

LEGISLATIVE COUNCIL

Tuesday 9 November 2004

The President (The Hon. Dr Meredith Burgmann) took the chair at 2.30 p.m.

The Clerk of the Parliaments offered the Prayers.

The PRESIDENT: I acknowledge that we are meeting on Eora land.

ASSENT TO BILLS

Assent to the following bills reported:

Administrative Decisions Tribunal Amendment Bill
 Classification (Publication, Films and Computer Games) Enforcement Amendment (Uniform Classification) Bill
 Professional Standards Amendment Bill
 Retail Leases Amendment Bill

NSW OMBUDSMAN

Report

The President announced the receipt, pursuant to the Law Enforcement (Controlled Operations) Act 1997 and the Ombudsman Act 1974, of a special report of the Ombudsman entitled "Law Enforcement (Controlled Operations) Act—Annual Report 2003-04", dated October 2004.

The President announced further that it had been authorised that the report be made public.

CHILD DEATH REVIEW TEAM

Report

The President announced the receipt, pursuant to the Commission for Children and Young People Act 1998, of the annual report of the Child Death Review Team for the year ended 31 December 2003.

The President announced further that it had been authorised that the report be made public.

POLICE INTEGRITY COMMISSION

Report

The President announced the receipt, pursuant to the Police Integrity Commission Act, of the annual report of the Police Integrity Commission for the year ended 30 June 2004.

The President announced further that it had been authorised that the report be made public.

TABLING OF PAPERS NOT ORDERED TO BE PRINTED

The Hon. John Hatzistergos tabled, pursuant to Standing Order 59, a list of all papers tabled in October 2004 and not ordered to be printed.

The following papers were ordered to be printed:

- (1) Annual Reports (Departments) Act 1985—Report of the NSW Agriculture for the year ended 30 June 2004.
- (2) Annual Reports (Statutory Bodies) Act 1984—Report of New South Wales Rural Assistance Authority for the year ended 30 June 2004.

- (3) Anti-Discrimination Act 1977—Report of the Anti-Discrimination Board of New South Wales for the year ended 30 June 2004.
- (4) Children and Young Persons (Care and Protection) Act 1988—Report of the NSW Office of the Children's Guardian for the year ended 30 June 2004.
- (5) Commission for Children and Young People Act 1998—Report of the NSW Commission for Children and Young People for the year ended 30 June 2004, together with a children's version of the report entitled "Feedback 2004."
- (6) Ombudsman Act 1974—Report of the Ombudsman for the year ended 30 June 2004.
- (7) Victims Support and Rehabilitation Act 1996—Report of the Victims Compensation Tribunal for the year ended 30 June 2004.

TABLING OF PAPERS

The Hon. John Hatzistergos tabled the following papers:

- (1) Annual Reports (Departments) Act 1985—Reports for the year ended 30 June 2004:

Department of Juvenile Justice
Department of Lands
- (2) Annual Reports (Statutory Bodies) Act 1984—Reports for the year ended 30 June 2004:

New South Wales Board of Vocational Education and Training
NSW Food Authority
Teacher Housing Authority of New South Wales
- (3) Murray Valley Citrus Marketing Act 1989—Report of Murray Valley Citrus Marketing Board for the year ended 30 June 2004.

Ordered to be printed.

AUDIT OFFICE

Report

The Clerk announced the receipt, pursuant to the Public Finance and Audit Act 1983, of the Auditor-General's performance audit report entitled "Shared Corporate Services: Realising the Benefits—Including Guidance On Better Practice", dated November 2004.

The Clerk announced further that it had been authorised that the report be printed.

KARIONG JUVENILE JUSTICE CENTRE

Return to Order

The Clerk tabled, pursuant to resolution of 28 October 2004, documents relating to the Dalton report into juvenile justice received on Thursday 4 November 2004 from the Director-General of the Premier's Department, together with an indexed list of documents.

Return to Order: Claim of Privilege

The Clerk tabled a return identifying documents for which privilege is claimed and which are available only to members of the Legislative Council.

The Clerk tabled also a letter received on 4 November 2004 from the Director-General of the Premier's Department indicating that although the Dalton report had now been publicly released, it did not alter the fact that it formed part of the Cabinet process and was excluded from standing order 52 and was not included with other documents captured by the standing order. A copy of the report attached to the letter was also tabled.

LEGISLATION REVIEW COMMITTEE

Report

The Clerk announced the receipt, pursuant to the Legislation Review Act 1987, of the report entitled "Legislation Review Digest No. 15 of 2004", dated 8 November 2004.

The Clerk announced further that it had been authorised that the report be printed.

PETITIONS**Department of Primary Industries Budget**

Petition requesting support for primary producers and opposing Department of Primary Industries budget cuts that may affect key field staff, front-line services and research and development, received from **the Hon. Duncan Gay**.

Lake Cowal Goldmining Project

Petition calling on the Government to halt the Lake Cowal goldmining project and not grant further approvals for a goldmine at Lake Cowal, received from **Ms Lee Rhiannon**.

Oath of Allegiance

Petition praying that the oath of allegiance to Her Majesty the Queen be retained in the pledge of loyalty by members of the Parliament of New South Wales and by Ministers of the Crown, received from **the Hon. David Clarke**.

Cyanide Heap Mining

Petition praying that cyanide heap leaching mining be banned, received from **Ms Lee Rhiannon**.

BUSINESS OF THE HOUSE**Withdrawal of Business**

Private Members' Business items Nos 27, 34, 57, 93 and 94 outside the Order of Precedence withdrawn by Ms Lee Rhiannon.

Private Members' Business item No. 72 outside the Order of Precedence withdrawn by Ms Sylvia Hale.

BUSINESS OF THE HOUSE**Postponement of Business**

Government Business Notices of Motions Nos 1 and 2 postponed on motion by the Hon. Tony Kelly.

Government Business Orders of the Day Nos 1 to 8 postponed on motion by the Hon. Tony Kelly.

GENERAL PURPOSE STANDING COMMITTEE NO. 5**Deputy Chair**

The President informed the House that following changes to the membership of General Purpose Standing Committees, the Hon. Rick Colless was elected Deputy Chair of the committee on 14 September 2004.

BUSINESS OF THE HOUSE**Suspension of Standing and Sessional Orders****Motion by Ms Lee Rhiannon agreed to:**

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 18 outside the Order of Precedence, relating to the Mining Amendment (Cyanide Leaching) Bill, be called on forthwith.

