a medical student and who was detained in Goulburn gaol. The sub judice convention prevents me from discussing the nature of ul-Haque's case but suffice it to say that his civil rights

have been severely abused. That worries me, and it is negligent not to consider the broader context of legislation and government action dealing with terrorism. I urge members to consider this bill seriously. If and when a bomb goes off in Australia, there will be a lot of emotion, and I believe that the remedy will not be as simple as the authorities catching a person from an ethnic or religious group that has been vilified or who is from a country that has been attacked by Australia.

The Hon. JON JENKINS [6.26 p.m.]: I support the bill with some reservations. Clearly there are two extremes relating to terrorism. One involves the use of violence and firearms. Clearly, those charged with offences involving violence and firearms should not be granted bail. It would be ridiculous if that were not the case. However, recently the other extreme received some media attention. Someone was arrested for creating and publishing a web page that may or may not have displayed material of a terrorism nature. I do not have details of the case, but I am not sure that offences involving the publishing of material should preclude the grant of bail. It is a shame that some discretion does not inhere in bail legislation with regard to such offences that do not involve the use of weapons. Having said that, I reiterate my support for the bill.

Ms SYLVIA HALE [6.27 p.m.]: I strongly support the remarks and position of Ms Lee Rhiannon. This is a deplorable bill because it takes away the presumption of bail in cases involving terrorism. I believe that that presumption is one of the fundamental mainstays of a society that is committed to civil liberties and human rights. As indicated in the Khazal case, even writing about terrorism is now an offence. The Greens are not alone in deploring the speed with which this bill has been pushed through the Parliament. The New South Wales Law Society, the New South Wales Council for Civil Liberties, the Australian Lawyers for Human Rights and Justice Action have all expressed grave concerns about the haste with which this legislation is being rammed through the House. The Council for Civil Liberties and the Australian Lawyers for Human Rights have condemned the legislation. Both organisations are concerned about both setting a legal precedent that will deprive someone of the presumption of bail and the additional powers being given to police.

Under this bill, police will be able to simply charge a person with terrorism for almost any act and thereby deprive them of bail. Consequently, they will also be deprived of liberty and will be incarcerated before the charges against them are heard by a court. Everyone is entitled to the presumption of innocence before the law until proven guilty, and that principle should apply across the board. It should be remembered that the current system provides a discretion for magistrates or judges to set very high bail in deserving cases.

That is an appropriate approach rather than one whereby the right to bail is automatically removed. As Ms Lee Rhiannon said earlier, this bill might be unconstitutional, particularly if it is held to apply retrospectively, which is the view of the Law Council of Australia. The Hon. Dr Arthur Chesterfield-Evans referred to the case of Izhar ul-Haque, one of the first examples—and one to which we should all pay attention—of someone who was arrested and denied bail. His treatment was handed out without him having any recourse to legal advice. That 21-year-old medical student was held for six weeks in solitary confinement in a three metre by three metre cell at the maximum security prison at Grafton. If ever there was a case that would make one hesitate and say this is not the right way to go, it is the case involving Izhar ul-Haque.

It is instructive to look at what has been written about how one should deal with the perception that terrorist acts are likely to occur and how one should balance that against the need to protect human rights. In an interesting article entitled "Terror Meets Tyranny? The Interface Between Counter Terrorism And Human Rights" Alex Conte, a lecturer in law at the Canterbury University School of Law in New Zealand, made a number of significant points. He wrote:

> For instance, does a bombing carried out by a rebel group, which is directed towards the destabilisation of fascist authorities (the Pol Pot Regime, for example) amount to a terrorist act or an act of "freedom fighters"? The point to make is that this is not just a cliché. To give a striking example, the United States keeps a list of the most wanted terrorists which featured, at one time … Nelson Mandela … subsequently awarded the Nobel Peace Prize.

I am reminded of the resistance movements in Europe during the Second World War and the resistance to the Indonesian occupation of East Timor. Others could refer to a number of episodes when resistance was obviously legitimate. Mr Conte then made this very salient point:

> Terrorists are those who use violence against the side that is using the word.

One man's terrorism is another man's freedom fight. That thought should be borne in mind because it shows the inherently political nature of determining what is terrorism. It is a political decision. Of particular concern is the fact that the bill will be used for political purposes in the State and federally. It is one more weapon in the move

to drum up law and order, and to get tough on crime and on anyone who deviates from the norm. Mr Conte continued:

> At the International Bar Association Human Rights Institute Conference in 1998, two prominent judicial figures from Pakistan criticised the then existing counter-terrorist legislation as failing to counter terrorism and instead countering human rights standards.

The main concern about this sort of legislation is that it is less effective. If it is genuinely believed that someone is a threat to society, this sort of legislation is ineffective in countering such a threat. But it is far more effective, and will be used far more frequently, to chip away at and deny basic human rights—as was significantly demonstrated in the Izhar ul-Haque example. Anti-terrorist legislation is manipulated to serve ulterior motives. It comes as no surprise that it is used in China to hunt down and imprison members of the Falun Gong movement. It is also used against Muslim minorities in China's north-west. This type of legislation pretends to counter terrorism. Its essential purpose is to stifle opposition. In 1999 Kofi Annan said:

> We are all determined to fight terrorism and to do our utmost to banish it from the face of the earth. But the force we use to fight it should always be proportional and focused on the actual terrorists. We cannot and must not fight them by using their own methods—by inflicting indiscriminate violence and terror on innocent civilians …

We should not use legislation as a pretext to deny and chip away at fundamental human rights. It has often been said that in times of emergency the protection of human rights becomes all the more important, in particular, of those rights from which no derogations can be made. That is an important issue. When everything is plain sailing it is easy to say that everyone respects human rights, but in quiet times there is not the same awareness of or determination to eat away at human rights. But resisting attacks on human rights is important in times of emergency. It is most important when the press beats up anti-terrorist campaigns. Generally it is most difficult to stand up for fundamental human rights and not have them removed by legislation such as this when hysteria prevails.

This morning the Hon. Dr Arthur Chesterfield-Evans, the President of the Legislative Council, the Hon. Dr Meredith Burgmann, and I were fortunate to attend a meeting in the Jubilee Room of Australian parliamentarians, lawyers and community leaders. We called on the coalition partners—that is, the United States of America, Australia and Great Britain—on the United Nations and the incoming Iraqi administration, to guarantee the safety of 3,800 Iranian resistance members, two of whom are Australian citizens, who are held at Camp Ashraf, north of Baghdad, in Iraq. The resistance movement, the People's Mojahedin Organisation of Iran, the largest and most widely supported opposition to the reign of the mullahs in Iran, came into being post 1979 with the overthrow of the Shah of Iran.

Iran is putting enormous pressure on the United States of America to have that organisation declared a terrorist organisation. Members of the British House of Commons, the majority of members of the Italian Parliament, many members of the European Parliament and many members of the American Congress have said that any attempt to describe that organisation as a terrorist organisation would be a complete distortion of history. That group of people has consistently opposed torture and rape—and what I might describe as the state-endorsed terrorism of the Iran regime—but because America is anxious to enter into trade deals with Iran it is currently considering describing that organisation as a terrorist organisation and allowing the repatriation of Iranians in Camp Ashraf from Iraq to Iran.

If that occurs, there is no question that they will be murdered, tortured and the women raped. It will be handing over thousands of people to be massacred, imprisoned and tortured. I am sure that all honourable members can see just how inappropriate and easy it is to manipulate terminology so that people with whom we disagree or who take an alternative stance can be written off and denounced as terrorists, and a government can abandon them to their fate, even though it knows full well that that will result in wholesale torture and death. It is equally important in a society where the papers and the shock jocks bandy around the term "terrorism" for us not to throw overboard every concern about civil liberties and every basic protection. It is vital to resist pressures to erode, undermine and try to dispense with protections that separate many members of this community from being incarcerated on trumped-up, ill-founded and unsupportable charges.

This bill in itself may be seen as simply a minor encroachment on civil liberties. Everybody says, "It will never apply to us." But I think we should pay some attention to the lessons of history and admit that in a free and open society dissent is able to flourish. People are being imprisoned because they write or design web sites, or they attend organisations or camps that at the time of doing so were perfectly legal. To suggest that they should be subject to imprisonment I believe makes a travesty of everything that a free and democratic society is supposed to be concerned about. This bill is deplorable. The Greens will vote against it. There is no question that there is any aspect of it that anyone with any concern for human rights or for a democratic society would find acceptable.

The Hon. PETER BREEN [6.43 p.m.]: Amending the presumption in favour of bail should not be done lightly because the precedent it sets may have far-reaching consequences, not just for the legal system but for the citizens of this State. I am particularly concerned with the retrospective aspect of the bill—which means it applies to an offence committed before the commencement of the legislation. The bill is clearly designed to extend the presumption against bail, presently limited to certain drug offences, to certain terrorist acts under the Commonwealth criminal code. In particular, the bill is intended to apply to Bilal Khazal, who is alleged to have collected or made documents likely to facilitate terrorist acts. Some of those allegations include posting a book on the Internet. The offences carry a maximum penalty of 15 years gaol.

The retrospective operation of the law can be demonstrated in that case because the Premier announced earlier today that he believed the Commonwealth Director of Public Prosecutions should appeal the bail decision. I understand that only half an hour ago the Commonwealth Director of Public Prosecutions announced that he would be appealing the bail decision. That means that, when the matter comes before the courts for reconsideration of the issues that have already been considered in this man's case, the regime under which it will be considered will be the regime described in this bill. So, in other words, Mr Khazal, who secured bail in the amount of $10,000, which was provided by an appropriate person, is currently free in the community.

By the time the Commonwealth Director of Public Prosecutions lodges the application and the new application is heard, this legislation will be in force. Mr Khazal will be denied bail because he will not be able to demonstrate to the satisfaction of the legislation the onus that he bears under this legislation, which extends the presumption against bail. On the question of retrospective laws, on 6 May the Premier noted in the context of the retrial of accused gang rapists Bilal Skaf and Mohammed Skaf that there are "constitutional difficulties" in making criminal law retrospective. Furthermore, in a letter I received from the Federal Attorney-General, Philip Ruddock, on 31 March this year, the position of the Commonwealth was also made clear on that same issue of retrospective criminal laws. The Attorney-General said:

> In response to your suggestion about using retrospective laws, the Australian Government does not support retrospective criminal laws. It is fundamentally wrong to make a criminal law retrospective. This idea has been considered and firmly rejected.

Mr Ruddock's Director of Public Prosecutions is about to appeal that bail decision. I asked Mr Ruddock to make antiterrorist laws retrospective to give Australian courts jurisdiction over Mamdouh Habib and David Hicks, the Australian prisoners being held illegally at the pleasure of the American Government. It appeared to me we were ignoring Australian detainees while the British were having some success repatriating their prisoners who were incarcerated at Guantanamo Bay. It goes without saying that both Federal and State governments are prepared to compromise principles prohibiting retrospective criminal laws for their expedient tough-on-crime agendas.

This question about the retrospective application of the law is almost certain to be tested in the High Court. The reason I say that is that the law specifically applies to this prisoner. This morning it was introduced with indecent haste in the Legislative Assembly. I think it is the shortest second reading speech that I have ever seen—it runs to four paragraphs. The legislation before the upper House this afternoon presumably will be proclaimed tomorrow or the next day. That means that the law will be interpreted as applying specifically to prisoner Bilal Khazal. If that is not a repetition of the Kable case, I would be surprised.

It is worth remembering that the principles of due process in the criminal justice system, which this bill undermines, can be traced back to the origins of the common law. They should not be discarded except in the most extreme circumstances. In particular, the presumption of innocence, the right to liberty and the onus on the State to prove guilt are principles that should be reinforced by this Parliament and not abandoned for the sake of particular circumstances such as those that I have mentioned. The idea that these principles should be abandoned in favour of a system whereby we lock up a suspect and deny him or her bail without overwhelming evidence of guilt is contrary to all the traditions of the rule of law.

It is difficult once someone is incarcerated to be able to demonstrate his or her innocence. The example of Izhar ul-Haque referred to earlier by the Hon. Sylvia Hale demonstrates that principle. Mr ul-Haque has just been released after six weeks in the super maximum-security gaol. He would probably not get bail under this legislation, yet he appears to be a young man who has temporarily lost his way. He has a lot of support in the community, he is a good student and he is an intelligent man. To deny him any opportunity, which this legislation would have done, of getting out of gaol and demonstrating his innocence is an appalling breach of his rights.

Irrespective of the question of his guilt or innocence, an extended stint in the high-risk management unit would be sufficient to ruin his life. So far as we know, given our limited knowledge of and available access to the high-risk management unit, the conditions in that unit are appalling. So far as I can tell they are not unlike

the conditions at the old Katingal gaol, but until we get the opportunity to inspect the unit we will not be able to say with any degree of certainty.

Perhaps of greater concern than the cases of Bilal Khazal and Izhar ul-Haque is that of accused terrorist Saleh Jamal, who skipped bail in Sydney only to be arrested in Lebanon last weekend for alleged links with Al Qaeda. Regrettably, Saleh Jamal had already spent two years in gaol awaiting trial for his part in the drive-by shooting at Lakemba police station. Denying bail is a drastic punishment if a prisoner must wait years for a trial. Many people could not cope with punishment of that magnitude. I emphasise that point in relation to Saleh Jamal. He does not appear to be the most delightful person on the planet. But we must remember that he was in gaol for two years awaiting trial before he was finally granted bail.

When there is a backlog of people in custody awaiting trial the judiciary inevitably becomes frustrated. Judges recognise the injustice that is being perpetrated and people are granted bail when they perhaps should not be—and this case might be an example of that. I sympathised with the judge who said, "Even though he doesn't appear to have a very good record and even though the charges are serious, it is a basic contravention of human rights to keep somebody incarcerated for two years awaiting trial." A judge could be tempted to grant bail in such circumstances when he or she might not otherwise do so.

This legislation is harsh and reverses the onus of proof in respect of the presumption of bail. There are those in the police service who will understand the difficulties that could be created when people are incarcerated, there are questions about their guilt or innocence and there is insufficient evidence to convict them—people are often sent to gaol until the appropriate evidence comes to hand. So people will be released without charge because of the overwhelming injustice of this legislation. On that basis alone I do not support it. I think there are other ways of dealing with terrorism. It is a different matter when direct threats are made against identifiable people but general statements that are made in many cases on the Internet or within a circle of friends should be treated differently. I recognise that the bill has support across the board but I believe it should not be supported. I am grateful for this opportunity to state my case.

Mr IAN COHEN [6.52 p.m.]: The Bail Amendment (Terrorism) Bill is extremely draconian legislation. I thank previous speakers in this debate, who elucidated the various issues with clarity. The Hon. Peter Breen, who has wide legal experience, stated his case extremely effectively. I am reminded of the famous George Bernard Shaw quote, "We learn from history that man has learned nothing from history." This bill is a classic illustration of that assertion. It is McCarthyist legislation that is based on fear and hate. It twists the basic tenets that are supposed to be established in a civilised democratic society: the presumption of innocence and the independence of the judiciary. Members of the judiciary have the training to decide in every circumstance whether bail should be granted.

The Hon. Peter Breen explained clearly that the system sometimes fails because of the backlog of cases and the frustration experienced by the judiciary. A person absconded recently while on bail after spending some years in gaol awaiting trail. That is just one example, but often the worst examples make the best cases when dealing with what is fair in law. This legislation clearly breaches several United Nations covenants. The Greens believe we must be extremely careful with any legislation that moves us closer to becoming a police state. Previous speakers in the debate commented on the speed with which the bill has passed through Parliament, the lack of thought given to the bill, the knee-jerk reactions and its timing. In an ABC interview reporter Michael Vincent spoke to a number of prominent members of the Muslim community. Waleed Kadous said:

> I find it quite curious, the timing, that it's happened just as this other business with the Abu Ghraib prison has just been finishing. It's just a particularly odd time to arrest him, given that ASIO has been following this particular person—

that is, Bilal Khazal—

> for ten years.

Certainly no-one supports that individual, who has been the focus of ASIO attention for a number of years. We are in the run-up to a Federal election and both major political parties are on a spurious and cheap trajectory of upping the ante on law and order. That is reflected in the conservatism in this House. Many members will jump to their feet and claim that this bill is the way to go. At least the Minister for Justice has returned to the Chamber. The Minister has no real regard for the parliamentary process. He left the Chamber during the debate then wandered in again to make some snide remarks to Ms Lee Rhiannon about Stalinism.

The Hon. John Hatzistergos: We can't repeat what you say about her.

Mr IAN COHEN: The Minister might like to quote what he presumes I say about anyone in the House. I would like to have that debate. The Minister made a superficial observation regarding the Soviet Union. Perhaps he could tell us about his Greek generals' fascist connections. Perhaps that would be worth discussing in the House. Perhaps the Minister would like to go over his background of lack of democracy—

The Hon. John Hatzistergos: Point of order: I find those remarks particularly offensive and I ask that they be withdrawn. I have no such connections whatsoever. Apart from the fact that my parents left a country that at one stage was under military dictatorship, I do not know what other connections the honourable member could possibly be insinuating in his remarks, which I find highly offensive. I ask him to withdraw them.