Order of Business**Motion by Ms Lee Rhiannon agreed to:**

That Private Members' Business item No. 18 outside the Order of Precedence be called on forthwith.

MINING AMENDMENT (CYANIDE LEACHING) BILL**Second Reading****Debate resumed from 19 October.**

Ms SYLVIA HALE [2.52 p.m.]: I support the Mining Amendment (Cyanide Leaching) Bill. Despite the deadly history of cyanide spills and leaks associated with the process round the world of cyanide leach mining, it seems we are poised to repeat at Lake Cowal the mistakes of history. The list of spills and leakage from cyanide used to mine low-level ore is almost unending. In 2001 in Ghana villages were hit by a cyanide spill that sent thousands of cubic metres of mine waste water into the River Asuman, killing virtually all aquatic life. A number of smaller spills have occurred along the river in the years since and people have stopped using the river. Scientists are concerned that heavy metal contamination will continue to affect the ecology of the river, as well as local economies, for decades to come. The response from the mining company has been to dig deeper wells and truck in bottled water, but this is far from a sustainable solution. At the end of the day the ecology and economy of the region have been decimated.

In 2002 in Honduras a worker who confused valves at a mine accidentally released a cyanide solution into the Lara River resulting in widespread devastation to a 4½ kilometre stretch of the river. More than 18,000 fish and untold numbers of frogs, crabs and invertebrates were killed. China has experienced an endless string of cyanide mishaps in recent years, one of the more recent being a spill in June this year in a suburban gold processing plant in Beijing that killed three people and hospitalised a further fifteen. In rural China, spills and leaks have seen agricultural water courses contaminated, with stock being poisoned and crops destroyed. One of the best-known cyanide accidents occurred in Europe. In 2001 a tailings dam broke at a mine jointly operated by the Australian company Esmaralda and approximately 100 tonnes of contaminated heavy metals and cyanide flowed into the Tisza and Danube rivers. What followed was one of Europe's worst environmental disasters as the contamination was carried down river through Yugoslavia and Hungary. Scientists estimate that remediation will cost up to \$100 million and it will take decades for the river to fully recover.

In the United States of America ongoing spills and leaks in the mining states of Montana, Colorado, Idaho, South Dakota and Nevada culminated in a referendum being put to voters in Montana. This was won convincingly, and in 1998 Montana introduced a total ban on the use of cyanide in mining. Spills have continued in other States, and Colorado and Wisconsin are now considering similar bans. Cyanide bans are also in place in various countries including Turkey, Germany, the Czech Republic, Costa Rica, Argentina, Greece and Ecuador.

The Hon. Duncan Gay: Why did you give the Australian Labor Party your preferences? It had this policy at the last election.

Ms SYLVIA HALE: There are many things wrong with the Labor Party, and this is one of them.

Mr Ian Cohen: Are you supporting this bill?

The Hon. Duncan Gay: Of course, I am not.

Ms SYLVIA HALE: Why not?

The Hon. Duncan Gay: Give me a chance and I will tell you.

Ms SYLVIA HALE: The disasters are not confined to overseas. In 2002 in Australia, 400 litres of liquid cyanide was spilled in the Northern Territory, killing more than 500 birds and kangaroos. There have been other cyanide contaminations in Australia, yet the New South Wales Government is proceeding on the suspect premise that the risk to the environment is low, even though history shows us cyanide spills are very dangerous and despite hundreds of pollution incidents having occurred around the world. Cyanide is not only harmful to the natural environment; it can be lethal to humans. Cyanide poisoning can result from inhalation or through the ingestion of contaminated food or water. A colourless gas with a slightly bitter smell, cyanide quickly affects the nervous system and can result in respiratory arrest within 30 minutes.

A more common form of poisoning is when cyanide dissolves in water. Low-level exposure, sometimes undetected over long periods, can damage the nervous and endocrine systems. Some people have

suffered permanent damage from eating fruit and vegetables contaminated by polluted water. Water contaminated with cyanide at concentrations as small as 10 parts per million—undetectable to human taste or smell—are thought to cause long-term damage. The real dangers to both the environment around Lake Cowal and the broader New South Wales community have been glossed over by the proponents of this mine and are being conveniently overlooked or ignored by the Government.

Regulation of cyanide leach mining at Lake Cowal will be similar to that imposed in the United States of America. Yet clearly, United States regulations have been unable to prevent major cyanide spills from occurring. Time and again long stretches of rivers in the United States have had all forms of life obliterated by cyanide. It is total foolishness for New South Wales to be launching into a new mining venture, using dangerous cyanide technology, when around the world governments are moving to ban its use. I urge the House to support this bill, to allow us to ensure that the people of New South Wales live in a healthy environment, putting the interests of communities and the environment before the interests of mining companies and their profits.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [2.59 p.m.]: I support the Mining Amendment (Cyanide Leaching) Bill. It is a fact that as the price of gold increases the amount of ore that must be disturbed per ounce of gold increases. In other words, it is still economical for mines to dig deeper to get the same amount of gold because the price of gold has increased. Sadly, the mining industry has its share of cowboys. The Fly River in Papua New Guinea was poisoned when a dam gave way in relatively unstable geological country. Australian mines have a fairly ignominious record. An Australian mining company in Hungary, from memory, polluted the Danube River, killing immense numbers of fish throughout central European countries.

It is worrying that a substance as toxic as cyanide could enter any ecosystem. It is an extremely toxic substance. As an occupational health practitioner, I know that any use of it industrially is extremely dangerous. It is used in mining because of the solubility of gold ore. The ore is broken up mechanically, cyanide is poured onto the ore, and the solution of cyanide and dissolved gold is then collected in what is called a pregnant pond—pregnant because the cyanide in that pond has gold in it. A process then strips the gold from the solution, and the cyanide is diverted to another pond, generally known as a barren pond because it does not have any gold in it. The recovered cyanide can then be reused by washing it over the gold ore. However, the cyanide is destroyed by ultraviolet light. Those who advocate the use of cyanide in mining say that, given time, the sun will destroy the cyanide and therefore the long-term hazard will not be all that great.

It is interesting that the Timbarra mine, which is at the headwaters of the Clarence River, was hailed as adopting world's best practice. It was built on the assumption of a 1 in 200 year flood. Usually, that is assumed to mean that for 200 years there will not be a flood that will cause any problems. That is, of course, nonsense. It assumes a 1 in 200 chance every year. That assumption is based also on current rainfall data being correct. If historically the rainfall data has not been accurate, the correctness of the 1 in 200 figure is highly suspect. Timbarra supposedly was built on world's best practice. It had not only a pregnant and a barren pond but a bund beyond that—in other words, another dam in case there were any barren pond containment problems. When the price of gold fell, the Timbarra mine became uneconomic and ceased operating. All the equipment was left there, ready to start again when the price of gold rose.

About 18 months after we had been assured by the Minister that it was a wonderful mine, employing world's best practice, but it had just happened to be quarantined, and the area had rains that were heavier than expected. The rainfall figures were shown to be quite erroneous; insufficiently detailed records had been kept because there was no need for accurate records until the advent of the mine. The heavier rains led to an overflow of all the Timbarra dams. Had that mine been operating at the time, Australia would have had by far its worst cyanide spill and worst fish kill, because the spill would have got into the Clarence, the biggest river on the east coast of Australia. This is a very large and significant river. Those cyanide spills would have been immensely harmful to the fishing and oyster industry and many other tourist industries along the Clarence River.

It was only due to the fact that the gold price had fallen and rendered the Timbarra mine uneconomic that that tragedy did not occur. The Carr Government can take no credit at all for that tragedy being avoided. However, it appears to have learned nothing. It told us that the mine used world's best practice. It had been shown to those interested that this was complete nonsense, but the Government presumably got off the hook through good luck rather than good management, and it is ploughing ahead regardless. At the moment, the price of gold is very high. Because gold is expensive, ore bodies that have lower concentrations of gold become economic to mine. That means to get a small quantity of gold you have to dig up larger and larger amounts of ore bodies, making a bigger and bigger mess of the environment.

The Hon. Duncan Gay: It is the opposite way around. You have some kind of weird inverted logic on this one.

Mr Ian Cohen: It has been explained quite adequately.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I think it has been explained adequately. The only externality being considered is the cost of mining and the price of gold. If the price received for the gold extracted exceeds the cost of mining, clearly there is an incentive to resume mining.

The Hon. Duncan Gay: Checks and balances remain, no matter what the gold price.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Lake Cowal is an ephemeral lake; in other words, it is in wet times that the Lake Cowal area becomes an internationally significant wetland and flood plain. It is very difficult to bund because it is a flood plain, and any bund would have to be 100 per cent reliable and be above the maximum flood level. If the essence of mining is digging a large hole in order to get the ore, then ore has to be processed above the highest flood level, with a bund that will not leak in flood conditions. If there should be a leak, the discharge will go into the Lachlan River and eventually the Murray River. So a bund leak could result in a discharge of this toxic substance into the largest river system in this country. Therefore, we are talking about huge downside risks. It is well known that the mine is in the middle of a flood plain. The idea that all this can be addressed by just a few checks and balances, having confidence in rainfall data and so on, is nonsense—and very dangerous nonsense at that.

It is to the credit of the Greens that this bill has been introduced. The cyanide leaching method enables the mining of ore that contains less and less concentrations of gold, which means increasingly more digging to obtain the same quantity of gold. In other words, as the price of gold rises, more and more lower grade ore will be dug up to produce each ounce of gold, thus the mining process becomes more and more invasive of the environment to obtain the same amount of gold. At what stage do we stop wrecking our environment and taking huge risks with downstream ecosystems for the sake of someone making a few more bucks? I believe we have reached the point at which someone has to say: Enough is enough! This process has to be stopped. That is the essence of the bill.

The pursuit of money through the mining of gold, at the expense of all else, has gone too far. A number of countries are saying that this new cyanide technology poses greater risks for our environment. This mining process causes an immense amount of disruption because cyanide technology leads to digging up much more ore and the production of much more spoil—not to mention the mechanical energy of the plant and the movement of the cyanide and ore bodies to get a few dollars from the ore bodies. At some point we have to say this mining process poses too much risk of damage to the environment for the amount of money that companies can make from the process. In the public interest, we must call a halt to this process. A number of countries have done that. It is about time New South Wales followed suit.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [3.08 p.m.]: In speaking on behalf of the Opposition I repeat what I said on the prior occasion this bill was debated: whilst the Coalition is in favour of the Mining Amendment (Cyanide Leaching) Bill coming on for discussion, we will oppose it. We do so in part because it is based not on reality but on a belief of the Greens—

The Hon. Dr Arthur Chesterfield-Evans: Your irrigators will be in strife if the dams overflow. That will make you unpopular.

The Hon. DUNCAN GAY: —and the lunatic fringe of the Democrats—I am sorry, the Democrat, because there is only one here, and not many more left anywhere else.

Ms Lee Rhiannon: Careful! The Nationals numbers are going down.

The Hon. DUNCAN GAY: We well and truly outpolled the Greens wherever we stood candidates in New South Wales. We absolutely creamed you. What about the Greens predictions of how they were going to go in the Senate? Who were the big losers other than the Labor Party? The Greens. The Greens have been exposed as absolute frauds. The only thing they achieved was to get a very ordinary member into the electorate of Richmond in the place of a very good Minister. If they are proud of anything it is a pretty poor track record to be proud of. By the way, the Greens supported the State Government into office. They knew the Government's policies. However, the Greens come into this place to bleat and whinge about the Labor Party when it was the Greens who helped it win office. The Greens are the ones who salute, click their heels and support the Labor Party every time.

The PRESIDENT: Order! I call Mr Ian Cohen to order.

The Hon. DUNCAN GAY: The Greens have brought this up not because they have any true belief but because they want to stop mining. They do not care about the 200 permanent jobs that will be created at Lake Cowal. Ms Lee Rhiannon was in the area trying to save the branch rail lines.

The Hon. Rick Colless: What a hypocrite!

The Hon. DUNCAN GAY: Exactly, what a hypocrite! The people who fell for her line in support of the branch lines did not realise that although she supported the branch lines, she wanted to close down the industries the branch lines service. That is the plan. The Greens come in here and quote the regimes that have had problems with cyanide. However, it is interesting to note that every one of those regimes is totalitarian and modelled on the system that Ms Lee Rhiannon would like absolutely most in New South Wales. A common method for gold extraction for large-scale mines is cyanide leaching. For a number of years Lake Cowal has been subject to an exhaustive process. From memory, the company involved was North Ltd—I am sure I will be corrected if I am wrong.