Mr IAN COHEN: To the point of order: I ask the honourable Minister to explain the difference between my remarks and his constant accusations in the House about Ms Lee Rhiannon's Stalinist connections. He has impugned her character and criticised her behaviour in the House. What is the difference?

The Hon. John Hatzistergos: Further to the point of order: I did not make the connection that the honourable member is attributing to me. I simply asked Ms Lee Rhiannon a rhetorical question in the course of debate to which she chose to respond and to which she did not take any exception. She certainly did not take exception to that remark in the way that I have taken exception to the honourable member's remarks. They are totally different. I ask the honourable member to withdraw his remarks. If Ms Lee Rhiannon did take offence to anything I said I would be happy to withdraw it.

The DEPUTY-PRESIDENT (The Hon. Tony Burke): Order! I am advised that under Standing Order 91 (3) a member must not use offensive words against any member of the House. Such comments are disorderly. That is clearly the case here, given the objections that have been raised. I invite Mr Ian Cohen to withdraw his comments.

Mr IAN COHEN: I withdraw those comments. It certainly concerns me when Ministers of the Crown, such as the Hon. John Hatzistergos**,** take a very cavalier attitude to basic democracies, breaching United Nation covenants and looking at legislation that is being rushed through the House at a rate that does not allow for proper debate or the making of good legislation. As previous speakers have said, we have to look at the consequences of Australian foreign policy attitudes in this country that are resulting in a situation that is becoming increasingly significant. On ABC radio Mr Waleed Kadous said, when referring to beliefs of people carrying out violent acts, "Yes, it does disturb me, but I still don't think that you can be arrested simply for thinking or expressing a point of view."

One would like to think that we are not moving in that direction—one in which we have such intolerance in our society and throughout our political system that we will be stamping on the basic rights of people in our community to have the presumption of innocence, to be heard before a court of law, and to be granted bail rather than have it automatically refused. It certainly is a piece of McCarthyist legislation that is sending New South Wales down the wrong track, kowtowing in this case to a very conservative Federal Government. I strongly oppose this legislation and thank those honourable members who have stated their belief in opposition to it.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [5.51 p.m.], in reply: Because of the hour I will confine my remarks simply to rebut some ill-conceived comments in this debate. A number of speakers who have opposed this legislation, particularly the Greens and some others, seem to take the view that this legislation is draconian because under these provisions people will be denied bail. It is important to read the provisions. In our criminal law there are presumptions in favour of bail, presumptions against bail, and no presumption. Depending upon the category of offence, the Bail Act circumscribes how those presumptions operate in relation to individual offences. In other words, in more severe offences the presumption is more against the accused.

These provisions do not state that persons who are accused of these very serious offences will never get bail. However, they do state that there will be a presumption against bail. They require the accused person to allow the court to exercise its discretion to determine whether bail should be granted. It is wrong to suggest that any person—notwithstanding the circumstances of the case, their antecedents or whatever—will be denied bail simply because they are charged with an offence. They will have to make out their case and rebut the presumption which the Bail Act sets up. This is not unusual. There is a whole series of offences—for example, Commonwealth and State drug offences; murder, except in exceptional circumstances; repeat serious personal violence offences, except in exceptional circumstances; serious firearms offences from 1 July 2004; and repeat property offences from 1 July 2004—where there is a presumption against bail. It is a presumption that needs to be rebutted. The argument needs to be put.

Obviously, if the case is weak and tenuous the court will take that into consideration in determining whether it is appropriate to grant bail in particular circumstances. The remarks made by the Greens, and to some extent also by the Hon. Peter Breen, overstate the situation. I also want to clarify the retrospectivity issue. The amendments, in fact, are not restrospective. Bail law is a matter of procedure and anyone who is familiar with the subject matter knows that every time a person comes before the court in relation to a criminal offence the issue of bail is reviewed. It is an ongoing process. Bail can be granted on one occasion and refused on another, depending on how the circumstances leading up to the case change.

There is a balance to be struck in any bail decision between the seriousness of the offence, obviously the presumption of innocence, and the safety of the community, which it is important to take into account. In relation to particularly serious offences it is not unreasonable to require an accused person to make out their case. Ms Lee Rhiannon made a series of remarks about breaching the International Covenant on Civil and Political Rights and other international treaties, which were totally misconceived.

The Hon. Peter Breen: It is true. They do breach the covenants.

The Hon. JOHN HATZISTERGOS: If one argues that logic it means everyone charged with a criminal offence should be granted bail. On the issue of bail the interests of the public must be weighed against the interests of the accused. We have discretions and presumptions so that those matters can be properly assessed by the courts and determinations made.

The Hon. Peter Breen: Presumption in favour of bail is in the International Covenant on Civil and Political Rights. Ms Lee Rhiannon is right about that.

The Hon. JOHN HATZISTERGOS: She referred to a particular treaty and a particular provision which set out what the general position ought to be. The general position can be displaced in particular circumstances, and particular circumstances like serious terrorist offences do require a different consideration from what would otherwise generally be the position. The Hon. Peter Breen knows something about criminal law and has been involved in the criminal process for some time. He knows that a large number of offences, particularly the lower range of offences, such as drink-driving and matters of that nature, do have presumptions in favour of bail and it is appropriate that that be the case. One has to bear in mind in any circumstance, particularly a case like this, that a person who is convicted of an offence of this nature will almost certainly go to prison. Therefore, that factor has to be taken into account in assessing any bail decision, particularly if it is going to be a lengthy period in prison.

The Hon. Peter Breen: But it is also retrospective. The bill clearly states "extends to a grant of bail to a person in respect of an offence committed before the commencement of" the Act.

The Hon. JOHN HATZISTERGOS: That is right, because bail is an ongoing matter. Every time a person comes before the court the circumstances can change. For example, a person who is refused bail one day can subsequently be granted bail. It is constantly reviewed. Bail is a procedural matter: it is not a substantive matter of law.

The Hon. Peter Breen: Normally legislation does not apply to offences that occur before the legislation is enacted.

The Hon. JOHN HATZISTERGOS: Every bail decision is made at a point in time and it is reviewed on subsequent occasions. It does not mean that all the people who are in gaol are hauled before the courts to have their bail reviewed under these provisions, but it does mean that on the next occasion they come before the courts for bail they will be looked at under this legislation.

The Hon. Peter Breen: But they should not be; they should be looked at under the old legislation.

The Hon. JOHN HATZISTERGOS: I have indicated the position so far as that is concerned. The Hon. Greg Pearce said that the legislation was long overdue. It is important to remember that this Parliament referred powers in relation to terrorist offences to the Commonwealth.

The Hon. Greg Pearce: Not in relation to bail.

The Hon. JOHN HATZISTERGOS: Yes, but the Commonwealth at no point requested us to amend our legislation in relation to bail to set up this particular presumption. In fact, no other State has taken that

initiative. This Government took up the initiative in relation to these particular offences following its ongoing reviews of these matters. In fact, we are the first State that has dealt with them in this way. We were not prompted by the Commonwealth or by other States. We had these matters constantly under review and we decided to act in this way. I think in the circumstances the response is, in fact, reasonable.

Motion agreed to.

Bill read a second time.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [6.15 p.m.], by leave: I move:

That this bill be now read a third time.

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

The House divided.

Ayes, 25

Mr Burke	Mr Gay	Mr Pearce
Mr Catanzariti	Mr Hatzistergos	Mr Ryan
Mr Clarke	Mr Jenkins	Mr Tingle
Mr Colless	Mr Lynn	Mr Tsang
Ms Cusack	Reverend Dr Moyes	Mr West
Ms Fazio	Reverend Nile	
Mrs Forsythe	Mr Obeid	*Tellers,*
Mr Gallacher	Mr Oldfield	Mr Harwin
Miss Gardiner	Ms Parker	Mr Primrose

Noes, 5

Mr Breen
Dr Chesterfield-Evans
Mr Cohen
Tellers,
Ms Hale
Ms Rhiannon

Question resolved in the affirmative.

Motion agreed to.

Bill read a third time.

FINES AMENDMENT BILL

LIQUOR AMENDMENT (PARLIAMENTARY PRECINCTS) BILL

Bills received.

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

Motion by the Hon. John Hatzistergos agreed to:

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

Bills read a first time and ordered to be printed.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 2 and 3 postponed on motion by the Hon. John Hatzistergos.

FILMING APPROVAL BILL

Second Reading

Debate resumed from 2 June.

Mr IAN COHEN [7.20 p.m.]: Yesterday I referred to additional items the Minister for the Environment should consider, including that filming is not inconsistent with any applicable threat, abatement or recovery plan within the meaning of the Threatened Species Conservation Act 1995 and that filming activity complies with any applicable policy, if any, of the Department of Environment and Conservation concerning filming in designated areas. I am concerned about the Government's change of attitude to many bills. I noted with interest the Treasurer's media release headed "Rhiannon Caught Red-Handed Rewriting History". Yesterday I asked the Treasurer what he would do, if he could, to those whom he said were caught red-handed rewriting history. As a result I was able to issue a press release headed "Treasurer and Premier Caught Red-Handed Rewriting History". Last night the Treasurer agreed with me that any member found to be hypocritical in his or her statements in the House should be thrown out.

One would have to wonder about the unbelievable hypocrisy of the Premier, who has done a backflip on wilderness protection with the introduction of the Filming Approval Bill, and the Treasurer's hypocrisy on hypocrites in the House. The Treasurer's convincing statement last night in the Legislative Council that hypocrites should be thrown out of Parliament has been followed by silence, which only serves to further highlight the hypocrisy of the Premier's stance on protecting wilderness areas in New South Wales. Perhaps the Treasurer's previous press release is a little bit of fun, but it is more than that when we see the Government's massive change in direction over a period of years. Pioneering material and ideas espoused some years ago by the Premier have been turned on their head. What was once a progressive government is now a quite reactionary one. Debate on the Filming Approval Bill has been reactionary toward the protection of our national park estate, particularly the wilderness areas. I quote from an email sent by Wayne Brennan, a Blue Mountains resident, ecologist and environmental educator, to all parliamentarians:

> I am not happy about the new Filming bill being proposed to be put through parliament today.
>
> The filming bill is solely designed for easy approval for filming of features, documentaries or whatever in a National Parks system, but I feel the Gov't should not lose sight of the real issue and that is protection of these areas that are designated as National Parks and/or Wilderness areas. This may suit multi-million dollar feature films and the Govt coffers and policy of making environmental agencies pay their away, but at what cost to the Environment? Is DEC taking on a EPA approach to Management: If you pay you can pollute?? If you pay we can find a way to write new legislation.
>
> Having worked in the NPWS for 17 years as an Educational and Interpretations Officer I have also had first hand experience of dealing with these groups through the licensing system all ready in place. Some filming groups are much better at doing these sorts of things in the park than others and unfortunately the minority of these two inflict damage it can't be helped. Even with all the mitigation for protection in place legislation and the requirement to do environmental impact statements and cultural heritage assessment, damage will still occur. The NPWS is so short staffed right now (and will be cut a further 5% across the board, mostly staff positions this coming financial year) so this type of activity puts enormous pressure on staff at the regional level and resources that are already stretched due to current Gov't policy.
>
> The Parks are one of the few areas where big business doesn't do business. The current legislation allows for certain filming such as educational tourist promotion. These must have some sort of natural or cultural heritage information/education outcome. This type of filming is usually very low impact and operates for a very short period of time.
>
> Lets keep the policy that we have, it does not contain inadequacies as the Hon. Bob Debus suggests. He believes mainly that it will be the state of NSW that will suffer because of what film contracts will bring the state of NSW in $$$s if we don't encourage them to film in NSW. Who will be standing up next for a piece of the action in the park?
>
> Conservation should not be compromised by this bill it is about business not about community wishes or changing legislation that doesn't suit the majority
>
> I ask you all to come to your senses and do not support this bill. There may be opportunity to revisit the legislation but take more time to develop a policy rather than expedite something that is inappropriate.

In an article in the *Sydney Morning Herald* of 6 April entitled "Serenity shaken by invasion of the habitat snatchers" Anne Davies, Urban Affairs Editor, states:

> The green and gold bellfrogs and the grey-headed flying foxes living in the wetlands of Kurnell survived the invasion of the swamp monster, Man-thing, into their habitat last year.
>
> Sutherland Shire Council and the National Parks and Wildlife Service are jointly investigating the removal of about five hectares of bushland near the studios in the past six weeks.
>
> A council spokesman said that five hectares was cleared illegally, including areas which were home to three endangered ecological communities.
>
> Among them was a colony of 500 grey-headed flying foxes which camped in the area during the day. It was the only such area in the Sutherland Shire.
>
> A little further in, it was another story. Football fields of vital swamp forest had been felled and many of the freshwater pools had been filled in.
>
> The council confirmed that fill had been brought onto the site to construct roads and build up areas to position cameras, but had since been removed.
>
> The swamplands were used last year for the making of *Man-thing*, a science-fiction horror film based on a Marvel comic character in which the swamp monster gains power from people's fear. The movie stars Jack Thompson.

That is interesting, because Jack Thompson has been a fantastic supporter of the rainforest campaigns. That is an interesting conversation I will have with him at another stage. Nevertheless, the damage to this site in preparation for filming was significant. But this is what occurs and will continue to occur at a greater pace if the bill is passed. The film industry makes great films and entertains people. No-one wants to take away from that. But the essential point that we have maintained all along the line is to keep out of wilderness areas. It is clear, and I have said before, that the Greens are not against the film industry, but in appropriate places and not where it can have a massive impact on our natural environment.

The siting and timing of the film activity should be done in a way that minimises the impact on our natural and cultural heritage values of the area, and the public enjoyment of the area. Any activity in the wilderness area should be carried out by the minimum number of persons needed to carry out that activity. Penalties should be applied for failing to comply with the terms of filming approval. For example, it is crucial that there are specific approval and post-approval third-party rights regarding a breach of an approval condition. This would ensure that anyone has the right to enforce an approval or post-approval breach. This is consistent with provisions in other New South Wales environmental legislation. There should be a limit of 14 days for the time in which proceedings to challenge the lawfulness of an approval issued by the Minister can be commenced. Any proceedings should be brought in the Land and Environment Court.

It is also important to establish a public register of filming approvals. The *Stealth* debacle demonstrates exactly how not to go about filming in areas of high conservation value. The community no longer views filming as environmentally benign. The community does not believe that the film industry can operate in environmentally sensitive areas and sites, including wilderness areas. At the same time, environment groups have no wish to disrupt the film industry or to drive the industry out of national parks. If the Department of the Environment and Conservation had been doing its job impartially, everyone—government, National Parks, the film industry, conservationists and the community—would have benefited.

It is quite clear that the film industry and its activities will be attracted to New South Wales, where there is a commonality of purpose, co-operation, acknowledgment of the benefits of the broader community, and conservationists, government and government agencies working together. Premier Bob Carr has laid down the law but he has totally missed the point if he thinks film crews will come to New South Wales when they realise that problems may arise with environmentalists. Indeed, we are pretty good at our own form of environmental theatre. This was clearly demonstrated in the tripods and blockades of dedicated people, who camped out overnight in the Blue Mountains. Perhaps future generations and our children's children will thank those people for that activity.

The Hon. AMANDA FAZIO [7.31 p.m.]: I speak briefly in support of the Filming Approval Bill. The Hon. Ian Cohen made a lengthy contribution, but I shall highlight the need for this legislation. Although the Land and Environment Court did not make any adverse findings about the environmental impact of the proposed filming that brought about this legislation, it nevertheless set aside the department's consent on the basis that commercial feature filming was inconsistent with the objects of the National Parks and Wildlife Act and the management principles of the Wilderness Act. Specifically, Justice Lloyd stated:

> I do not think that a production of a commercial feature film is appropriate public recreation in the context of the objects of the National Parks and Wildlife Act or the purpose of reserving land as a national park. Such an activity has nothing to do with these objects or that purpose.

In his second reading speech the Minister for the Environment, the Hon. Bob Debus, stated:

> There is sufficient case law to suggest that in these circumstances such activities would be unlawful in a national park.

That is the level of uncertainty with which we have been left following the decision of the Land and Environment Court. I place on the record comments from the film industry in New South Wales in support of the bill and the Government's efforts to resolve that uncertainty. I refer to a press release from Fox Studios dated 6 May, which states:

> Fox Studios Australia today welcomed the NSW Government's initiative to provide certainty to film makers over access to national parks locations for productions through new legislation …
>
> The *Filming Approval Bill* creates certainty by giving the Minister for the Environment the power to authorise the making of a film within the National Parks, subject to appropriate environmental conditions.
>
> "The negative impact of the Land and Environment Court ruling was immediate and the swift response from the Government will serve to counter that. What film makers need more than anything is certainty, which this legislation will provide," said Michael Harvey today.
>
> "We encourage all members of Parliament to consider the significant investment the film and television production industry contributes to NSW and the economic impact across the State as they consider the legislation before them."
>
> "This is an issue for domestic and international productions with a number of productions planning to use locations in National Parks in the near future."