Mr Ian Cohen: It wiped out the Parkes mine. It wiped out the bird life up there.

The Hon. DUNCAN GAY: Mr Ian Cohen has jumped in where angels fear to tread. He said that Norths wiped out the bird life at Parkes. However, Northparkes is not a cyanide mine. Before he interrupts me again I suggest that he does a little bit of homework because he got that one dead wrong. Norths originally took out the exploration licence and wanted to move to production. It went through a rigorous environmental exercise, and eventually it got through. For a while the Premier played politics for no apparent reason, but even with his friends from the movement he eventually signed off on it. It is now owned by a fine company called Barrick, which is one of the pre-eminent mining companies in the world.

Ms Lee Rhiannon: And I bet it gives money to you and associated entities that you won't declare. I bet you cleaned up in Barrick Gold and you didn't tell us about it.

The PRESIDENT: Order! I call Ms Lee Rhiannon to order.

The Hon. DUNCAN GAY: Normally I would not respond to the comments of Ms Lee Rhiannon, but it is worth putting on the record that she has joined her colleague Mr Ian Cohen in getting it wrong, wrong, wrong. Next time Ms Lee Rhiannon opens her mouth she should make sure she gets it right. She is absolutely wrong. She does not have a clue what she is talking about. She is prattling on about something she does not have a clue about. I am having trouble hearing myself speak. I am hearing weird noises from the crossbenches. The Opposition acknowledges that the Lake Cowal gold project is highly significant, but so too is the inland wetlands ecosystem in Lake Cowal, which is recognised in Australia and internationally as an area deserving high conservation status.

Lake Cowal wetlands support 277 species of birds, and 36 waterbird species breed on the lake. I remind honourable members that Australia is a contracting party to the Ramsar Convention on Wetlands. It is obligated to protect and enhance the conservation values of our wetlands. The Lake Cowal gold project aims to protect surface water, groundwater and birds in these very sensitive areas. As many honourable members would know, the project is located 38 kilometres north-east of West Wyalong in the Central West of New South Wales. Given the sensitive location of the project, mine planning, construction, operation and closure were critical to the approval of the project. For example, the powerline to the project is located to avoid as much as possible the path of migratory waterbirds.

Mineral processing components include the use of flotation circuit to significantly reduce cyanide use. Cyanide destruction and recycling techniques are to be used to reduce cyanide levels in the tailing water, which are considered non-toxic to bird life. The use of cyanide will be reduced by two-thirds, which will produce economic benefits for the company, but, more important, benefits to the environment. The project is designed to ensure that bird breeding north of Lake Cowal remains undisturbed, and that the quality of water in Lake Cowal is not detrimentally affected by the mine, to set a standard in cyanide control that can protect bird life and is best practice, and provide appropriate security to the New South Wales community to ensure that the mine area is fully rehabilitated. If the project falls short of these aims, I will join the Greens in protesting against it. It is my understanding and my firm belief that world's best practice will be put in place.

Two tailing storage facilities [TSFs] will be used, covering about 170 hectares each. The New South Wales Dams Safety Committee under the New South Wales Dams Safety Act must approve the design,

construction, construction certification and continual operational surveillance of the storage facilities. I remind honourable members that there has not been a collapse or breach of a mine tailing dam since the New South Wales Dams Safety Act came into force in 1978—about 26 years ago. Tailing storage facilities are designed for a one in 1,000 year average recurrence interval [ARI] rainfall. Mineral processing is designed to ensure that cyanide levels in the tailing storage facility would be a maximum of 30 milligrams per litre for 90 per cent of the time and that it would be below 20 milligrams per litre measured as weak acid dissociable [WAD] cyanide for 10 per cent of the time. Natural decay and other cyanide reducing processes are expected to occur following discharge at the edge of the tailing storage facility and in the small shallow decant pond in the centre of each TSF.

Cyanide levels in the small shallow central decant ponds was modelled at 5 to 15 milligrams per litre of cyanide. These levels are significantly lower than the concentrations known to affect birds and small wildlife. Mitigation measures are designed to ensure target outcomes set by the government to meet requirements such as twice-daily patrols of the tailings storage facility, automated shutdown of the tailings discharge if levels of cyanide exceed the maximum permissible levels of 30 milligrams per litre WAD, a specific monitoring program of bat usage of the tailings storage facility, mitigation of artificial lighting at the tailings storage facility to discourage wildlife, improving habitat areas that are distant from the mine to encourage greater wildlife use in isolation from the process, which is intended to try to keep wildlife away from the area where the processing takes place, and isolation of the process and the contaminated water system from clean and dirty water, with a nil discharge policy.

Several key New South Wales Government agencies have set conditions for this project, including the Department of Urban Affairs and Planning, the Department of Mineral Resources, the Environment Protection Authority, the Department of Land and Water Conservation, the Dams Safety Committee and the Bland Shire Council, which is the area's local authority. The Lake Cowal Foundation aims to protect and/or enhance the natural environment of the Lake Cowal region. Millions of dollars have already been spent on getting the Lake Cowal project right and ensuring that the impact of cyanide is limited to a nil release. The Opposition believes it will be highly unfair to stop the project from going ahead after such a long consultation period with the relevant authorities. As I indicated earlier, the Opposition does not support the bill, but will welcome an inquiry by the Department of Mineral Resources into the future use of cyanide in New South Wales mining projects.

Mr Ian Cohen: Not with Hickey at the head of it!

The Hon. DUNCAN GAY: That is a fair point. It is a sad day when we have a full debate and do not agree on anything, but Mr Ian Cohen and I seem to have reached common ground on that point. The shadow Minister for Mineral Resources, Adrian Piccoli, shares that concern.

Mr IAN COHEN [3.23 p.m.]: In joining the debate on the Mining Amendment (Cyanide Leaching) Bill that was introduced by Ms Lee Rhiannon, I will not traverse issues that have already been raised by Ms Lee Rhiannon, Ms Sylvia Hale and the Hon. Dr Arthur Chesterfield-Evans. However, I appreciate being able to commence my speech on a co-operative note. The Opposition and I seem to agree that the Minister for Mineral Resources may not be the right starting point for an adequate and appropriate inquiry that will be expected to take a balanced approach to the examination of the issues. However, the Greens would like an inquiry to ascertain the future use of cyanide in New South Wales mining projects. Before I deal with the substantive effects of the bill, at the outset I will refer to points raised by the Deputy Leader of the Opposition. He railed against me and other members of the Greens and the Australian Democrats representative over what he described as our recklessness. However, I believe his attack was a defensive reaction to what we have pointed out is the truth. He also condemned the Greens for a poor 2004 Federal election performance, whereas I believe the result for the Greens was 92 per cent along the way toward a million votes in New South Wales.

The Hon. Melinda Pavey: Say that again?

Mr IAN COHEN: When the underhand tactics of other parties in directing preferences to Family First and other small groups away from the Greens are taken into account, perhaps we end up in a situation—

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! Members are reminded that interjections are disorderly at all times. The member with the call should ignore interjections and confine his or her remarks to the subject matter of the bill that is before the House.

Mr IAN COHEN: Thank you for your ruling, Madam Deputy-President, although I am disappointed with your attitude.

The Hon. Ian Macdonald: Do not canvass the Deputy-President's ruling, thank you.

Mr IAN COHEN: I am not; I am thanking her. The Deputy Leader of the Opposition attacked me for citing the mining process at the Northparkes mine in what I believe was his cynical twist of reality. Although the Northparkes process might be slightly different from the Lake Cowal process, the problem involved contamination by copper cyanide complexes in the tailings dam. The chemical contamination was a direct result of the mining process. In the Department of the Environment and Heritage's report to the Federal Government in 1995, the contamination was described as moderately strong, yet that level of contamination led to a debacle that resulted in the destruction of 2,700 birds—at least, that was the number of dead birds recovered from the tailings dam. The number of birds that were poisoned but left the site is unknown. Problems were first reported with the Northparkes mine in 1995, but they increased exponentially because people working at the mine were not paying adequate attention to environmental protection.

Perhaps inadvertently, the Deputy Leader of the Opposition has misled the House by his comments. Environmental problems at the Northparkes mine were caused by copper cyanide complexes that contaminated the tailings dam, irrespective of the process, and that contamination from the tailings led to the death of 2,700 birds that we know of. The mining company had to undertake a major cyanide detoxification process of the tailings dam, and the situation at the Northparkes mine is not unique. It is not the only mining project that has been the site of environmental contamination. I commend Ms Lee Rhiannon for raising the issue of the Lake Cowal goldmining project, which is currently entering its construction phase. It is estimated that 6,000 tonnes of cyanide will be transported to the site each year. Transportation of large quantities of cyanide will begin in 2005 from Queensland to the edge of Lake Cowal—an inland body of water of national and international significance.

Roads and traffic authorities statistics show that each year 1 in 10 trucks is involved in a road accident. Obviously with 6,000 tonnes of cyanide being transported to the Lake Cowal site, it will be disastrous if an accident occurs. I remind honourable members of the consequences of an accident involving a truck transporting toxic chemicals. The scale of contamination from that accident is small compared to the magnitude of contamination that would be involved in an accident involving the transportation of cyanide to the Lake Cowal site. As a result of the accident that occurred on the Pacific Highway near the banks of the Brunswick River, the whole river was virtually wiped out. The authorities had to undertake a special campaign to completely restock the river and the river was declared completely dead for a significant period—all because of one toxic chemical spill. The potential for a similar accident to occur in relation to the transportation of cyanide to Lake Cowal is significant. In spite of that, the Deputy Leader of the Opposition seems to think that 200 permanent jobs is the only matter of importance involved in a determination of the appropriateness of this project. He has completely ignored significant environmental issues.

[Interruption]

The Deputy Leader of the Opposition completely overlooked the environmental consequences and focused instead of the importance of 200 permanent jobs. The Greens support the concept of permanent jobs, but only if they are permanent sustainable jobs. Many goldmines have started operation and then stopped, as demonstrated by the closure of the Timbarra goldmine in northern New South Wales—an area that should be a national park, the Daemon National Park.

The Hon. Rick Colless: That is your opinion.

Mr IAN COHEN: It is the opinion of many scientists and endangered species specialists. The area is one of the major habitats of the Hastings River mouse and is of absolutely spectacular significance. Massive rocks used to be there on which one could stand and look 60 or 70 kilometres or more towards the horizon and see the coast. That opportunity for tourism, sustainable jobs and sustainable industry has been lost forever because that area has been trashed: those areas have been cleared and mined. I am sure that members of The Nationals would not want to hear me say that the New South Wales Government completely ignored the impact of rainfall in that area. The headwaters of the Timbarra and Clarence rivers form the mightiest waterway on the east coast, but the Government could not comprehend that heavy rainfall in that area would cause mining holding ponds to break and pollute the waters downstream of the mine.

Time and time again in meetings with the Premier, Bob Carr, I asked about the Timbarra goldmine, until he tersely threatened to cut out all meetings. I said that that goldmine, as with the Lake Cowal goldmine, should not have gone ahead. If the Government could come up with an environmentally responsible sustainable operation there would be no complaints from the Greens. But, show us areas that are very high-order wetlands—

The Hon. Duncan Gay: Name any mine you approve of.

Mr IAN COHEN: As the Deputy Leader of the Opposition said, Ramsar heritage-listed wetland areas are being developed for goldmines.

The Hon. Duncan Gay: Name three mines that you approve of.

Mr IAN COHEN: There are plenty of mines that we are not actively disapproving. I will not say something that may be a mistake from an ecological perspective only to find out later that the Coalition and the Labor Government, in cahoots, are head over heels in support of it. In New South Wales and other areas there are mines that are not subject to the same level of complaint from the Greens as are the Lake Cowal and Timbarra goldmines. I stand by my record on that statement.

Many times since 1995 I have raised issues about those mines. At some stage I would like a retraction by the Hon. Duncan Gay about Parkes, because he misstated information. Earlier I clearly indicated that copper cyanide complexes were found in the tailings at Northparkes that killed birds—2,700 dead birds were extracted from the tailings dam—yet the Hon Duncan Gay accused me of misleading the House and said I have got it wrong. I accuse the Hon. Duncan Gay of the same mistake, and I would like a retraction from him on that matter at some stage.

The Hon. Duncan Gay: How much time have you got?

Mr IAN COHEN: It is good to hear him acquiesce; he obviously has no more argument, only time is on his side. Since 2000, dozens of cyanide leaks and spills have been reported worldwide, sometimes wiping out entire river systems, as in the case of the Tisza and Danube rivers in Romania and Hungary. Honourable members heard about that sometime ago. Earlier I heard a comment about massive problems with mines in totalitarian regimes. I suppose the "Reds under the beds" accusations will be raised again, along with "the Greens are watermelons" and the usual stories along with that.