The Screen Producers Association of Australia endorsed those comments in a press release dated 5 May. Geoff Brown, Executive Director, made the following important statement:

> The Bill will give the Minister for the Environment the power to authorise the making of a film within the National Park Estate but subject to some fairly strict conditions—

because this legislation is not open slather—

> As filmmakers we understand the issues involved when filming in environmentally sensitive locations. We have negotiated protocols and codes of practice with government to ensure that we do not disturb or damage these areas when filming.
>
> The local industry recognises that responsible filming is the only way to sustain the long term viability of the industry. It would be short sighted to deny that as filmmakers we don't have a duty to preserve areas of natural beauty and heritage. The Australian film industry is renowned worldwide for its sophistication and high operating standards, which are applied equally to local and offshore productions. It is in NSW's interests to promote responsible filming that will showcase our natural beauty, offering insight and appreciation of the Australian environment to millions of people worldwide.
>
> The proposed legislative changes provide clarity and certainty whilst retaining high protection standards to ensure our environment is available for **all** to appreciate.

That is the key point. The national park estate exists for all of us to appreciate. Although the bill will not allow filming in highly sensitive wilderness areas, it will resolve the uncertainty that was created by the Land and Environment Court decision. I urge honourable members to think about those facts when they are deciding which way to vote on the bill. I urge them to support the bill.

The Hon. JOHN TINGLE [7.35 p.m.]: In supporting the Filming Approval Bill I acknowledge the very genuine concerns of people who are opposed to it. One could not fail to know about that opposition because we have received endless streams of emails and other correspondence from people who regard this as virtually the end of the world. I notice with some interest that the great majority of those letters come from people who live in the Blue Mountains, and the great majority of them are form letters. That is a pity because when I receive form letters—they say exactly the same thing—I tend to downgrade the protest slightly because it means that the people who sent them did not feel strongly enough about the issue to write an individual letter.

However, those people feel that the impact of filming activities on the environment in sensitive areas could be some kind of major disaster. It is true that perhaps it could be. I have always believed—and, indeed, it is a policy of my party—that all conservation is a question of a sensible balance, a compromise if you like, between sustainable use and essential protection. Having been involved in part of the film industry through my years at ABC television, I know how the right setting, the right set-up, the right location, the right time, and the right day can make all the difference between a film that is believable and that people can identify with, and one

that is quite flat and one-dimensional. So I can understand the enormous draw of some of Australia's astonishing natural areas in its national parks and wilderness areas.

Although I do not want those areas to be damaged beyond repair or lost to future generations, I do not want the incredibly valuable film and television industry to be lost to Australia because it is locked out of what should be and could be its natural locations. Mr Ian Cohen made the point—and it is not an invalid point—that filming is not always a benign activity in a sensitive area. Perhaps under some circumstances it is not, but I would make the point that some of the very best films I have ever seen have been shot in some of the most sensitive areas of the world. I refer to the great wildlife films made by the BBC's wildlife unit, the films made by Sir David Attenborough, which trespass, if you like, into areas where very few people ever go, but which do not seem to leave very much waste and damage behind them. That is also an example of how a film can be made; that a film crew can go into an area like that and, far from damage it, can promote it and give people who would never otherwise get there the chance to see it.

I believe that this bill provides the safeguards and guarantees that strike exactly the right balance between reasonable and sustainable usage, and essential—and I stress the word "essential"—conservation. It is an attempt to satisfy two sets of demands that are not, essentially, diametrically opposed. I am pleased that the Minister has agreed to accept a number of quite sensible amendments, which, I hope, will satisfy the nervous fears of the genuine environmental lobby, as distinct from the deliberately obstructive fears of the extremist environmentalists. The film and television industry is worth 50,000 jobs and $4 billion a year to New South Wales. But the question should never be just the bottom line—the $4 billion. I believe this bill can satisfy both the top line and the bottom line and will prevent our losing either our precious natural environment or the invaluable film and television industry. I simply say to honourable members: Let us see the big picture and support the bill.

Reverend the Hon. FRED NILE [7.38 p.m.]: The Christian Democratic Party supports the Filming Approval Bill, legislation that has become necessary as a result of a debacle over the production of the movie *Stealth.* The objects of the bill are to facilitate the granting of approvals to film in national parks, marine parks and other areas under the National Parks and Wildlife Act 1974 and the Marine Parks Act 1997, but to limit the granting of such approvals in respect of wilderness areas to filming for educational, scientific, research or tourism purposes. The Christian Democratic Party believes that the bill is essential. We have received briefings from the film industry, attended by representatives of Fox Studios Australia and associates of film producers in Australia who are in contact with American film organisations that are interested in making films in Australia.

If this bill is not passed by this House, there is no doubt that a serious downturn will occur in the production of films in New South Wales. The film industry representatives with whom I discussed this matter have said that there have already been adverse effects as a result of the publicity given to the problems with filming *Stealth.* The difficulties have been noticed in Hollywood and other places where film deals are negotiated and overseas locations are selected. As a result of the problems associated with *Stealth*, the producers believe that there may be no point in coming to New South Wales to make a film. It is regrettable that Mr Ian Cohen displayed the Greens' muscle during debates in this House on the filming of *Stealth.* His position is that if the Greens do not get their way, protestors on tripods will prevent film producers from making films in New South Wales.

In making those threats, he may damage the outcome of this bill if his remarks are given media attention and come to the notice of film producers. That is unfair. If Mr Ian Cohen is sincerely interested in Australia and is patriotic, he will not make threats that will generate confrontation between environmental protesters and groups that are in favour of film-making in Australia. Mr Ian Cohen favours the law of the jungle over laws that have been created by law-abiding people through proper legislative processes. His attitude is that if a group has enough muscle, it will get its own way. That is not the way the political process operates in Australia. I know that the Greens have undertaken similar actions in relation to forests and that they regard film-making as their new political frontier. They are very interested in determining, through protest action, the way that industries operate in this State, and I condemn that.

It concerns me that one element of the protests against *Stealth* is that war is the subject matter of the film. Mr Ian Cohen demonstrated that attitude during various debates on *Stealth* by interjecting, "It is a war film." That begs the question: So what? *Stealth* is a film, and that is its theme. A film's theme can be about love, animals or anything else. I am very sceptical about his attitude. I believe that the Greens played a significant role in the protests that took place in the Blue Mountains. I have received letters from sincere residents of the Blue Mountains which indicate that they were given the wrong information and may have overreacted to perceived

threats to the environment posed by producing the film. I wonder whether the fact that *Stealth* is a war film being made by an American production company is the hidden agenda in the protests. One has only to mention an American company to bring out the reds, the pinks and the Greens in protest.

Mr Ian Cohen: For a man of the cloth, you are so prejudiced.

Reverend the Hon. FRED NILE: I am talking about people who are prejudiced. Mr Ian Cohen is the one who is prejudiced. I only had to say "American" to evoke a knee-jerk reaction from him. If I say "war" I get the same response. Mr Ian Cohen is the person who is prejudiced, and I have just proved it.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! Reverend the Hon. Fred Nile is the only person in the Chamber who has the call.

Reverend the Hon. FRED NILE: Some organisations associated with the Greens harbour prejudices and in the circumstances to which I have referred are prone to knee-jerk reactions. During a briefing when film-making companies produced their report on an environmental impact study which was approximately 2.5 centimetres thick, I became really angry. The company had not only obtained approval for the film but also had undertaken all the appropriate procedures. It spent thousands of dollars on producing an environmental impact statement and the company's representatives believed that they had done everything they could possibly do to comply with the law. However, that made no difference to the Greens and other protestors, who had decided that they would determine whether a production company would be permitted to make a film.

Those who object to this legislation want to import third-party rights into the bill. My advice to the Government is that it would be foolish to provide third-party objection rights in this legislation because that would destroy the confidence of film-making companies in the Government's ability to provide certainty. It takes only one person to create confusion and delay by pursuing third-party rights through legal action to obstruct film ventures, even if the case is eventually thrown out of court. Irrespective of the outcome of a case, a company may never know whether it will be able to proceed with a film or not. The approval process may drag the company through the courts system, and that is why I do not support third-party rights in relation to film-making ventures. I appreciate that the Government has made concessions in the hope that that will facilitate the passage of this bill through the House. However, I believe that the inclusion of third-party rights of objection will undermine the fundamental purpose of the legislation, which is to provide film companies with certainty in relation to proposals for film-making in Australia.

Although I did not visit the set of the movie *Stealth*, I saw photographs of it. All the equipment was placed on platforms rather than on the ground. The company spent a lot of money on the layout to avoid damaging the environment. The costs associated with delays caused by the court case, together with costs associated with the layout of the setting, are all factors that a film-producing company must take into account when deciding whether the risks are too great to make a film in New South Wales. Recently I noticed a report in the *Sydney Morning Herald* stating that the producers of *The Matrix* had relocated to Queensland and are making a film in the Warner Bros studios there. The company made the comment that the Queensland Government is willing to give permission for the company to set up a location by building a whole town for the *House of Wax*. The company remarked upon how easy it was to make a film in Queensland.

I do not know whether film companies, as a result of protests over *Stealth*, may prefer to produce films in Queensland instead of New South Wales. However, the warning that films being made in Australia may not be made in New South Wales is clear. If that happens, the prospects of generating employment, strengthening the economy and producing opportunities for creative young people for skills development in the film-making industry will be lost by New South Wales to Queensland or overseas locations. The Christian Democratic Party supports the bill and urges the Government not to dilute its provisions.

The Hon. JON JENKINS [7.46 p.m.]: There could be no better exemplification of why I am a member of this House than the Filming Approval Bill. During an earlier speech I was somewhat denigrated when my intelligence was compared to that of a stamp licker.

Reverend the Hon. Fred Nile: They called you a stamp licker. Again, that is vilification.

The Hon. JON JENKINS: A stamp licker, yes. I do not engage in personal comments, but I resile somewhat from that remark. It frustrates me terribly that our national parks and wilderness areas are managed by ideological whim rather than by scientific or pragmatic management principles. The incident which sparked

this legislation exemplifies perfectly the clash of pragmatic management principles and blind, unreasoning ideology. The approval to perform a particular sequence of the movie *Stealth* in part of the wilderness has been covered in great detail. An extensive environmental impact study and three months of consultation with the National Parks and Wildlife Service were undertaken. Moreover, the National Parks and Wildlife Service effectively was in control of the filming and other associated activities. The film set had an independent observer and there was an agreed veto power to deal with any problem that arose.

The lengths to which the producers had gone in avoiding any potential damage to the environment were quite extreme. In heavy pedestrian traffic areas the company had constructed raised platforms so that human feet did not touch the ground. I invite honourable members to think about that for a moment. Even human feet were not allowed to touch the hallowed earth!

The Hon. Rick Colless: The actors or the film crew?

The Hon. JON JENKINS: Both. Apparently, only the gods of nature are allowed to touch the hallowed ground of the wilderness and we, the evil defilers, must be banished behind the locked gates of the temple! The parallel between the religious concept of original sin and banishment and the concept of wilderness as the Garden of Eden is quite striking. The Greens movement really is the new religion of the twentieth century. However, it is the pantheistic principle of management by worship that is directly causing the death and destruction of our native animals and birds as well as a massive loss of biodiversity as wildfires kill millions of animals and billions of trees. The failure to scientifically manage fuel loads, feral predators and noxious weeds is guaranteeing the destruction of our beautiful natural environment. The ruling of the Land and Environment Court judge clearly exemplifies the unscientific and extremely dangerous management principles by which wilderness areas and national parks are currently managed. I quote the judge:

> Wilderness is sacrosanct.

I do not think this is the first time that phrase has been mentioned in this House. I tell Justice Lloyd and honourable members that wilderness is not sacrosanct. Ferocious storms of hail and howling winds have lashed this country every year for millions of years. Recently, infernos raged across the very hills where the film was being shot, and have done so for millennia before that. But, more recently, Aboriginal people have walked, lived, burnt and hunted here for at least the last 50,000 years. They have irreversibly changed the landscape.

To somehow decide that this land is or ever was sacrosanct and that no humans can enter is utter rubbish. Further, it is a complete insult to the indigenous people and their history. Certainly, feral cats, foxes, dogs, pigs, horses, deer, blackberry, lantana and so on do not consider wilderness and national parks to be sacrosanct. They certainly do not take heed of any legislation we pass in this House, and they do not take any notice of His Honour. Honourable members should keep in mind that the protest was attended by the grand total of 50 people. I have helped to organise much larger protests. I attended the protest in Tumut with several members of this House. That protest was many times the size of this protest.

I find it extraordinary that such a tiny number of people could have such a completely disproportionate effect on the vast bulk of the people of New South Wales. But this seems to have been typical of extreme green politics for some considerable time. In the 48 hours the filming would have taken place, according to National Parks and Wildlife Service figures approximately 620,000 native animals and birds were taken by foxes and cats in the 60,000 hectare Grose Wilderness. And that in just 48 hours of filming! Where were the people protesting against 620,000 native animals and birds being taken? Not one protester!

Mr Ian Cohen: Where did you get that figure?

The Hon. JON JENKINS: I acknowledge the interjection. The figure comes from the National Parks and Wildlife Service estimates of feral fox and feral cat populations in escarpment parks. It is very telling that they are prepared to accept the nightly slaughter with accomplished ease but are affronted when a film crew enters the inner sanctum of the shrine of the wilderness. It is very telling that a quote appearing on one of the web sites of the alleged environment groups states:

> Images of a nuclear bomber hanging over the Blue Mountains World Heritage Area would be ugly, disgusting and hugely inappropriate.

I quote another peak environmental group in the Blue Mountains:

> The final scene shoot out for the Stealth adventure film proposed in the Grose Wilderness of the Blue Mountains World Heritage Area is an attack on wilderness and the birthplace of the New South Wales nature conservation movement.

This is the real reason that the filming of the $130 million *Stealth* movie was opposed; not because of any real environmental concerns but because the subject matter of the film somehow affects the sensibilities of the far left ideologues who have hijacked the environmental movement. So they have mobilised their holy warriors to campaign for a crusade against the infidel and his filthy machine which glorifies war.

Mr Ian Cohen: You should join the Christian Democrats.

The Hon. JON JENKINS: I have thought about it.

Mr Ian Cohen: You sound like you are on a crusade.

The Hon. JON JENKINS: I am on a crusade.

Mr Ian Cohen: You are going to take over the world.

The Hon. JON JENKINS: The environment movement has been hijacked by the Greens. It is so overtly ludicrous to intimate that the strictly controlled filming for two days could somehow so irreparably damage an area that has been exposed to sun, ferocious storms, fires and wind for untold millions of years and intensive human modification for the last 50,000 years.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I ask Mr Ian Cohen to cease interjecting.

The Hon. JON JENKINS: In view of the National Parks and Wilderness Service involvement and the extent of the preparations, the environmental concerns are a sham and a fraud. The good Professor Truman was mentioned during this debate. Did he object to the complete lack of control of thousands of feral animals that visit that swamp each week? No!

The Hon. Rick Colless: Who wrote this?

The Hon. JON JENKINS: I did. Why is there no protest against the lack of feral control of pigs, deer and horses that visit the swamp every night? The good professor and the other protesters are not here protesting at the moment because they do not really care about the wilderness. They do not really care about nature. What they care about is some pantheistic vision of man's place in nature and the fanatic agrarian fervour with which they pursue anything to do with our modern society. One of the issues raised during this incident concerned a rare dragonfly. I have yet to understand how a film crew could affect the population of a dragonfly but I will consider the possibilities. One suggestion was that helicopters used in some of the filming may have caused winds to injure the dragonfly. Apart from the fact that dragonflies do not fly at altitude and almost always stay in the canopy—if they do not, they get eaten by the passing bird life—this is about as reasonable as saying that the next storm will also damage a dragonfly population.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I call Mr Ian Cohen to order for the first time.

The Hon. JON JENKINS: In terms of human activity, it is analogous to saying that somebody's breathing adds to global warming by virtue of the increased carbon dioxide. It is an irrelevant nonsense. However, there was one criticism that may have had some validity: the dragonfly predominantly exists on the edge of a small swamp where there was to be considerable human activity. Therefore, a large number of people stomping around on the edge of the swamp could have had some impact on the dragonfly population in this area. As always with the extreme green view, the Greens create fear, uncertainty and doubt—colloquially known as FUD. They would have us believe that all 150 film crew would be present on the edge of the swamp and all would be stomping around simply to kill the dragonflies. Even the caterers would leave their catering vans and come and stomp in this swamp. Honourable members know what those caterers are like—they hate dragonflies. As for the makeup artists, they are the genuine environmental terrorists! And all these environmental vandals were aided and abetted by the sound crew, the evil geniuses of environmental destruction.