The Hon. Ian Macdonald: You are not a watermelon, you are all green.

Mr IAN COHEN: Is that right? I have a tinge of red, as did the Minister for Primary Industries once upon a time. In the gold-producing States of the United States of America there are many instances—although it could be said that that is a totalitarian regime because of the way it acts towards many of its neighbours—

The Hon. Duncan Gay: Canada?

Mr IAN COHEN: These days there is an outflow of refugees from the United States of America to Canada. I understand that the New Zealand Government has openly welcomed them, unlike the Australian Government. In America there are many examples of problems with the use of cyanide and cyanide-laced water, as has occurred in New South Wales. Most areas have been well covered by people debating this issue, both today and previously. Certainly there are no illusions about the concerns of the Greens and others with the use of cyanide leaching goldmining processes. I still do not understand the position taken by the Hon. Duncan Gay in ridiculing the Hon. Dr Arthur Chesterfield-Evans: it is a fact that goldmines close when the price of gold drops and open again when the price of gold rises. That is an economic decision.

With the constant ability of anti-environmental means of extracting minute quantities of gold from ore, again and again areas will be ravaged by the goldmining process. That will achieve very little industrial opportunity, but it becomes worthwhile, it becomes profitable, and the locals bear the risk. Accidents involving locals can jeopardise the long-term productivity of an area. The few jobs gained by locals are not worth the risk. Western communities need jobs that do not carry that kind of risk.

When the floodwaters recede, Lake Cowal drains back into the Lachlan River, which then flows into the Murray River. Lake Cowal is included in the Australian register of the National Estate and its directory of important wetlands. The National Trust of Australia in New South Wales has listed Lake Cowal as a landscape conservation area. The Australian Heritage Commission has suggested that the New South Wales Government consider that Lake Cowal be listed under the Ramsar Convention as a wetland of international importance.

The Government has made a major mistake, it has to clean up its act on cyanide mining in New South Wales. It is a sad indictment of Australia, with its wonderful environment and incredible varieties of bird

species, that we are not putting an end to cyanide leaching in goldmining. I commend the bill introduced by Ms Lee Rhiannon as worthy of the House's support. I thank the Hon. Duncan Gay, in his absence, for suggesting that we should conduct some sort of inquiry into this matter. I am sure the Greens would support that inquiry wholeheartedly. I commend the bill.

The Hon. IAN MACDONALD (Minister for Primary Industries) [3.38 p.m.]: This bill, if successful, would have a serious effect on the State's economy, particularly in regional areas. The bill proposes a prohibition on the use of cyanide in new goldmining ventures. That prohibition would affect goldmines that are in the advanced stage of planning or are likely to be expanded. It will halt most exploration for gold in this State. In 2003-04 New South Wales gold production was estimated to be 26 tonnes, valued at over \$460 million, and it is forecast to increase. More than \$14 million was paid in royalties. The New South Wales goldmining industry employs an estimated 1,000 people directly and supports about 2,500 people indirectly in New South Wales country towns. The direct impact of the bill would be the loss of 200 jobs, a \$4 million reduction in royalties, and the halting of all mining proposals at advanced stages of exploration and planning in the West Wyalong, Tomingley, Orange and Adelong areas.

The future regional growth of West Wyalong is closely linked to the proposed Cowal goldmine, which has been granted development consent. This bill, if successful, would also seriously affect mineral exploration in New South Wales. More than 400 active exploration licences for gold are now in force in New South Wales. Even one major discovery would be a very important boost to regional New South Wales and enhance direct and indirect employment opportunities. The gold exploration industry spends more than \$60 million per annum, mostly in country towns, and provides several hundreds jobs, generating benefits for country towns.

In some types of ore, gold can be recovered by physical means without the use of specialty chemicals. For example, the large mines at Cadia and Ridgeway recover copper and gold together using a floatation technology. However, that situation is rare. Most gold ore likely to be found in New South Wales, particularly low-grade ore, must be chemically treated to extract the gold. Cyanide is used to extract gold because of its availability and effectiveness, and the proven level of technology. There are no practical alternative chemicals to cyanide suitable for the majority of ore types. A number of other chemicals have been tested for gold extraction but they have found little use around the world except for particularly high-grade ores.

One was used for some years at the New England antimony mine near Armidale but it was replaced by cyanide in an attempt to improve the efficiency of the process. I am advised that cyanide is now the only chemical reagent used in Australia to recover gold. Cyanide is a widely used industrial chemical in the manufacture of chemicals and plastics, in photography, and in metal finishing. In the United States of America, the mining industry uses less than 20 per cent of all the cyanide used in all industries. Cyanide commonly occurs naturally. It is found in high concentrations in many plants such as bamboo shoots, cassava and sorghum, and in various beans and nuts such as lima beans and almonds. It is present at high concentrations in cigarette smoke and in car exhausts.

The Hon. Rick Colless: And in all eucalypts.

The Hon. IAN MACDONALD: Indeed. Cyanide is a very reactive chemical and in most situations breaks down quickly in the environment. If cyanide is not used properly it can be toxic to humans and wildlife but the risk posed by cyanide is no greater than numerous hazardous substances that we use every day. Petroleum and gas are highly flammable and volatile substances that we deal with every day. We do not ban their use just because they are dangerous; we carefully plan and manage them, and we accept the controlled risks. Through careful use and management we can use hazardous chemicals responsibly.

I am advised that there were no documented accidental human deaths due to cyanide poisoning in the large Australian and North American mining industries in the twentieth century. Nevertheless there have been serious industrial incidents overseas where cyanide has escaped. Incidents such as those that affected Romania and Hungary in 2000 and previously in Guyana in 1995 caused dreadful environmental problems. New South Wales planning, industrial, and environmental laws are the most stringent in Australia, particularly with respect to chemicals such as cyanide.

The Environmental Planning and Assessment Act requires any mine using a substance likely to affect the environment—and that most definitely includes cyanide—to submit to rigorous environmental impact assessment and public consultation. The Act also provides for open inquiries in a whole-of-government integrated approval approach to development approval and conditioning. For mines this process involves the

Department of Infrastructure, Planning and Natural Resources, the Department of Environment and Conservation, and the Dam Safety Committee, as well as the Department of Primary Industries and the Department of Mineral Resources. Conditions of approval are imposed to ensure that impact, and the risk of impact, on fauna, flora, local waterways, and the environment in general are acceptable to the Government and the community.