The film crew was managed by both the National Parks and Wildlife Service and an environmental consultant, and the contact with the earth in this area was by a minimum number of people. Again the

insignificance of this action is abundantly clear. The quasi-religious overtones of the church of the earth and the attitude that we humans somehow defile nature simply by being there is overt. Perhaps also of some credibility was the suggestion that actors crashing through the swamp for several takes of the final movie scene may have contributed to damage of the swamp banks, vegetation and bottom. However, it is obvious that the so-called conservationists have never spent a night camped by a swamp such as this. Particularly in times of drought, all feral and native animals would come to this swamp to drink at night.

Mr Ian Cohen: There is no water in the swamp at the moment.

The Hon. JON JENKINS: There is water in the swamp. The addition of a few humans would be trivially insignificant in comparison. If they really want to save this swamp from damage, they should be protesting about the lack of activity to rid the wilderness of the feral animals. There was also the mention of some ordinance. Keep in mind that we are not talking about a real war; we are talking about a film set. So the ordinance we are talking about would effectively amount to fake firecrackers, which would make a lot of noise and a big flash but do little else.

The fact is that the last big thunderstorm did more damage to this area than 100 film crews would have done. And the last fire did more damage than a hundred thousand film crews would have done. The ridiculous situation where, even after extensive consultation and negotiation under the supervision of National Parks and Wildlife Service staff, no commercial filming can take place in a wilderness area is a gobsmacking testament to the control of the many by the arcane agrarian whims of a few self-appointed—and in this case self-alleged—intelligentsia.

Contrary to popular belief, this is not an isolated case where filming has been prevented in a national park. Recently I have been involved in numerous negotiations between wildlife documentary makers to obtain permits to film in marine national parks for Disney and Channel 9. At this point I must express concern about the carte blanche given to the Minister in the bill. Unfortunately the Government does not have an exemplary record of social conscience when it comes to the donation of large amounts of money. So I would be pleased to consider an amendment that would ameliorate the direct intervention of the Minister and force some scientific assessment—

The Hon. Dr Arthur Chesterfield-Evans: The Government is into the receipt of money, not donations.

The Hon. JON JENKINS: Potential donations of money by film crews in national parks and wilderness areas. However, such an amendment would have to equally exclude the intervention of the extreme green political ideologues from this decision process. Further, I intend to move an amendment that all fees raised by applications for filming activities in the national parks and wilderness areas be solely dedicated to the control of feral animals and plants in the national park or wilderness area where the activity occurred.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [7.59 p.m.]: The Filming Approval Bill goes beyond clarifying the conditions under which filming can take place in national parks, marine parks and wilderness areas. It threatens hard-won protections established under the National Parks and Wildlife Act, the Marine Parks Act and the Wilderness Act. Such protections should not be swept aside by special legislation that gives rights to particular types of developments in national parks. We have already seen special legislation for the construction of telecommunication facilities in parks and for cloud-seeding experiments on the main range of Kosciuszko National Park. The bill marks a worrying trend of special development-oriented legislation. The Filming Approval Bill seeks to establish a stand-alone approval system to approve filming in parks.

Under the proposed legislation, filming would not have to abide by the National Parks and Wildlife Act, the Marine Parks Act and the Wilderness Act. The Premier, Bob Carr, has presided over the creation of a wonderful system of national parks and wilderness areas, but he damaged his green credentials when he announced on 4 May that he had instructed the Cabinet Office to prepare this special filming legislation. The Australian Democrats support the co-operative efforts of environment groups and the film industry to jointly develop a legislative package that permits filming in national parks and other protected areas while maintaining existing protections offered by State laws to protect park areas.

The Government should have allowed that process to continue through public consultation. While all parties agree that there is a need to remove uncertainty regarding filming in protected areas, the Democrats believe that this bill is an overreaction. The bill came about because of the views of Justice David Lloyd

regarding commercial filming in national parks. Those views were expressed as an observation, not a finding, and while the film industry perceives uncertainty, those views are not binding and scant evidence was presented before the House of any legislative emergency. The bill is unacceptable to environmental groups, because it seeks to create certainty for commercial film-makers by overriding, or at least turning off, the provisions of the National Parks and Wildlife Act and the Wilderness Act to grant filming approval at the discretion of the Minister.

The Democrats will seek to amend the bill to ensure that it will not cause more films to be caught up in protests by citizens who believe that national parks will not be properly protected during filming operations. To create certainty, the legislation must secure the rights of the environment in national parks as well as the rights of film-makers to undertake appropriate filming activities in those areas. Previously, commercial filming was regulated under the National Parks and Wildlife Act. In those circumstances, approval and management of filming activity was, and still is, properly managed under that Act so that environmental risks were minimised. The same cannot be said for future filming under the Filming Approval Bill and it must be extensively amended if it is to create equivalent protections that will provide the certainty needed to resolve this legal problem.

To address the uncertainty about filming in national parks, marine parks and wilderness areas the Democrats will move amendments that improve the requirements of the responsible Minister to impose conditions on filming activity, to have regard to heritage values, to consider park management principles and plans of management, to limit the delegation powers where wilderness is concerned, and to establish penalty provisions. Depending on the progress of the amendments, the Democrats may support the amended bill if it provides the same degree of certainty for protection of national parks as occurred prior to the court decision on the *Stealth* film in the Grose Wilderness. We still have an open mind on this, so long as the Government is reasonable about accepting the amendments.

The Land and Environment Court interpreted and applied the laws of the State. Unfortunately, the Government has an increasing history of simply overriding the law if it does not get the decision it wants in cases that look important in the media. It was the failure of the Department of Environment and Conservation to correctly apply the relevant provisions of the National Parks and Wildlife Act and follow due process that caused the entire debacle. On 26 April Columbia Pictures received approval to film the final scenes of the action film *Stealth* in the Grose Wilderness across a fragile montane heath and the rock outcrops of Butterbox Point. However, it met with a blockade of members from the Blue Mountains Conservation Society, the Colong Foundation and the National Parks Association.

I was invited to the blockade, but unfortunately had prior commitments with the Standing Committee on Social Issues. But I did send an email to those groups to congratulate them on their action, which was successful. Interestingly, they were not worried about losing the case, as they were certain that under existing law the department had given permission that it had no right to give. Apparently the department did not know its powers. That is the key worry. The idea that it was the fault of the law, when it was the department that had not properly applied the law, means that the Minister should solve the problem by giving himself—or in future, perhaps herself—that power if the department gets it wrong. However, it really does not matter because effectively its word is law, and there is no appeal mechanism. On 4 May I received a faxed letter from Les Coyne, of the Blue Mountains Conservation Society, who participated in the blockade and reminded the Department of Conservation and Environment that the proposed filming of *Stealth* in a World Heritage wilderness area was illegal. He wrote:

> The scene for *Stealth* comprised a fugitive being chased through what was meant to be the North Korean countryside by North Korean soldiers, so the background of scenery was meant to look like North Korea.

The film industry has a habit of playing along with the demonising of opponents to the United States of America. First, it was the Russians. After the Cold War it was the Libyans in *Back to the Future*, then the South Africans in *Lethal Weapon 2*. But the collapse of the apartheid regime put an end to that. Then it was miscellaneous terrorists from the Middle East in *True Lies*, and now it is the North Koreans' turn. Les Coyne further wrote:

> The film crew eventually chose a swamp surrounded by a low rise, which obscured the Blue Mountains signature scenery. It is not surprising that the film company was able to relocate to another site at a moment's notice. There were any number of suitable alternatives to choose from.

Especially as only 2 per cent of the State is classified as wilderness, and 98 per cent is not—

> It was hard to believe that a wilderness area was the only suitable site for filming the same.

People at the blockade had suggested another site not too far away with better road access, and the film crew ended up shooting the scene, much to their apparent satisfaction. The sentiments expressed by Les Coyne accurately sum up the situation. He wrote:

> There is plenty of room for a thriving film industry. There is also need for the protection of our wilderness areas. All that is required is dialogue between the parties and a recognition that wilderness areas are sacrosanct, as declared by the Land & Environment Court!

They are wise words.

[*Interruption*]

It is interesting to contrast the balance in those words with the hysterical response from the Hon. Jon Jenkins, and his interjection as I was reading these perfectly reasonable sentiments. The Government claims that the bill only clarifies conditions under which filming in a national park can take place, and the rules for approval ensure certainty for the film industry. In reality the bill overrides current wilderness protection laws. The decision by the Land and Environment Court has not changed current laws concerning film-making in national parks. However, Justice Lloyd held that the approval to film in a wilderness area was illegal under section 1523A of the National Parks and Wildlife Act, which concerns the granting of leases in wilderness areas.

The Land and Environment Court was interpreting and applying existing law. Lately I have received several faxes from studios and film production companies expressing support for the bill. However, I fear they have been misled. The Minister for the Environment, Bob Debus, offered to work with the conservation movement to secure a better outcome. For that I congratulate him and his adviser Ted Plummer. However, I believe this matter has been overtaken by haste and by the perception that at all costs the film industry had to be appeased following negative publicity it received at the time of the error that led to this debacle. I will finish by reading an email I received from Dr Monica Nugent, who holds a PhD in Science and Technology Studies from the University of New South Wales. She wrote:

> I am very concerned about the Filming Approval Bill. I am concerned not only about the content of the Bill but also the apparent lack of consideration for the democratic process by the Carr government.
>
> There is no need for this legislation as the film industry has access to national parks under the current legislation. If there is a need for changes to existing legislation, the government should undertake full public consultation, not rush through rapidly drafted, reactionary legislation, which sets extremely dangerous precedents for commercial operations in national parks and Wilderness Areas. I am also extremely worried about the extent of the discretionary power it grants to the Minister for the Environment, and am particularly troubled about Part 2, Clause 4 (9) of this Bill which appears to override other legislation.

That subclause reads:

> Nothing in any other Act, a statutory rule or another law (or in any instrument made under another Act) prevents an application for a filming approval from being made, considered or granted.

Dr Nugent goes on:

> Our national parks need protection from commercial interest, as I am sure you agree. What is the Carr Government doing, illegally granting special licenses so that Hollywood film producers can exploit our sensitive environment for the purposes of US war propaganda? I can't tell you how relieved I was to hear Justice Lloyd's recent decision in the Land & Environment Court, and I am overjoyed that we managed to stop that film ("Stealth") being made in the Grose Wilderness. I don't object to filming in national parks so long as they are adequately controlled in order to protect the sensitive natural environment. Commercial activities have either a very limited, or no, place in Wilderness Areas. Nothing should be done which adversely affects the ability of any environmental legislation to prevent further degradation of our precious natural environment.

Dr Nugent finishes by saying:

> Please call on the Carr Government to undertake proper, democratic public consultation.

The amendment I will move in Committee is about third-party rights. This bill is what I call Minister-may legislation: it effectively means the Minister may do whatever he or she likes. Under the boilermakers principle, which is well established in law, there is a marked separation between a decision and arbitration about that decision. The bill defies that separation. The Minister makes a decision and the Government decides to appeal against the Minister's decision, which is extremely unlikely. It is total ministerial discretion. The Minister can then delegate to virtually any public servant the decision as to whether filming may or may not occur in wilderness areas. It does not even have to be a public servant with environmental credentials. That is downgrading the importance of the decision. Not only does the Minister have absolute power, he or she may delegate the decision to someone who basically does not have a clue.

That is a great worry when a decision has already been made setting the precedent that caused the modestly resourced Blue Mountains Conservation Society to be confident it would win in court, the Government having granted a permit that it clearly should not have granted under the current Act. The idea of simply saying it does not matter so long as the Minister or anybody the Minister chooses makes a binding decision—and it if it is wrong and has an adverse environmental impact, that is tough luck—is a most unsatisfactory way for the Government to proceed.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.13 p.m.], in reply: I thank honourable members who contributed to the debate. A number of issues raised during the debate require a response. First, there seems to be a view widely held by many, not least amongst environmental groups, that the bill is unnecessary. That view rests on an entirely mistaken assumption that the effect of the decision of the Land and Environment Court in the *Stealth* case is limited to the making of that particular film only. Clearly, real doubts have been created by the decision of the Land and Environment Court concerning the existing law about film-making in national parks and wilderness areas.

In ruling on *Stealth* the court specifically drew attention to doubts concerning the power to approve the making of any commercial feature film in a national park. The court also drew attention to doubts concerning the power to approve the making of any film in a wilderness area, at least in those circumstances where filming requires exclusive use of the area in question. Those doubts need to be resolved by Parliament. If the law were to remain in its current ambiguous state, the ability of New South Wales to secure future film-making opportunities will inevitably be harmed. The Government's intention, through this bill, is to eliminate the ambiguity in the law: we want to support our State's film industry. Whether members agree with the legal impact that the court's interpretation of the existing law will have, it is undeniable that the film industry wants this bill passed. In its press release of 5 May, the Screen Producers Association of Australia said that the court's decision:

> ... has created uncertainty and confusion amongst filmmakers and risks NSW's reputation as a user friendly location for local and international film producers.

Similarly, in its press release dated 5 May, AusFILM, which markets Australia as a film-making destination, said of the bill that it:

> ... is urgently needed to eliminate this [legal] uncertainty—without it, every future film in a national park will have a legal cloud over it.

Ms Trisha Rothkrans, Chief Executive Officer of AusFILM, said during an ABC *Newsradio* interview on 8 May that film projects will certainly be lost if this legislation is not passed. The fundamental aims of this bill are to create legal certainty for all who will be concerned with respect to filming in New South Wales national parks and to protect our valuable conservation reserves and wilderness areas. The bill will provide a clear approval process for prospective film-makers. To achieve that outcome, while ensuring strong conservation outcomes, remains the Government's priority. Consistent with the commitment given by the Minister for the Environment in the other place, the Government has consulted widely with conservation groups and the film industry during the past two weeks. As a result of these consultations, a number of changes to the bill have been discussed. Those changes, which were outlined in correspondence between the Minister and the Environment Liaison Office dated 31 May, a copy of which has been circulated to members on the crossbench and to the Opposition's spokesperson, will further improve the effectiveness of this legislation. The detail of these amendments will be outlined during the Committee stage of the debate.

I must respond to an issue raised by the Hon. Greg Pearce and the Hon. Don Harwin. It concerns the level of environmental assessment required before a decision can be made on a filming application. The Opposition has suggested that the bill will require an increased and excessive level of assessment. That is wrong. In the other place the Minister for the Environment addressed this issue in some detail, a fact that seems to have escaped the attention of those opposite. The Government can confirm that, as is the case now, an assessment of environmental impacts will be required before any film-making activity proceeds. It is required by section 111 of the Environmental Planning and Assessment Act 1979. However, the extent of environmental assessment required will depend entirely on the nature and location of the specific proposal. For small, low-impact, small-budget productions, I would expect the assessment to be quick and simple. But for larger scale productions, a more comprehensive environmental assessment is likely to be required.

The intent of the Government is that the extent of environmental assessment necessary for film-making activities when this bill becomes law will be the same as it was before the Land and Environment Court made its

decision in the *Stealth* case. The filming and photography policy of the Department of Environment and Conservation will be reviewed in the light of this legislation and that matter will receive attention during that review. The bill contains a set of strong measures to protect our environment and provide certainty for the film industry. As the film industry has said clearly, the passage of this bill is critical to the future of that industry in New South Wales. I commend the bill to the House.

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

The House divided.

Ayes, 25

Mr Burke	Mr Hatzistergos	Mr Ryan
Ms Burnswoods	Mr Jenkins	Mr Tingle
Mr Catanzariti	Mr Lynn	Mr Tsang
Mr Clarke	Reverend Dr Moyes	Mr West
Mr Colless	Reverend Nile	Dr Wong
Ms Fazio	Mr Obeid	
Mrs Forsythe	Ms Parker	*Tellers,*
Miss Gardiner	Mr Pearce	Mr Harwin
Ms Griffin	Ms Robertson	Mr Primrose

Noes, 5

Mr Cohen
Ms Hale
Ms Rhiannon
Tellers,
Mr Breen
Dr Chesterfield-Evans

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 and 2 agreed to.

Mr IAN COHEN [8.26 p.m.]: I move Greens amendment No. 1:

No. 1 Page 2, clause 3 (1), line 28. Insert "reasonably" after "activity".

This amendment seeks to tighten the definition of "filming activity". An activity must be reasonably connected with the carrying out of filming. For example, an on-site party for the cast would not be covered by this amended definition. I commend Greens amendment No. 1 to the Committee.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.27 p.m.]: The Government is prepared to support this amendment. The bill has been designed to ensure that appropriate filming activities can take place within national parks. It was never the intention that this legislation allow for activities not related to filming. Clearly, activities reasonably connected with filming, such as parking, catering, provision of security, et cetera, will be permissible as part of filming approval. This amendment will ensure that this is the case.

The Hon. GREG PEARCE [8.28 p.m.]: The Opposition does not oppose this amendment.

Amendment agreed to.

Clause 3 as amended agreed to.

Mr IAN COHEN [8.29 p.m.]: I move Greens amendment No. 2 :

No. 2 Page 4, clause 4. Insert after line 9:

(3) In determining whether to grant a filming approval to carry out a filming activity in a designated area, the relevant Minister must have regard to each of the following matters:

(a) if the area forms part of land that is reserved or dedicated under Part 4 or 4A of the *National Parks and Wildlife Act 1974* or land acquired under Part 11 of that Act:

(i) any heritage values of the land,

(ii) if the approval will authorise the use of any building or structure on the land—the cultural significance of the building or structure,

(iii) any management plan for the land,

(iv) in the case of land that is a wilderness area within the meaning of that Act—whether there is no other feasible location outside of that land within New South Wales to carry out the activity,

(b) if the area forms part of a marine park within the meaning of the *Marine Parks Act 1997*:

(i) any heritage values of the park,

(ii) if the approval will authorise the use of any building or structure in the park—the cultural significance of the building or structure,

(iii) any operational plan or zoning plan under that Act for the park.

This amendment inserts a series of criteria that the Minister must have regard to before granting a filming approval. Without this amendment it could be assumed that all filming applications could only be approved. Two sets of criteria are provided. The first set is for national parks and other terrestrial reserves, where the criteria the Minister must have regard to include the park's heritage values, any buildings of cultural significance, a management plan, and, for a wilderness area, whether the filming could take place outside the wilderness area. The second set is for marine parks, where the criteria include the park's heritage, any cultural significance of items such as shipwrecks, and any operational plan or zoning plan. I commend Greens amendment No. 2 to the Committee.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.31 p.m.]: The Government is prepared to support this amendment. An earlier draft of the amendment, which the Government could not have accepted, would have required the Minister to have regard to the objects of the National Parks and Wildlife Act 1974, the Marine Parks Act 1997 or the Wilderness Act 1987. While seemingly innocuous, this requirement to have regard to the objects of those Acts would have created considerable legal uncertainty. It needs to be clearly understood that the objects of the National Parks and Wildlife Act and their relationship with commercial filmmaking were a key issue in the Land and Environment Court's judgment in the *Stealth* case. Justice Lloyd said in his judgment:

> I do not think that a production of a commercial feature film is appropriate public recreation in the context of the objects of the National Parks and Wildlife Act or the purpose of reserving land as a national park. Such activity has nothing to do with these objects or that purpose.

There is sufficient case law to suggest that in these circumstances such activities would be unlawful in a national park. In this instance the activity in question is the making of a commercial feature film. Introducing a requirement to even "have regard to" those objects would have created unacceptable uncertainty for the Australian film industry. The other provisions in the bill and those in the Environmental Planning and Assessment Act 1979 will, of course, ensure that an extensive environmental assessment is undertaken before any decision is made to approve the making of a film in a national park.

The Hon. GREG PEARCE [8.32 p.m.]: The Opposition also does not oppose the amendment. We had the same concern about the earlier version of the amendments. They basically would have created the same problem as occurred with *Stealth* if the Minister had to have regard to the objects of the Acts when granting an approval.

Amendment agreed to.

The CHAIRMAN: Order! Australian Democrats amendment No. 1 and Greens amendment No. 3 are in conflict. I propose to allow them to be considered at the same time and debated in the order in which they are moved.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.33 p.m.]: I move Australian Democrats amendment No. 1:

No. 1 Page 4, clause 4 (3), lines 10–15. Omit all words on those lines. Insert instead:

(3) In determining whether to grant a filming approval to carry out a filming activity in a designated area, the relevant Minister must have regard to each of the following matters:

(a) the conservation of nature, including (but not limited to) the conservation of the following:

(i) habitat, ecosystems and ecosystem processes,

(ii) biological diversity at the community, species and genetic levels,

(iii) landforms of significance including geological features and processes,

(iv) landscapes and natural features such as wilderness and wild rivers,

(b) the conservation of objects, places or features of cultural value within the landscape including (but not limited to) the conservation of the following:

(i) places, objects and features of significance to Aboriginal people,

(ii) places of social value to the people of New South Wales,

(iii) places of historic, architectural or scientific significance,

(c) any adverse impact on public appreciation, understanding and enjoyment of natural and cultural heritage or the conservation of such heritage,

(d) any applicable management principles or plans of management for land reserved or dedicated under the *National Parks and Wildlife Act 1974* where the designated area forms part of such land,

(e) any operational plan for a marine park under the *Marine Parks Act 1997* where the designated area forms part of such a park.

(4) The relevant Minister for a designated area may not grant a filming approval to carry out a filming activity in a designated area if the Minister is satisfied the activity is likely to have a significant effect in the area on threatened species, populations or ecological communities, or their habitats, within the meaning of the *Environmental Planning and Assessment Act 1979* or on land forms or other natural features.

(5) The relevant Minister for a designated area that forms part of a wilderness area within the meaning of the *National Parks and Wildlife Act 1974* may not grant approval for the carrying out of any filming activity in the area unless the Minister is satisfied that:

(a) the activity is to be carried out primarily for educational, scientific, research or tourism purposes, and

(b) the activity is to be carried out by the minimum number of persons who can feasibly carry it out (but by no more than 10 persons in any event).

This amendment simply strengthens items that the Minister should have regard to when he or she is considering conservation of nature and heritage, that is, the impact on public enjoyment, park management principles, and any plan of management for the area. If there is potential for a significant environmental impact, the Minister must not grant a filming approval. In the case of a wilderness area filming is primarily to be for an educational, scientific research or tourism purpose and it must be carried out by the minimum number of persons that can reasonably carry it out, and in any instance not more than 10. The wording is from the National Parks and Wildlife Act objectives. Effectively, it is reinforcing the objectives of the National Parks and Wildlife Act as being the important criteria for the Minister to take into account.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.34 p.m.]: The Government cannot support this amendment. Impacts on natural and cultural values will be considered in the assessment under part 5 of the Environmental Planning and Assessment Act 1979 and in considering the heritage values of the land. Trying to replicate the objects of the National Parks and Wildlife Act in the bill will do nothing more than create confusion and uncertainty. As has been said previously, this would cause potentially serious problems for the Australian film industry.

Mr IAN COHEN [8.35 p.m.]: I move Greens amendment No. 3:

No. 3 Page 4, clause 4 (3), lines 10–15. Omit all words on those lines. Insert instead:

(3) The relevant Minister for a designated area that forms part of a wilderness area within the meaning of the *National Parks and Wildlife Act 1974* may not grant approval for the carrying out of any filming activity in the designated area unless the Minister is satisfied that the activity is to be carried out primarily for any one or more of the following purposes:

(a) the education of or the raising of awareness of members of the public about Aboriginal heritage or culture, historic heritage, biodiversity, threatened species, the management of parks, environmental processes, public recreation, bushfire management or visitor safety,

(b) the research or investigation into Aboriginal heritage or culture, historic heritage, biodiversity, threatened species, the management of parks, environmental processes, public recreation or bushfire management,

(c) the promotion of visits by tourists.

This amendment clarifies the types of purposes for which filming is permitted in wilderness. The bill restricts filming in wilderness to education, scientific and research purposes. The definitions for these purposes have been further clarified based on the definitions provided in the reply by the Minister for the Environment to the second reading debate. I commend the amendment to the Committee.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.35 p.m.]: The Government is prepared to support the amendment. The amendment will include definitions for the specific types of filming activities that can be undertaken, with an approval under this bill, in a wilderness area. The definitions proposed ensure that filming intended to raise awareness of Aboriginal culture, history, threatened species ecology, park management or visitor safety will be permissible. Similarly, filming undertaken as part of research into environmental processes including threatened species and bushfire management, or into Aboriginal culture, heritage or park management, will be defined as permissible filming types. Filming intended to promote visits by tourists will also be permissible. While the Government would have been equally supportive of such definitions being included in the regulations, the provision of definitions in the bill will add certainty for filmmakers in this State.

The Hon. GREG PEARCE [8.36 p.m.]: The Opposition also supports the amendment. It is a very important part of what is being done in the bill that any filming in wilderness areas is strictly limited to educational, scientific and research purposes. Accordingly, we support the amendment.

Australian Democrats amendment No. 1 negatived.

Greens amendment No. 3 agreed to.

The CHAIRMAN: Order! Australian Democrats amendment No. 2 and Greens amendment No. 4 are also in conflict. They will be considered at the same time and debated in the order in which they are moved.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.37 p.m.]: I move Australian Democrats amendment No. 2:

No. 2 Page 4, clause 4 (6), lines 23–37. Omit all words on those lines. Insert instead:

(6) In determining what conditions should be imposed on a filming approval to carry out a filming activity in a designated area, the relevant Minister is to impose conditions on the approval to ensure the following:

(a) that the filming activity is carried out in a manner and at a location that minimises the impact on the natural and cultural heritage of the area and the public's enjoyment of the area,

(b) that existing roads, tracks, paths or other means of access to the area will be used by the approval holder wherever feasible,

(c) that the location in which the filming activity is to be carried out is the minimum area that is feasible for the carrying out of such an activity,

(d) that the period of time required to carry out the filming activity is limited to the shortest period that is feasible for the carrying out of the activity.

This amendment removes the ambiguity regarding the Minister's responsibility to impose consent conditions by establishing film approval conditions that the Minister is to impose on filming activities. This will ensure that impacts on the environment and park visitors are minimised. The amendment specifies that the Minister has to take a firm line in negotiating what can be done. It puts an obligation on the Minister to impose conditions to minimise any damage to the environment.

Mr IAN COHEN [8.38 p.m.]: I move Greens amendment No. 4:

No. 4 Page 4, clause 4 (6), lines 23-26. Omit all the words on those lines. Insert instead:

(6) In determining whether or not to grant a filming approval to carry out a filming activity in a designated area, the Minister is to be satisfied of the following matters (and is, if required for that purpose, to impose conditions on any filming approval granted to ensure that those matters are satisfied):

The amendment strengthens the discretionary nature of clause 4 (6) to ensure that the Minister is "to be satisfied" that these criteria are to be met before determining whether or not to issue a filming approval. The amendment is critical to limit the discretion of the Minister in granting a film approval and to ensure that the environmental impacts are minimised, as is required of all other users of national parks. I commend Greens amendment No. 4 to the Committee.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.39 p.m.]: The Government cannot support Australian Democrats No. 2. The requirement that the application of conditions be mandatory cannot be accepted. However, the current bill, as amended by the Greens amendment, is preferable because it adequately addresses various issues that must be considered by the Minister when deciding whether or not to impose conditions. These remarks apply in relation to Greens amendments Nos 4 and 5, which the Government can support. This issue was also raised by the Opposition in the other place. Amendment No. 4 will make the legislation consistent with provisions in the National Parks and Wildlife Amendment (Telecommunications Facilities) Act 2003. It strengthens environmental safeguards to ensure that the heritage values of national parks and reserves are protected. Greens amendment No. 5 will align the bill with the requirements of sections 69 and 86 of the Threatened Species Conservation Act—these are related—which state that the Minister or a public authority must not make any decisions that are inconsistent with an approved recovery plan or approved threat abatement plan. It will also require the Minister to be satisfied that the filming activity is consistent with an applicable policy from the Department of Environment and Conservation concerning filmmaking in national parks. As the Minister said in the other place, this policy will be reviewed in light of the passage of the legislation, in consultation with other stakeholders.

The Hon. GREG PEARCE [8.39 p.m.]: The Opposition will not support Australian Democrats amendment No. 2. We do not support conditions of a prescriptive nature. We will support Greens amendment No. 4. This issue was debated in the other place and, as the Minister said, was raised by the shadow Minister. The Minister has spoken to Greens amendment No. 5, and the Opposition will also support that amendment. Of course, filming activities should be consistent with the threatened species recovery plan and should comply with National Parks policy regarding filming.

Australian Democrats amendment No. 2 negatived.

Greens amendment No. 4 agreed to.

Mr IAN COHEN [8.41 p.m.]: I move Greens amendment No. 5:

No. 5 Page 4, clause 4 (6). Insert after line 37:

(e) that the filming activity is not inconsistent with any applicable threat abatement plan or recovery plan within the meaning of the *Threatened Species Conservation Act 1995*,

(f) that the filming activity complies with any applicable policy (if any) of the Department of Environment and Conservation concerning filming in designated areas,

(g) that the siting and timing of the filming activity, as far as is practicable, minimises the impact of the activity on the natural and cultural heritage values of the area and on the public enjoyment of the area,

(h) where the activity is to be carried out in a wilderness area within the meaning of the *National Parks and Wildlife Act 1974*—that the filming activity will be carried out by the minimum number of persons who could feasibly carry out such an activity.

I appreciate the comments by the Minister and the Hon. Greg Pearce on this amendment. This amendment adds four new items to the criteria that the Minister must have regard to as per Greens amendment No. 4. This is necessary because the Filming Approval Bill operates totally outside the scope of the National Parks and Wildlife Act, the Wilderness Act, and the Marine Parks Act. While the criteria does not offer the same protection as that legislation, they go some way towards improving the level of protection offered to national parks and marine parks when undertaking commercial filming. I commend the amendment to the Committee.

Amendment agreed to.

Clause 4 as amended agreed to.

Clause 5 agreed to.

Mr IAN COHEN [8.42 p.m.]: I move Greens amendment No. 6:

No. 6 Page 6. Insert after line 23:

7 Approval holder to comply with conditions of filming approval

An approval holder must comply with each condition of the holder's filming approval when carrying out the filming activity to which the approval relates.

Maximum penalty: $50,000 in the case of a corporation and $10,000 in any other case.

This amendment ensures that there are penalties for failing to comply with a filming approval. While the maximum penalties are not of the same magnitude as already provided for serious offences in a national park, they should offer a significant disincentive. I commend the amendment to the Committee.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.43 p.m.]: The Government supports Greens amendment No. 6.

The Hon. GREG PEARCE [8.43 p.m.]: The Opposition also supports Greens amendment No. 6. Under the Government's existing draft of the legislation there are no penalties attached to a breach of the Act. This is most likely a drafting error caused by the indecent haste with which this bill was prepared in order to stroke the Premier's ego.

Amendment agreed to.

Clause 6 as amended agreed to.

Clause 7 agreed to.

Mr IAN COHEN [8.44 p.m.]: I move Greens amendment No. 7:

No. 7 Page 7. Insert after line 1:

8 Restraint of contraventions of this Act

(1) In this section, ***contravention*** includes threatened or apprehended contravention.

(2) Any person may bring proceedings in the Land and Environment Court for an order to remedy or restrain a contravention of this Act (including a contravention of a filming approval), whether or not any right of that person has been or may be infringed by or as a consequence of that contravention.

(3) Proceedings under this section may be brought by a person on the person's own behalf or on behalf of that person and on behalf of other persons (with their consent), or a body corporate or unincorporate (with the consent of its committee or other controlling or governing body), having like or common interests in those proceedings.

(4) Proceedings under this section in relation to a contravention that affects the validity of a filming approval may only be brought within the period of 14 days after the date on which the approval was granted.

(5) Any person on whose behalf proceedings are brought is entitled to contribute to or provide for the payment of the legal costs and expenses incurred by the person bringing the proceedings.

(6) If the Court is satisfied that a contravention has occurred, or that a contravention will, unless restrained by order of the Court, be committed, it may make such order as it thinks fit to remedy or restrain the contravention.

(7) The Court may not make an order under subsection (6) to remedy or restrain a contravention of a condition of a filming approval in proceedings brought by a person (other than a person who brings the proceedings by or on behalf of the Crown) unless the Court is satisfied that:

(a) the Crown has decided not to take any remedial action in respect of the contravention within 30 days after the contravention, or

(b) the Crown has not made a decision on whether to take such action within 30 days after the contravention.

(8) For the purposes of subsection (7), ***remedial action*** is not limited to the institution of criminal proceedings, but includes action to require the person who committed the contravention to prevent, control, abate or mitigate any harm to the environment caused by the contravention or to prevent the continuance or recurrence of the contravention.

Greens amendment No. 7 ensures that specific approval and post-approval third party rights are maintained, for example, regarding a breach of an approval condition. It ensures that "any person" has the right to enforce an approval or post-approval breach. This is consistent with provisions in other New South Wales environmental legislation, particularly the National Parks and Wildlife Act. There is a limit of 14 days in which proceedings to challenge the lawfulness of an approval issued by the Minister can be commenced. While I do not think there is any need to place a limit on the time in which an action can be brought for an illegal approval—and think 14 days is too short—I proposed that period because the Government has indicated that it is willing to accept third party appeal rights only if this qualification is included. Environment groups originally proposed 28 days as a reasonable period.

Subclauses (7) and (8) in the amendment will also restrict the ability of third parties to act against a breach of approval conditions. Proceedings cannot begin until 30 days after an approval if the Government has not acted to remedy the breach. Again, I do not support this limitation but this qualification was imposed in order to secure Government support for third party rights. By comparison, third party appeal rights are unrestricted under the National Parks and Wildlife Act. I commend Greens amendment No. 7 to the Committee.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.46 p.m.]: I move Australian Democrats amendment No. 3:

No. 3 Page 7. Insert after line 1:

8 Restraint of contraventions of this Act

(1) In this section, ***contravention*** includes threatened or apprehended contravention.