Conditions are vigorously enforced, especially by the Department of Environment and Conservation and my department, from the commencement of site construction to operation and then to final rehabilitation. The New South Wales Government takes very seriously its regulatory responsibilities with regard to cyanide. The initial proposal in 1996 for Lake Cowal goldmine near West Wyalong was originally rejected after a rigorous and public evaluation process. An amended proposal with additional safeguards and precautions was subject to the same evaluation process and was consequently approved with conditions that ensured that there would be no release of cyanide into local waterways and that birds would not be affected by tailings dam waters.

The Government closed down a gold and silver processing site near Cobar in 1997 when the operator failed to establish that a dam holding cyanide-bearing water had been constructed to appropriate engineering standards. Timbarra goldmine near Tenterfield, which has been referred to and which has now completed mining, was an example of a modern goldmine approved with stringent conditions of mine lease and pollution control licence. Those conditions included leak protection and overflow protection, even in extreme storm events; stable structures, even in earthquakes; conservative process water management; safe chemical storage and transfer; and extensive monitoring.

Controls were implemented through thorough risk assessment, best practice, and precautionary engineering design, professional supervision of construction operation, and thoroughly documented quality assurance systems. From 1990 until today more than 18 goldmines in New South Wales use or have used cyanide-processing technology. None of those sites has had an incident that has resulted in a significant or measurable impact on local waterways. Wildlife and birds are protected, by at least one of three measures, from the effects of mine site waters that may contain sufficient cyanide to harm them. Those measures are limits to the amount of cyanide in open unprotected water, netting of ponds that contain potentially harmful levels of cyanide, or restrictions on area or depth of water on tailings dams to discourage birds from alighting.

The collapse of tailings dams has been the cause of several serious incidents overseas. The New South Wales Dam Safety Committee has played a key role in enforcing tailings dam security by applying conservative high standards to any dam where a failure would have a major consequence. In New South Wales there has not been a collapse or breach of a tailings dam containing cyanide or, for that matter, a collapse or breach of any mine tailings dam since the Dam Safety Act came into force in 1978. As I said, the committee requires very conservative design, monitoring and inspection requirements for tailings dams in New South Wales. The construction method for the wall of the dam that collapsed in Romania would not have been accepted for a cyanide-bearing tailings dam in New South Wales, even though we do not have the ice and snow that were major contributors to that incident.

Furthermore, tailings dams in New South Wales are not permitted to collect storm run-off that would threaten their integrity, or to store large volumes of highly contaminated water. After mineral processing has finished cyanide readily degrades into harmless chemicals. If natural degradation is not rapid enough a wide range of chemical treatments can be used to destroy it. Chemicals were used to destroy residual cyanide at Timbarra at the end of the mine life and they will be used at Cowal to reduce cyanide content in the tailings dams to a safe level for birds. Cyanide is not an issue in New South Wales at older mine sites that are being rehabilitated or have been rehabilitated. The Department of Primary Industries maintains a high level of expertise regarding cyanide management and regulation. It has contacts throughout the world, and through those contacts it maintains New South Wales at the forefront of environmental responsibility in the use of cyanide in mining.

Officers of the department assisted the United Nations environment program to develop the new International Cyanide Management Code that was released in 2002. Since then the department has assisted the Australian Centre of Mining Environmental Research to educate the goldmining industry about the code. The chemical sodium cyanide is the chemical form of cyanide most commonly used in goldmining. In May 2002 the Commonwealth Department of Health and Ageing, through its National Industrial Chemicals Notification and Assessment Scheme, or NICNAS, declared sodium cyanide as a priority existing chemical for full environmental assessment. Since that time NICNAS has been undertaking a thorough investigation into the environmental risk of sodium cyanide use in Australia.

In addition, current controls by industry are being assessed to identify whether they are adequate. The Government will carefully consider any recommendations that NICNAS may make to minimise any risks in the use of sodium cyanide. Multiple safeguards—a belts and braces approach—are the cornerstone of environmental protection and management of cyanide used in mining in New South Wales. It is the Government's position that the present approval requirements and regulatory controls on the use of cyanide in New South Wales provide a high degree of environmental protection.

Turning to the comments about Timbarra by the Hon. Dr Arthur Chesterfield-Evans—Mr Ian Cohen also referred to Timbarra in his contribution—I inform the House that cyanide levels there were not high enough to cause a disaster. Since the incident the amount of cyanide permitted has been capped at a lower level. New mines must have processes in place to minimise cyanide levels in any effluent. New South Wales has the most stringent conditions on cyanide use in Australia because the Environment Protection Authority licence caps the level allowable and takes a world's-best-practice risk-analysis approach. This is in addition to our stringent integrated planning process that is co-ordinated by my colleague the Minister for Infrastructure and Planning. As is his wont, the Hon. Dr Arthur Chesterfield-Evans took the events at Timbarra out of context. When the overflow occurred, the cyanide levels were not dangerous.

I remind the Greens, who introduced this bill, that I have spoken to representatives of the relevant unions on many occasions and they have never called for a ban on the use of cyanide. They understand that it is needed in this industry. Of course they want cyanide use to be managed effectively, and we believe we are doing that. Stringent guidelines and processes are in place. The unions are concerned that any ban on the use of cyanide would have adverse consequences on regional employment. I do not think the Greens thought that matter through before they introduced the bill. The gold industry alone employs more than 1,000 people directly, and I know of no other regional industry that could absorb those jobs if the Government were to take the dramatic step of banning the use of cyanide. If we ban cyanide use in mining, why not ban its use in every other industry, such as plastics? Almost every major industry uses cyanide somewhere in its processes.

A ban on the use of cyanide in goldmining would ruin the industry's viability. It would be destroyed, with a consequent loss of 1,000 direct jobs and more than 2,500 indirect jobs. I meet mineworkers regularly at my local hotel at Forest Reefs, where many Cadia miners go. I invite Mr Ian Cohen and Ms Lee Rhiannon to visit my wonderful local, the Forest Reefs Hotel, one Friday night so they can talk to lots of mineworkers and union delegates, who I am sure would be eager to hear what they have to say. The Greens pretend they will protect jobs and support the unions, but when one looks at the fine print of their policies one sees that the Greens will destroy jobs.