(2) Any person may bring proceedings in the Land and Environment Court for an order to remedy or restrain a contravention of this Act (including a contravention of a filming approval), whether or not any right of that person has been or may be infringed by or as a consequence of that contravention.

(3) Proceedings under this section may be brought by a person on the person's own behalf or on behalf of that person and on behalf of other persons (with their consent), or a body corporate or unincorporate (with the consent of its committee or other controlling or governing body), having like or common interests in those proceedings.

(4) Proceedings under this section in relation to a contravention that affects the validity of a filming approval may only be brought within the period of 14 days after the date on which the approval was granted.

(5) Any person on whose behalf proceedings are brought is entitled to contribute to or provide for the payment of the legal costs and expenses incurred by the person bringing the proceedings.

(6) If the Court is satisfied that a contravention has occurred, or that a contravention will, unless restrained by order of the Court, be committed, it may make such order as it thinks fit to remedy or restrain the contravention.

This amendment is similar to Greens amendment No. 7 but it has two fewer subclauses. The purpose is to insert open standing provisions in the Act that allow any person who brings proceedings in the Land and Environment Court to restrain breaches of the Act. In relation to a contravention of the Act, if it affects the validity of an approval, proceedings may be brought only within a period of 14 days. That is a very short period. We would like a longer period but we are concerned that a prospective appellant must have more time to get a formal

notification of approval, details regarding the consent issued, as well as an expert legal opinion before making a decision about taking legal action. It is a very quick response time. However, in order to encourage support for the amendment and to allow film-makers to expedite their decision, I think 14 days is a reasonable period.

I seek an assurance from the Government that once approval is given it will notify the public and interested parties when that occurs so that those other parties may lodge an appeal if they consider it necessary or desirable. The idea is—I have no amendment to this effect, which is probably a fault—that this is necessary in order to have an appeal mechanism. If there is no appeal mechanism, all power will disappear from the Act except for the Minister's okay. This point is critical to the Act. According to the boilermaker's principle, the proponent should not be the arbiter. That is a traditional concept in law.

The law is made by the Parliament and it should not be overridden by the Minister, particularly in a hasty manner after an embarrassing gaffe by his department. That is the reason we are debating this legislation tonight. The Government is promoting the idea that a third party is a danger. That is not true. In the end we all have to live within the law and the courts must determine the law. That is the point of the principle of separation of powers, of the boilermakers decision, and of this amendment. The Greens amendment is a somewhat stronger version of the same concept. However, the basic issue is that if we accept the rule of law and the principle of separation of powers we must accept this amendment, which is extremely important.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.51 p.m.]: The Government is unable to support the Australian Democrats amendment; it prefers to support the Greens amendment, which deals with the same subject matter. The Australian Democrats amendment would allow any person to restrain a breach of a condition of a filming approval at any time. The Government believes that that would expose the film industry to excessive uncertainty. The Greens amendment will ensure that the Department of Environment and Conservation is, as the State's primary environmental regulator, responsible for restraining breaches of conditions. A third party would be able to restrain a breach of an approval only if the department decided not to or if 30 days had elapsed. For those reasons, the Government is unable to support the Australian Democrats amendment.

The suggestion made by some that the bill, in the form in which it was originally introduced, extinguishes all third party appeal rights is wrong. There always remained an appeal right under section 123 of the Environmental Planning and Assessment Act for a consent issued under that Act. The Government is prepared to accept the creation of a limited appeal right for an approval issued under this legislation. However, it is mindful of the Australian film industry's need for certainty. The last thing the film industry needs is to be endlessly tied up in courts fighting litigants about legal issues of little or no relevance.

However, the appeal right being proposed by the Greens in this amendment is narrower than the right that existed under the old filming approvals system in regulation 20 of the National Parks and Wildlife Regulations. For instance, under the old system, the ability to challenge the legality of a filming approval was unlimited. Under this amendment, it will be limited to 14 days. Under the old system, any person could, at any time, seek a court order to restrain a breach of a condition of a filming approval. Under this amendment, that right will arise only if the Department of Environment and Conservation fails to act, and even then, only after a period of up to 30 days has elapsed.

This is similar to the appeal right granted under section 219 of the Protection of the Environment Operations Act for pollution-related offences. In any event, the Department of Environment and Conservation would typically have field staff monitoring major filming activities in national parks and reserves to ensure that the conditions of the filming approval were being complied with. The Government accepts that the narrower appeal right outlined in this amendment appropriately balances the need for certainty for the film industry with the introduction of an appeal right for third parties.

The Hon. GREG PEARCE [8.55 p.m.]: The Coalition also supports the limited appeal rights set out in the Greens amendment. The only issue of some controversy is the 14-day period agreed to for the commencement of proceedings. That depends on the adoption of the Greens amendment relating to the register. Accordingly, the Opposition will also support that provision.

Reverend the Hon. FRED NILE [8.55 p.m.]: As I said in the second reading debate, the Christian Democrats have reservations about the third party appeal rights because of the need for certainty for film producers. Can the Minister tell the Committee whether they are happy with the Greens amendment that the Government is accepting? I would be surprised if they are. We are back to where we started in this debate. The Minister referred to appeal rights in other legislation.

The Hon. John Hatzistergos: It is narrower.

Reverend the Hon. FRED NILE: But the Minister has said that because there is a precedent he does not want to remove it altogether.

The Hon. John Hatzistergos: It is an appropriate balance.

Reverend the Hon. FRED NILE: We have come up against more militant opposition to film making in national parks in Australia, and the Government should take that into account.

Greens Amendment No. 7 agreed to.

Australian Democrats amendment No. 3 negatived.

Clause 7 as amended agreed to.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.57 p.m.]: I move Australian Democrats amendment No. 4:

No. 4 Page 7, clause 8, lines 2–8. Omit all the words on those lines. Insert instead:

8 Delegation

(1) The relevant Minister for a designated area may delegate the exercise of any function of the Minister under this Act or the regulations (other than this power of delegation or a wilderness area function) to:

(a) any member of staff of the Department of Environment and Conservation, or

(b) a board of management or trust board within the meaning of the *National Parks and Wildlife Act 1974*.

(2) In this section, ***wilderness area function*** of a relevant Minister means any function of the Minister under this Act or the regulations concerning the granting of a filming approval to carry out a filming activity in a designated area that forms part of a wilderness area within the meaning of the *National Parks and Wildlife Act 1974*.

This amendment removes the very broad delegation power in the bill. It will ensure a higher level of accountability by the Minister in the case of a significant function because approval can be delegated only to the relevant director-general. A significant function is defined as one in which a wilderness area is involved and, if an area outside a wilderness is involved, in which an environmental impact statement or a species impact statement is required. The bill provides that the Minister can effectively delegate that power to almost anyone regardless of his or her expertise. The person concerned does not even have to be from the appropriate department.

As I said in the second reading debate, the Minister will have almost absolute power in this area. Clause 4 (9) provides that the Minister will have almost unlimited power for approval. Of course, that is worrying. The Australian Democrats want to ensure that he delegates that power to someone with the relevant expertise. My amendment stipulates that it must be delegated to a member of the staff of the Department of Environment and Conservation or a member of a board of management or trust board within the meaning of the National Parks and Wildlife Act. Effectively, if the relevant area is an important wilderness area, the power must be given to someone with expertise in assessing the impact that filming is likely to have. Clearly, when the Minister has as much power as he is given in this bill, it must be delegated to someone who has the knowledge to make a sensible decision. This amendment ensures that.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.59 p.m.]: The Government cannot support this amendment. Delegation for filming approvals within the Department of Environment and Conservation and the Marine Parks Authority is not a legislative matter. Operational elements of the implementation of this legislation will be dealt with through the Department of Environment and Conservation's filming and photography policy. The Greens amendment to the delegation provisions are supported in preference to this amendment. The amendment proposed by the Hon. Dr Arthur Chesterfield-Evans will also prevent the delegation of functions within a wilderness area, and will require the Minister to exercise those functions. This would result in potentially significant delays for what would otherwise be relatively simple and clear-cut approvals, more appropriately dealt with by officers of the Department of Environment and Conservation. For that reason, the Government is unable to support the amendment. As I have indicated, the Government will support Greens amendment No. 8.

The Hon. GREG PEARCE [9.00 p.m.]: For similar reasons the Opposition is not prepared to support Australian Democrats amendment in relation to delegations but it will support the more limited descriptive amendments in Greens amendment No. 8.

Mr IAN COHEN [9.00 p.m.]: I move Greens amendment No. 8:

No. 8 Page 7, clause 8, lines 6–8. Omit all the words on those lines. Insert instead:

(a) any member of staff of the Department of Environment and Conservation, or

(b) a board of management or trust board within the meaning of the *National Parks and Wildlife Act 1974*.

This amendment modifies the provision that allows the Minister to delegate approval to any person or department. Instead, the amendment ensures that the Minister can only delegate to officers within the Department of Environment and Conservation or to trusts and boards under the National Parks and Wildlife Act, such as the board for Aboriginal-owned Mutawinji National Park. I commend the amendment to the Committee.

Australian Democrats amendment No. 4 negatived.

Greens amendment No. 8 agreed to.

Clause 8 as amended agreed to.

Mr IAN COHEN [9.02 p.m.]: I move Greens amendment No. 9:

No. 9 Page 7. Insert after line 8:

9 Register of filming approvals to be publicly available

(1) The Director-General of the Department of Environment and Conservation is to cause information on filming approvals granted under this Act:

(a) to be recorded in a register that is to be kept in the head office of the Department and made available to the public, free of charge, during ordinary office hours, and

(b) to be placed on the Department's website.

(2) Information to be included on the register and website is to include the following:

(a) the name of each person to whom any filming approval has been granted,

(b) the designated area to which the filming approval relates,

(c) the purpose for which the filming approval has been granted,

(d) information as to the terms and conditions of the filming approval, except information that the Director-General would be prevented from disclosing by the *Freedom of Information Act 1989* or the *Privacy and Personal Information Protection Act 1998*.

This amendment provides for a public register of filming approvals. The nature of the register is the same as already provided for most leases and some licences under the National Parks and Wildlife Act. This allows the public to access the full details of a finalised film approval, subject to privacy issues and matters that freedom of information would normally not permit to be disclosed. I commend Greens amendment No. 9 to the Committee.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.02 p.m.]: This is an extremely important amendment to which I alluded when I moved Australian Democrats amendment No. 3. If there is only 14 days for any action to be taken by a third party it is necessary for them to be informed promptly. I ask the Minister to give an assurance that interested parties could be notified by some sort of email system which would relate to the approval process so that they could make a sensible decision without knowing that if they missed watching the web site one day they could be disadvantaged, and with electronic communications it is highly technically feasible.

Reverend the Hon. Fred Nile: If you have all the protest groups listed.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: We are going to succeed by stealth, is that the point of the interjection? We do not want them to know. We have secret approvals and that is the way we run our country, do we? Would the Minister answer the point I have made?

The Hon. GREG PEARCE [9.04 p.m.]: I have already indicated that the Opposition supports this amendment. The concern that has been expressed is the issue of 14 days for commencing appeals, to which the Hon. Dr Arthur Chesterfield-Evans has referred. I note that he sought an undertaking from the Minister that the information will be posted on the web site in an appropriate time frame to allow people to exercise their right of appeal if they wish to do so.

Greens amendment No. 9 agreed to.

The Hon. JON JENKINS [9.04 p.m.]: I move Outdoor Recreation Party amendment No. 1:

Page 7. Insert after line 19:

10 Fees for filming approvals in certain designated areas

(1) Any fee payable under this Act in respect of the making, or determination, of an application for a filming approval in respect of a designated area other than an area that forms part of a marine park (within the meaning of the *Marine Park Act 1997*) is to be paid into the National Parks and Wildlife Fund referred to in section 137 of the *National Parks and Wildlife Act 1974*.

(2) The relevant Minister for the designated area concerned is to ensure that an amount equal to the amount of any payment made to the Fund under subsection (1) in relation to a filming approval in respect of the designated area is expended in that area for the protection of native animals and birds using that area as their habitat from the effects of feral animals and noxious weeds, including but not limited to:

(a) the eradication and control of feral animals, and

(b) the eradication and control of noxious weeds.

This is an important matter. Unlike trees, we cannot store a single seed, let alone the whole genetic and biodiversity of a spectrum of our native animals and birds. The point is that animals cannot be placed in a seed bank or preserved in culture to be regrown at some future time as can plants. Further, we cannot store the biodiversity of a large population for animals as we can for seeds. That is an important point. In a single hand I can hold the whole, or the vast majority of the biodiversity of a whole, forest species by virtue of the seeds' capability to store information. The longevity of the seeds' viability means that I may be able to store that biodiversity for possibly thousands of years. No such possibility exists for our native animals: just like the thylacine or Tasmanian tiger, once they are gone they are gone forever!

It is acknowledged that we are losing animal species at one of the greatest rates in the history of the earth. I say again: once our native animals are gone they are gone forever. From my point of view it is absolutely imperative that we save our native animals and birds by any means possible. This is not a matter of mutual exclusion; rather, it is a prioritisation of the limited resources available to the National Parks and Wildlife Service. There seems to be a common myth that habitat loss is the most dangerous threat to our native species. That is a lie. People do not realise that more than 36 per cent of the coast of New South Wales is now preserved in national parks and wilderness. I will say that again: 36 per cent of the coastal plain of New South Wales is tied up in national parks and wilderness areas.

The constant bleating about loss of habitat in the rich coastal areas—it is not true out west—is a furphy. The single biggest threat to our native animals is wildfires, such as those in Kosciuszko recently. These wildfires kill millions of native animals in a very short time. Please do not argue that the Australian bush and animals are adapted to fire. Nothing is adapted to fuel loads in excess of 50 tonnes per hectare. That is now commonplace in our national parks and wilderness areas. Where are the protesters demanding proper fuel load reduction strategies? The second biggest threat to native animals is feral predators. The facts on native animal kills are overwhelming. We need to keep our animals alive for at least a few hundred generations, a couple of hundred years, until we develop biological controls and/or they develop genetic and/or behavioural modifications which allow them to survive the onslaught of the feral predators for which they have no natural defences.

The simple fact is that the onslaught of feral predators has not yet reached its climax. It was only in the 1950s and the 1960s that the threat posed by foxes and cats became well known. The second problem is that the extremists make a further erroneous assumption that the current threats are the only ones we have to deal with. That is a false and very dangerous assumption. We know of other predators at least as deadly, and perhaps even more so. A prime animal example already is the new blue snapping turtle and mesquite as a plant example. Where are the so-called Greens chaining themselves to the gates of Parliament demanding proper management of fuel loads, feral control and weed management? Their absence is very revealing. We have to develop both

processes and infrastructure, including volunteer community assistance, to protect our national parks and wilderness areas.

The priority is not to close tracks and build gates to keep people out, but to protect our native animals and birds from both current and any future threats. To manage 36 per cent of the New South Wales coastline we will need thousands of people. What is most infuriating is the refusal to accept assistance from a variety of community groups in this essential task for purely ideological reasons. In other words, some people would rather see our national parks and wilderness areas devoid of native animals and birds, so long as there are no people or four-wheel drive vehicles present. This is why many scientists have coined the phrase, "The greatest danger to conservation is conservationists"!

Let me be specific about feral predation in this wilderness. The exact feral fox and cat figures for the Grose Wilderness are not known, although I have asked the Minister to provide any figures the department has. A timely article in yesterday's *Daily Telegraph* reported that 170 foxes were shot over two days on only 3,000 hectares of harvested farmland. According to figures produced by the National Parks and Wildlife Service, there are approximately 0.9 foxes per hectare and approximately two feral cats per hectare. These figures are averaged from other escarpment parks, for which only some figures are known.

These figures, combined with the knowledge that a feral cat takes between 300 and 500 native animals or birds per year and a fox takes between 500 and 1,000 native animals per year, demonstrate a kill rate of somewhere between 870 and 1,900 native animals per hectare per year. Therefore a reasonable estimate is that somewhere between 4,200,000 and 52,000,000 native animals were killed per year in the 60,000-hectare Grose Wilderness area. Assuming it costs between $50 and $100 to take out a federal predator, the fee for the filming of *Stealth* would have saved somewhere between 120,000 and 300,000 native animals this and every subsequent year.

The number of native animals that could have been saved if this money had been put towards fuel reduction is incalculable. Most of us see the wonderful national parks and wilderness areas that have been set aside in this State, but very few of us see how they become a killing field for native animals at night. In the area where I live the quoll is almost extinct, and yet the National Parks and Wildlife Service does nothing except build more gates to keep people out. We desperately need money and people to alleviate this problem. A tiny percentage of the billions of dollars the film industry makes could be used to preserve our native animals and birds by any means possible. This means helping private landowners to trap, poison, shoot or otherwise eradicate any feral animal on their property. It also means a whole volunteer community of people keeping the numbers of feral animals and noxious weeds in abeyance in our national parks and wilderness areas for as long as it takes. We will never get rid of feral animals and noxious weeds, but we need to keep their numbers down.

Many of society's major infrastructure projects are supported by volunteer services. Those services include the Metropolitan Fire Brigade, the Rural Fire Service, the Ambulance Service, the St Johns Ambulance Service, the Red Cross, the Police Rescue Service, the Volunteer Rescue Association, and State Emergency Services. Therefore, it cannot be argued that our community cannot be involved in this process. My amendment is solely dedicated to ensure that any fees or levies obtained in respect of approvals given under the amendment are directed back to the national parks and wildlife system. We are all aware of the recent cuts to the department's funding and the effect this may have on the maintenance and preservation of our national parks. Any fees obtained under the amendment could help offset that loss.

I have already spoken at length about the problems of feral animals in our national parks and wilderness areas. The problem is almost untreated because it has simply been put in the too-hard basket. On the one hand we have pantheistic ideologists screaming for the evil defilers to leave the sacred temple, and on the other we have a pragmatic scientist trying to resolve the serious threats to our native wildlife and birds. The amendment seeks to do two things. First, it seeks to ensure that any fees or levies obtained under the amendment do not disappear into consolidated revenue but, rather, are directed specifically towards the management and preservation of the national park or wilderness area. Second, it seeks to ensure that where practical those fees and levies are directed towards the specific task of managing the problem of feral animals and their impact upon our native wildlife. I commend the amendment to the Committee.

Mr IAN COHEN [9.14 p.m.]: I move Greens amendment No. 10:

No. 10 Page 7. Insert after line 19:

10 Nature of proceedings for offences

Proceedings for an offence under this Act may be dealt with summarily before the Land and Environment Court.

Greens amendment No. 10 allows proceedings to be brought in the Land and Environment Court, and I commend it to the Committee. The Greens support in principle the first part of the Outdoor Recreation Party amendment, which requires the payment into the National Parks and Wildlife Fund of all money received for filming application. This oversight in the bill was raised with the Government by environmental representatives, and in response the Government has moved a separate amendment that has the same effect. Thus, the first part of the Outdoor Recreation Party amendment is not necessary.

The Greens do not support the second part of the Outdoor Recreation Party amendment. The Greens agree with the Outdoor Recreation Party that the Government should spend more money on managing national parks for activities such as the control of invasive species like weeds and feral animals. However, we do not think this should be funded by filmmakers using our national parks. The Hon. Jon Jenkins does not seem to understand that people perceive these issues differently. The evocative terms he uses in his explanation and his accusations are weird and extreme, perhaps more so than the Greens themselves. I find that interesting. Indeed, it gives me a better understanding of the frustrations of other members when I make contributions in this House.

The Hon. Jon Jenkins: I gave the numbers.

Mr IAN COHEN: I will not even bother with the numbers; they are unsubstantiated. The Hon. Jon Jenkins waffles on about numbers, yet he has no proof of them whatsoever. The Greens have long been concerned about the massive problem with feral animals.

The Hon. Jon Jenkins: Give me the numbers.

Mr IAN COHEN: Like your presence in this House, the numbers are irrelevant. Like your very presence here—

The Hon. Jon Jenkins: Point of order: My point of order relates to personal vilification. I ask Mr Ian Cohen to withdraw his comment.

The CHAIRMAN: Order! I understand that the point of order has been withdrawn. Mr Ian Cohen may proceed.

Mr IAN COHEN: The Greens have long been concerned about feral animal invasion. The problem here is something quite different, but I would not expect it to be understood by members of this place who do not have a real passion about the issue. Next year's budget for the Department of Environment and Conservation is to be cut by $30 million. More than 300 jobs will be lost. This will mean fewer resources for feral animal and weed control programs, fire management, threatened species recovery programs, rangers to oversee visitor use, and all the other things that we legitimately expect from our national parks system. The Carr Government is losing any semblance of environmental credibility for this, and the fees from commercial filming in national parks will not get the Government out of that hole.

[*Interruption*]

Reverend the Hon. Fred Nile's solution to the problem is to make hundreds of films. I just hope he does not live to see the opening of our national park estate to lewd—or even what he might consider to be pornographic—films being made in these natural environments, to fund the projects that he is so keen to see occur.

The Hon. Duncan Gay: It will be the Grose Valley.

Mr IAN COHEN: It will be the Grose Valley, indeed. The Greens do not want core management activities to be funded by commercial activities such as filming. The funding must come from consolidated revenue. Otherwise, Treasury will further reduce core funding and further drive commercial exploitation as the only way parks will be able to generate funds. We are already starting to go down this path. The funds collected from filming should stay within the Department of Environment and Conservation. The funds are needed to offset the administrative costs of overseeing the filming approval application process and the costs of ranger supervision of filming. Some of the revenue should also support the management of the area used, but the discretion in spending should lie with the regional manager. For those reasons the Greens do not support the Outdoor Recreation Party amendment.

The Hon. JON JENKINS [9.18 p.m.]: I reiterate that the number of native animals and birds taken was not disputed. I reject the ideology about films not being able to help our national parks and wildlife areas. It does not involve science or pragmatic management; it is simply ideology. I implore members to seriously consider my amendment.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.19 p.m.]: The Government is sympathetic with Outdoor Recreation Party amendment No. 1, but is unable to support it. Any fees payable for filming applications and approvals should be paid into the National Parks and Wildlife Fund and be applied for park management purposes across New South Wales. This includes, but is not limited to, the eradication of feral animals and noxious weeds. However, funds should also be able to be used to recoup the costs of assessing filming applications and supervising any filming on parks. It should be noted that, in addition to the payment of fees, the filming industry often provides in-kind support to park management, such as rebuilding tracks and assisting with revegetation programs.

On funding for pest control generally in national parks, I am advised that this financial year National Parks will spend around $17 million on feral animal eradication and weed control. This is a significant amount, and compares well to the paltry amount allocated by the former Coalition Government. Between 1991 and 1995, when the Coalition was in power, it allocated only $4.2 million. In other words, the Government is spending around 17 times more than the former Coalition Government on feral animal and weed control in national parks. Greens amendment No. 10 is consistent with the National Parks and Wildlife Act 1974, and for that reason the Government is able to support it.

The Hon. GREG PEARCE [9.21 p.m.]: Greens amendment No. 10—although we are treating these amendments as being in conflict—actually relates to the jurisdiction for—

The CHAIRMAN: Order! The honourable member is correct. The Clerks advise me that they are not in conflict.

The Hon. GREG PEARCE: The Opposition will support Greens amendment No. 10, which relates to the court proceedings. In relation to the Outdoor Recreation Party amendment, the Opposition supports the normal arrangement, which is that any funds raised should go to the National Parks and Wildlife Fund, to be used across the various areas of expenditure outlined by the Minister. It is unfortunate that the Minister chose to make such a gratuitous attack on the previous Government in relation to the amount of money being spent in the environment area, when under the Government's mini-budget the Treasurer has announced a $30 million cut, or about a tenth, in funding to the Department of the Environment and Conservation.

Mr Ian Cohen: You would not do that, would you?

The Hon. GREG PEARCE: That is the context in which we are considering the amendments. To round that out, I note that Government amendments Nos 1 and 2, which relate to the raising of fees, were inadvertently missed, and the Opposition will not oppose the recommittal of the relevant clauses.

Outdoor Recreation Party amendment No. 1 negatived.

Greens amendment No. 10 agreed to.

Clause 9 as amended agreed to.

Clause 10 agreed to.

Mr IAN COHEN [9.22 p.m.], by leave: I move Greens amendments Nos 11, 12 and 13 in globo:

No. 11 Page 7, clause 11 (1), line 24. Omit "Minister". Insert instead "Auditor-General".

No. 12 Page 7, clause 11 (2), line 28. Omit "5 years". Insert instead "2 years".

No. 13 Page 7, clause 11 (3), line 31. Omit "5 years". Insert instead "2 years".

These amendments give the Auditor-General, rather than the Minister, the responsibility for reviewing the Act, and require that this be started after two years from the date of assent to the Act. They will ensure that the review is truly independent. It is not appropriate that the agency administering the legislation review the legislation. The amendment eliminates the risk that the review could be biased. Starting the review after two years is more appropriate for a short bill, such as the Filming Approval Bill. I commend the amendments.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.23 p.m.]: With the greatest respect to Mr Ian Cohen, five-yearly reviews are a standard statutory requirement for legislative review. They are almost invariably conducted by the Minister. Rarely, if ever, have I

noted that the Auditor-General has been empowered to carry out this function. Having said that it is conducted by the Minister, I remind the member that the standard approach is for the Minister to actually appoint someone to conduct the review, and for that review to be tabled. I have done that in my own portfolio. I will be doing so later this year in relation to a review, which referred to "the Minister". The independence, of course, is reflected in the appointment. So I think the concerns, with the greatest respect to Mr Ian Cohen, are somewhat misconceived. For that reason, the Government is unable to support the amendments.

The Hon. GREG PEARCE [9.24 p.m.]: Whilst the Opposition finds many of the Auditor-General's reports—particularly those regarding this Government's lack of performance, mismanagement and waste—very useful, it is certainly not appropriate, in the context of this bill, to have that sort of review. Accordingly, the Opposition will not be supporting the amendments.

Amendments negatived.

Clause 11 agreed to.

Schedule 1 agreed to.

Title agreed to.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.25 p.m.]: I move:

That the Chairman of Committees do now leave the chair and report the bill to the House with amendments.

Amendment by the Hon. Peter Primrose agreed to:

That the question be amended by omitting all words after "That" and inserting instead "the Committee reconsider clauses 4 and 8."

Motion as amended agreed to.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.26 p.m.], by leave: I move Government amendments Nos 1 and 2 in globo:

No. 1 Page 5, clause 4. Insert after line 4:

(8) Subject to the regulations, a relevant Minister may approve fees from time to time for either or both of the following:

(a) the making of applications for filming approvals in designated areas for which the Minister is the relevant Minister,

(b) the granting of filming approvals to carry out filming activities in designated areas for which the Minister is the relevant Minister.

(9) A relevant Minister for a designated area may not:

(a) determine any application for a filming approval to carry out a filming activity in the area unless the fee (if any) approved under subsection (8) (a) for the application is paid by the applicant to the Minister, or

(b) grant a filming approval to carry out a filming activity in the area unless the fee (if any) approved under subsection (8) (b) for the grant is paid by the applicant to the Minister.

No. 2 Page 7. Insert after line 1:

8 Fees to be paid into National Parks and Wildlife Fund

Any fee paid under this Act is to be paid into the Fund within the meaning of the *National Parks and Wildlife Act 1974*.

Government amendment No. 1 enables the Minister to approve fees for the making of applications for filming in national parks, marine parks and other reserves, and for the granting of film approvals. The Minister may not determine an application or grant a filming approval until such fees are paid. Fees will be applied for park management purposes across New South Wales. Funds will also be used to recoup the costs of assessing filming applications and supervising any filming on the park. It should be noted that in addition to the payment of fees,

the film industry often provides in-kind support to park management, such as rebuilding tracks and assisting with revegetation programs. The requirement to seek fees for filming in national parks and marine parks is consistent with arrangements for charging for other commercial activities on parks, such as the conduct of commercial guided tours and the hire of facilities for functions such as weddings.

Government amendment No. 2 ensures that any fees payable for filming applications and approvals are paid into the National Parks and Wildlife Fund established under the National Parks and Wildlife Act 1974 and are available for park management purposes across New South Wales. Moneys paid into the National Parks and Wildlife Fund must be spent on purposes consistent with the National Parks and Wildlife Act. Revenue from sources such as these enhances the capacity for the Department of Environment and Conservation to manage the reserve system to conserve its unique natural and cultural values. Areas where revenue from film making activities might be spent include weed control, feral animal control, enhancement of visitor facilities, fire management and park management generally.

Mr IAN COHEN [9.28 p.m.]: I support Government amendments Nos 1 and 2. Regarding Government amendment No. 1, as it stands the bill only allows fees to be specified in the regulations. This reflects on the hasty drafting of this bill, a matter to which I have already referred. This explicit provision to allow the setting of fees and provide some details on how these powers operate is supported. I seek clarification from the Government that the bill will allow for the lodging of a bond by a film production company before filming starts, as was required by *Stealth* and other large films in the past. The Greens also support Government amendment No. 2. It appears to be an oversight of the bill that funds would be paid straight into consolidated revenue, unlike fees paid under the National Parks and Wildlife Act. Environment group representatives pointed out this problem to the Government, and this anomaly is now being rectified. The amendment ensures that Treasury cannot keep the income from filming and spend it on purposes that have nothing to do with national park or other matters under the National Parks and Wildlife Act. I support both Government amendments.

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.29 p.m.]: In response to the specific issue on which the honourable member sought clarification, I am able to respond in the affirmative.

Amendments agreed to.

Reconsidered clauses 4 and 8 as amended agreed to.

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

SPECIAL ADJOURNMENT

Motion by the Hon. John Hatzistergos agreed to:

That this House at its rising today do adjourn until Tuesday 22 June 2004 at 10.30 a.m.

ADJOURNMENT

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [9.33 p.m.]: I move:

That this House do now adjourn.

AUSTRALIAN DEFENCE FORCE MEDAL

Reverend the Hon. FRED NILE [9.33 p.m.]: I wish to draw the attention of the House to a matter that concerns justice and equity for members of the Australian Defence Force. An organisation has been formed called the New Medal Group, which I support. This group considers that the period of commitment by members of our Australian Defence Force should be recognised by a medal. This is based on the premise that individuals who commit themselves to defend the country do so with the highest patriotic motives in mind. They know they could be called on in time of war and other emergencies to lay down their lives, and the medal sought is not for service in the sense of long service or overseas service but more for those individuals who have made a commitment to serve the nation.

At present, unless a member of the defence force serves overseas in an area for which a medal is awarded, the first chance of a medal being awarded is after 15 years service, if the member serves that long. On

checking the service records, the average length of service in the Australian Defence Force is less than eight years, which means that members of the Australian Defence Force who do not go overseas never receive a medal to indicate that they have served our nation. The RSL National Congress of September 2003, and I understand its recent congress of 2004, resolved that the league recommends that the Federal Government introduce a defence force medal for all persons who have served in the defence force, both past and present. This is to include reserve forces.

A qualifying period of two years service, not necessarily continuous, is accepted as the minimum requirement. The Federal Government may decide to make the period of service longer than two years, but that is the minimum recommended length of service. Two groups would benefit from this medal: previous members of the Australian Defence Force who have served since 1 January 1946 and current serving and future members of the Australian Defence Force. One may wonder: How can there be members who have served in the Australian Defence Force who never receive a medal? I will indicate some of the categories.

Two friends joined the Navy. One was posted to a ship and, as a result of his service, received the four medals for service in Korea and those for the Malayan campaign. After serving for nine years, he was discharged with those four medals. His friend also joined up for the same period, but he was posted to Australian shore establishments. Although he was eager to serve overseas, he did not go or he was not sent. He left the Royal Australian Navy at the same time as his mate, but he has no medal to recognise his service in the Australian defence force. People in this category are embarrassed at an Anzac Day march or other service activity. They have no medal so they do not take part. They are concerned that people will see that they do not have a medal and will wonder why they are involved.

Another group disadvantaged by decisions of the Federal Government are those who served in the Royal Australian Air Force as members of the Australian permanent force. During the early 1990s the Government reduced RAAF numbers by many thousands by making redundant nearly 9,000 members of the Royal Australian Air Force. Many of those members would have served for 15 years, given the opportunity. As a result, thousands of members of the Royal Australian Air Force have never received any medal of recognition. That group has also expressed their embarrassment at having no medal to show that they served in the Australian defence force.

Another group that has been disadvantaged is those who were injured and discharged as a result of their injuries and consequently were unable to serve for 15 years. As a matter of justice these people should receive a medal of recognition. As honourable members well know, many women who served were not allowed to go overseas and therefore did not receive a medal in recognition of their service. I hope the Federal Government gives this matter close attention to devise and issue such a medal to the many thousands of men and women who deserve them.

PLAY FAIR AT THE OLYMPICS CAMPAIGN

The Hon. IAN WEST [9.38 p.m.]: With the Olympic Games due to be held in Athens in August it is timely to ensure that everyone involved is aware of how and where their clothes and shoes are made. With appropriate awareness, participants in the Olympics can wear tracksuits and other clothing that is made according to decent International Labour Organisation standards, as would fit the Olympic ideal. That is the aim of Australian bodies, such as Oxfam-Community Aid Abroad, the Australian Council of Trade Unions, Fair Wear, the Textile Clothing and Footwear Union and unions and workers rights campaigners around the world. The big label companies involved in supplying equipment and accessories to Olympians include Nike, Reebok, Asics, Umbro, Puma, Fila, Lotto, Kappa and Mizuno, to name but a few global giants of the trade.

Garment workers often work for these companies under exploitative contracts in the most indecent conditions. All the campaigners are asking is that these companies comply with international labour laws and decent codes of conduct. As Oxfam says, this would not have a significant effect on costs since labour represents less than 2 per cent of the retail price of a garment sold in developed countries, such as Australia. It is unacceptable to expect athletes to strive for achievement under the Olympic ideals when the clothing and shoes they wear are made in conditions contrary to the fair play spirit of those ideals. The challenge is issued to the International Olympic Committee and the national Olympic committees of each competing nation to ensure that sponsors and licence holders who manufacture garments and footwear do so within the spirit of the Olympics in a competitive but fair manner.

The conditions of garment workers in developing countries are appalling, and they are not much better in Australia. What is worse is that millions of these workers are denied the right to organise and collectively

bargain, under threat of dismissal, withdrawal of pay, or worse. In many developing nations, such as Cambodia, Thailand and Sri Lanka, garment workers, most of whom are women, earn as little as 30¢ Australian an hour to sew four shirts a minute, and others receive $A3 a day to make running shoes that sell for $120 a pair.

There is also little job security in these situations, often obligatory unpaid overtime, appalling working conditions of dark, crowded and overheated rooms, and sometimes slave quarters for the workers where three women might share a room the size of a bathroom for sleeping and eating. Unfortunately, the situation in Australia is also problematic, with most garments carrying the Made in Australia label being made by some outworkers for as little as $2 to $3 an hour, up to 18 hours a day.

It is estimated that there are 300,000 garment outworkers in Australia, most of them migrant women. The Behind the Label initiative, launched by the New South Wales Government in 2002, is trying to combat this situation. Also campaigning in this regard is Fair Wear Australia, the coalition of unions and community organisations, including churches. Once again, the Textile, Clothing and Footwear Union of Australia [TCFUA] is involved in the campaign. The No Sweat Shop label is applied to those companies that have signed the Homeworkers Code of Practice, which is policed by the TCFUA and various business groups.

These are definite positive steps forward and have great relevance to the developing world, as well as Australia. Last month the American clothing label Gap released a frank report conceding that working conditions in many of the 3,000 factories around the world that make Gap clothing are completely unsatisfactory. The report detailed a number of work force violations in developing country factories making Gap clothing and gave details of the situation in the factories vying to win Gap contracts. This admission is welcome, although it should not be seen as an exemption from guilt. Companies such as Gap must be forced to ensure that their workers are employed in acceptable conditions in accordance with the codes of conduct they have signed yet invariably fail to enforce.

It is encouraging that in Australia there is a campaign to get top fashion designers to sign the Homeworkers Code of Practice. This simple step could gain much credit for designers who show human decency towards the workers who make their clothes, and that should be encouraged. No doubt enforcing this will be a big issue. It is increasingly common for responsible consumer behaviour to invest in and consume products that are made on a socially responsible basis under decent conditions. [*Time expired.*]

COMMERCIAL FISHING INDUSTRY

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [9.43 p.m.]: Tonight I raise a number of issues facing the New South Wales commercial fishing industry. These concerns were brought to my attention during a tour of the Northern Tablelands at a public meeting at the Wallengra Hall by the parent of a Western Australian prawn farmer, of all things. These concerns are also contained in the prawn producers discussion paper entitled "Seafood and Free trade: Trying to Redress the Imbalance". The very clear message was conveyed to me at the Wallengra public meeting that a crisis has erupted whereby good fishing and aquaculture businesses are being forced to the wall. According to Western Australian fishermen this has been the consequence of the imported exotic vannamei prawn species and use of antibiotics by the Asian seafood industry on our domestic seafood industry.

The Hon. Amanda Fazio: It is shameful.

The Hon. DUNCAN GAY: I agree. Through my additional research on the issue I believe this is a sentiment that is generally shared amongst the New South Wales commercial prawn trawling industry. Since the vannamei prawn was smuggled into Asia against the wishes of the Thai Government production has exploded. According to an article that appeared in the *Sydney Morning Herald* on 22 May 2002, production of the vannamei prawn rose to 27 per cent, and in 2003 it was 38 per cent of the Asian production. According to the Australian Bureau of Statistics, prawn imports have surged by more than 50 per cent so far this financial year. Australian retail chains are making a killing as a result. Sadly, they are taking advantage of lax labelling controls to sell the vannamei prawn without correctly classifying it as an imported product. In the months leading up to Christmas last year more than five million kilograms were imported into Australia.

The Hon. Amanda Fazio: It is the cockroach of the sea.

The Hon. DUNCAN GAY: I acknowledge the interjection and agree with it. Although Australian consumers have welcomed these cheap imported prawns, this practice has been met with contempt by our local

prawn trawling industry, and for fairly good reason. The vannamei prawn is considered by many in the Australian prawn trawling industry to be a pest. It is often referred to as the cockroach of the sea, as the Hon. Amanda Fazio said, due to its prolific nature and the possible damage it causes to the ecology of Pacific marine and estuarine regions.

It should come as no surprise to honourable members that of greatest concern to the industry is the economic impact of those prawns. According to North Coast commercial fishermen, the price for wild-caught Clarence River school prawns has slumped by 50 per cent this year. The imported stock that is coming through is far too cheap for domestic industry to compete with. Apparently, the vannamei prawn, which sells for approximately $7 per kilogram, is the worst offender. Price is not the only concern raised in regard to the vannamei prawn. The use of antibiotics in the Asian seafood industry is prolific. According to an article published in the *Sydney Morning Herald* on 22 May, testing for a single class of antibiotics, nitrofurans, began in December in Australia. Seven out of 109 consignments were rejected because of contamination.

Although Food Standards Australia and New Zealand [FSANZ] maintains that antibiotics do not pose a risk to human health, the contamination is evidence of lax production methods in Asia. The same article states that the use of antibiotics in Asia is so prolific that the CSIRO has been asked to help cover up their use. According to the CSIRO, simple water treatment, which is standard practice in any Australian hatchery, negates the need for any antibiotics. The combined effects of the use of antibiotics by the Asian seafood industry and vannamei prawns flooding the Australian market is causing significant problems for the Australian prawn trawling industry.

A point made by the father of the Western Australian prawn farmer in regard to trade policy was that New South Wales seafood producers, and primary producers at large, are generally supportive of free trade because broadly it delivers lower prices for consumers, increases our access to overseas markets and our ability to increase our export income. However, in the case of the seafood industry, free trade has not correlated with fair trade. In New South Wales, our commercial seafood producers operate in an industry that is highly regulated and subject to strict environmental standards.

While such stringent controls are necessary to preserve the sustainability of our environment and fisheries resources, the rising operating and compliance costs faced by the industry have made it difficult for Australian producers to compete with countries that are not subject to strict regulations. In his paper entitled "Seafood and Free Trade—Trying to redress the imbalance" the Western Australian prawn producer advocates that a means of redressing this imbalance is to ensure adequate labelling of seafood at the point of sale. The Australian prawn industry's market research shows that Australian consumers have a strong preference for buying seafood that meets three criteria of quality, value and environmental sustainability. [*Time expired.*]

PORT STEPHENS ELECTORATE POLICING

The Hon. ROBYN PARKER [9.48 p.m.]: It has taken a public meeting on crime in the Tilligerry Peninsula attended by over 400 people, who headed out on a cold Monday night to express their opinions on crime and policing issues in their area, to reignite the policing and crime debate in Port Stephens. I congratulate the residents of Tilligerry on their dedication and determination to show the State Government that they want action. One has to ask, though, why it has been necessary for residents to take it upon themselves to do that when their local member claims to be continuing to work on crime and policing in Port Stephens, as he claimed in the other place this week. Only one police patrol car per night covers Raymond Terrace, Tea Gardens, Tilligerry Peninsula and Nelson Bay. That means that one police car covers 979 square kilometres and 61,000 residents.

Residents who are not confident that their calls for police assistance will be answered, or who know that their calls will be put through to Maitland or even to Sydney, will stop reporting crime. People are not phoning the police because there is either no response, little response or an inappropriate response as a result of police resources being spread too thinly. There is no change to local crime figures as a result. No problem seen; no solution needed. What happens when offenders know that police will not arrive for hours, if at all? Port Stephens residents know that there are people out of control on Saturday nights, terrorising neighbourhoods, and there is little chance of getting any action.

Port Stephens residents deserve better than their local member spouting Government rhetoric, claiming that 1,000 extra police had been employed in recent years. Mr Bartlett even admits that this does not solve the problem. He has to decide whether he truly represents the people of Port Stephens or whether he is, as I have

said before, just another one of Bob Carr's men. At the recent crime forum in Port Stephens Mr Bartlett told residents that they should be shouldering some of the responsibility for the youth crime that is growing in the area. Not surprisingly, telling residents that they should be protecting themselves because the Government cannot provide the police numbers did not go down well with the 400-plus residents, who care enough about their community and share the concerns of their community to attend a meeting on a Monday night.

While Mr Bartlett is encouraging residents to shoulder some of the responsibility for the youth crime, Mr Eric Hixon, who runs the Oyster Shack on Lemon Tree Passage Road, a business that has been attacked five times since December, took to standing outside his smashed shop window at 2.45 a.m. with a pick handle in his hand. Mr Hixon was later warned by police not to take the law into his own hands. The problem is not isolated to Lemon Tree Passage. Residents of Anna Bay and Fingal Bay are feeling like prisoners in their own homes as eggs are thrown at their homes or they awake to find the windscreens on their cars smashed or their letter boxes ripped out. The problem is not the police, but a lack of police.

The Police Association supports the local residents. At a recent association meeting a motion was moved reflecting the increasing frustration and disappointment of locals with the refusal of the Minister for Police, Mr John Watkins, the Commissioner of Police, Mr Moroney and Deputy Commissioner, Operations, Mr Madden, to urgently address the critical police shortage currently existing in the Hunter Local Area Command, which should be split into two, one half of which would be a Port Stephens Local Area Command. It is too big to be operated only from Maitland. Currently, three police officers are rostered during the week at Lemon Tree Passage police station, but it is the weekend when they are needed most as this is when the residents are reporting vandalism.

Mr Bartlett said in his speech in the other place on Tuesday that he will continue to work on this issue for the people of Port Stephens. Continue? Apart from his speech on Tuesday night and one other speech on 31 October 2000 Mr Bartlett has not spoken on the issue of policing in Port Stephens. That is two speeches in four years—one prompted by the fact that 400 angry residents of Port Stephens heckled Mr Bartlett at the crime forum because they were not happy with his answer on police numbers. An article in the *Port Stephens Examiner* of 27 May 2004 stated:

> The public meeting was well ordered and constructive until Mr Bartlett arrived and commenced what was clearly an inappropriate stonewall defence of his failure to achieve any tangible success on policing issues in the past.

Furthermore, the Police Association—we support the association's endeavours—has asked for Raymond Terrace to be manned 24 hours a day. Previously in this House I have called on the Minister for Police to upgrade the facilities at Raymond Terrace police station. Also, the police station at Tilligerry peninsular needs to be fixed. [*Time expired.*]

NEWCASTLE HOSPITAL FACILITIES

Ms SYLVIA HALE [9.53 p.m.]: There is no doubt that the people of Newcastle need improved hospital facilities because the existing Mater Misericordiae and James Fletcher hospitals are well past their use-by dates. Newcastle also needs new cancer treatment facilities. No-one disagrees with that. The disagreement lies in how they are to be provided. The Government proposes to move James Fletcher hospital to the Mater site and pay for the new facilities by handing over what are now public hospitals to a private owner-operator who would build, operate and make a profit from the new entity. The Government intends to enter into a public-private partnership [PPP], arguing that this is the only way to finance the project. But one must ask: at what cost? In seeking an answer it is worth looking at the British experience to see if PPPs do deliver better, more cost-effective medical services.

In Britain the privatisation of hospitals has been an unmitigated disaster—and this is equally true of British railways. A recent article in the *British Medical Journal* reported that clinical services in Britain's private hospitals have been reduced by 20 per cent, compared to non-PPP hospitals. A report on private finance in Britain's public hospitals by the Evatt Foundation found that private finance initiatives—Britain's version of PPPs—delivered no additional capital investment in public services. It found that the case for using private finance initiatives rested on a "value for money" assessment skewed in favour of private capital rather than social good. The Government argues that it is cheaper for private enterprise than it is for governments to own and operate a hospital. It argues that it is wrong for governments to go into debt, and that virtue lies in governments producing budget surpluses not deficits.

For the past nine years the Government has been cutting and slashing services to save money to produce a surplus. The Government says that a budget surplus improves its credit rating. But, ironically, the

better a government's credit rating, the more cheaply it can borrow. Because the Government can borrow money more cheaply than private companies are able to, and because there is not the same pressure on the Government to make a profit out of the deal, it would be far cheaper and better for the Government to build and operate the hospital in Newcastle. Yet the Carr Government's adherence to neo-liberal economics, to the belief that borrowing money is wrong, has blinded it to the evidence before its eyes. Port Macquarie Base Hospital is a case in point. Relations between the Government and the private owners of the Port Macquarie hospital, since its opening eight years ago, have become the stuff of legend.

Some years ago the then New South Wales Minister for Health, Dr Andrew Refshauge, admitted that the privatisation of the Port Macquarie Base Hospital had been "an unmitigated disaster". Quoting 1994-95 figures, the then Minister said that the hospital cost $26 million to operate, compared with $18.3 million for a similar public hospital. That criticism has continued under the current Minister for Health, Morris Iemma, who said, "The previous Coalition Government signed a lousy deal regarding the private operation of Port Macquarie Base Hospital. New South Wales taxpayers have been dudded." The private owners have faced a multimillion dollar blow-out in costs. Earlier this year the hospital's doctors threatened to stop all elective surgery and abandon the hospital because of budget problems that, they claim, put the lives of patients at risk.

With both the current and previous health Ministers criticising the privatised Port Macquarie Base Hospital, why is the Government proposing to go ahead and privatise the Mater hospital in Newcastle, where the Government faces an avalanche of opposition from local residents, medical staff, patients and unions? The Newcastle Trades Hall Council has placed a green ban on the site. Not even that has been enough to put an end to the plans of this so-called Labor Government. As Dr David Henry, a consultant physician at the Mater hospital, has asked: If the Government had no qualms about funding several Sydney hospitals, including St Vincent's, Westmead, Prince of Wales and Royal Price Alfred, why should it not fund the Mater for the people of Newcastle? Why should the Mater be sold off, and the people of Newcastle sold short?

FPA HEALTH FUNDING

The Hon. JAN BURNSWOODS [9.58 p.m.]: Recently I received a letter from, and had a meeting with, FPA Health, formerly known as the Family Planning Association. FPA Health is very concerned about recent changes in public health made by the Commonwealth Government. Basically what will come into effect on 1 July is that funding arrangements for family planning organisations in Australia will be devolved to the States and Territories as part of the Public Health Outcomes of Funding Agreement [PHOFA]. If that funding is devolved as planned, funding for FPA Health will be a matter for the New South Wales Government. I understand that NSW Health is currently negotiating performance indicators for PHOFA with the Commonwealth in the context of bilateral negotiations about the devolution of those funds. Nevertheless there is quite a long way to go.

The Commonwealth is seeking national performance indicators for a range of public health organisations, but the problem is that its stated preference has been to negotiate with each State or Territory rather than to include affected organisations in the negotiations—and that includes FPA Health, the AIDS Council of New South Wales with regards to HIV-AIDS, and organisations associated with breast screening and so on.

The difficulty is that although the Commonwealth Government's stated proposal is to devolve funding for each State or Territory, there is a fear that the result may be decreased funding. As yet FPA Health has received no guarantee that funding will be maintained. The existing funding stream under the current direct funding model with the Commonwealth expires on 30 June, and time is running out. The lack of certainty about arrangements to come into force after 1 July is making it very difficult for FPA Health and the other organisations affected. I think it is reasonable that FPA Health seek to be involved in negotiations about the devolution of funding and the implementation of performance indicators. FPA Health's request is that its existing Commonwealth funding be consolidated—of course, ideally expanded—under the public health outcomes funding agreement, and that that funding be directed to FPA Health. Secondly, it requests that it be regarded as an equal partner in negotiating the specific performance indicators for which it will be accountable.

I would like to put on the record a little information about the services and achievements of FPA Health. The range of services provided statewide included clinical services and training; health promotion; research; the very important telephone information and advice service, which is particularly useful for regional and rural areas and which is staffed by clinical nurse specialists; the mail-order bookstore and library; and the web site with its comprehensive reproductive and sexual health information.

According to a number of tables and graphs, 3,010 rural and remote clients access FPA Health services each year. The clinic at Dubbo, which has operated for the past two or three years, has some 1,300 consultations a year, of which 7 per cent are for Aboriginal clients. Each year 656 separate rural and remote service providers access FPA Health services. The clinics are located at Chatswood, Hurstville, Fairfield, Penrith, Dubbo and Newcastle. Consultations in the last year for which figures are available added up to more than 24,000. This organisation, which has a long and proud history and is very able to provide information about its record, is very much in need of continued support and assistance from the Commonwealth Government with regard to the kinds of negotiations that are entered into.

Motion agreed to.

The House adjourned at 10.03 p.m. until Tuesday 22 June 2004 at 10.30 a.m.