Under no circumstances will the Government allow the bill to pass through the House. The Government is about jobs and environmental sustainability. This bill would destroy the economic viability of the goldmining industry. It flies in the face of the effective management of this chemical in the gold extraction process at some mines in New South Wales.

Ms LEE RHIANNON [3.54 p.m.], in reply: I thank all members who have participated in the debate on the Mining Amendment (Cyanide Leaching) Bill. It is disappointing, but not surprising, that the major political parties have indicated they will not support the bill. At no time in the history of this State has the Government of the day stood up to the mining companies. The Greens are not calling for a ban on mining—Mr Duncan Gay pushed that truly ridiculous and misleading argument. That is nonsense. We believe governments have a responsibility to ensure that mining operations deliver far more than dollars for their shareholders.

Local communities and the environment should not have to carry the burden of irresponsible mining practices. Cyanide leaching is a very dangerous practice and if Premier Bob Carr had half the green credentials he boasts of he would negotiate an end to this toxic mining method. Several members gave many examples from overseas and within Australia of the tragic consequences of using cyanide in mining. I noted Mr Gay's comment that he would join the protest if a cyanide spill occurred. We welcome that commitment because accidents do happen, and the subsequent damage to people's health, the environment and the productivity of the land is unacceptable. It is not worth the risk. We must take action before there is a spill and eliminate any chance of one occurring.

The major parties are being deeply irresponsible by refusing to ban cyanide leaching in mining. Their only argument in defence of their position is jobs growth, but that does not stand up to scrutiny. I hope the Minister for Primary Industries will listen carefully because once again he was talking through his hat. He and his Government are not providing the jobs that this State, and particularly western New South Wales, desperately needs.

The Greens are committed to full employment but jobs must be generated by industries that benefit everyone. The Cowal gold project—which will probably be the next goldmine in New South Wales to use cyanide leaching—will obviously bring some new jobs to the west Wyalong region. But the economic impact statement for the project determined that locals would not fill most of those positions. In the event of a spill—and that is a real possibility—the toxic load on the land and in the water would so damage the area's productivity that the number of rural jobs would plummet. Ironically, if there was a spill, more jobs would be generated by the pollution clean-up operation.

The Greens argue against the use of cyanide in mining mainly because it is so dangerous. Sadly, the dangers have been highlighted again since the introduction of the bill on 19 October. The latest cyanide spill occurred at Kalgoorlie, and guess which company was involved? It was Barrick Gold—the company that is pushing ahead with the Cowal gold project. This is not merely an assertion by the Greens. A West Australian Government review of the Fimiston 1 tailings dump at Kalgoorlie super pit mine—a 50:50 joint venture between Barrick Gold and Newmont—found that a large area around the Kalgoorlie super pit Fimiston 1 tailings dam was affected by increased salinity, heavy metal contamination, cyanide contamination, and elevated cyanide levels in groundwater.

Other mines in the vicinity of the spill are now facing contamination problems and economic losses as a result of the environmental impact on the Fimiston dam. Some are even calling for a judicial inquiry. Those mining companies are distressed about lost financial wellbeing as a result of the cyanide spill.

How much more evidence of the danger of cyanide leaching do members need? This is a most serious matter. As legislators we have the power and responsibility to pass laws that ensure the wellbeing of this State, its people and the environment. The Mining Amendment (Cyanide Leaching) Bill is definitely needed. Without it, New South Wales will have no protection against this most dangerous practice.

It is understandable that people should ask what alternative processes could be used if cyanide leaching is banned in mining. This is an area where we could see real jobs growth rather than the short-term employment that the Minister for Primary Industries supports. We need more research and development and investment in this area. There are alternative processes to cyanide leaching in mining, some of which are already commercially viable, but more money must be spent in this area. Despite the Minister's assertions, these are real alternatives. Bioleaching of gold, known as BIOX, is practised commercially at a mine in Tasmania.

The process is now accepted as being completely viable both technically and commercially. Since the 1990s, plants have been successfully designed, commissioned and operated in Australia, Brazil, Ghana and Peru. I was surprised when the Minister said that there was no other alternative to cyanide being used in Australia. He needs to get off the mainland and go to Tasmania to find out the reality. Although we know we will be defeated in the vote on this bill, the debate is not over. We need to discuss these issues. The Minister needs to update himself on how goldmining is conducted in Australia today.

Bioleaching is more environmentally friendly—the bisulfide leaching agent is about 200 times less toxic than cyanide. In time, bioleaching will have improved economics associated with it, with increasing awareness worldwide for the environment, containment, and treatment costs, and with the time spent on environmental impact studies associated with cyanidation plants having skyrocketed. These factors have raised the economic hurdle necessary to justify a working mine. Environmentally acceptable alternatives could broaden the definition of an attractive mine through a reduction of the economic and environmental risks. In addition, preliminary results indicate chemical reagent costs could be 80 per cent lower than cyanide. Another alternative to cyanide leaching is thiosulfate leaching; although costly at the moment, it has potential for more widespread use.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

RAILCORP MANAGEMENT

The Hon. MICHAEL GALLACHER: My question is directed to the Minister for Transport Services. Who within the management of RailCorp does the Minister hold responsible for the ongoing rail crisis? What action is the Minister taking to address its management failures? Will the Minister take the same action he took the last time he blamed management, that is, sack a number of senior personnel?

The Hon. MICHAEL COSTA: I support Vince Graham and his management team as they seek to resolve long-term structural issues in the rail system. They are doing a very good job under difficult circumstances. They are in the process of implementing a new timetable, recruiting record numbers of drivers and overseeing a record capital investment program in the rail system. They ought to be allowed to continue that process. Certainly I have a great deal of confidence that Vince Graham and his team can deliver what is required. It is really up to RailCorp management, and the people who work in RailCorp, to support their chief executive officer as he goes through the process of restructuring the rail system.

INTERNATIONAL SOCIETY FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT INTERNATIONAL CONGRESS

The Hon. AMANDA FAZIO: My question is addressed to the Minister for Community Services. What was the Government's involvement in the fifteenth International Congress on Child Abuse and Neglect held in Brisbane?

The Hon. CARMEL TEBBUTT: The International Society for the Prevention of Child Abuse and Neglect [ISPCAN] fifteenth International Congress was held in Brisbane from 19 to 22 September. It was a most important conference. It brought together more than 1,000 child protection professionals and others from around the world to hear from both local and international researchers, practitioners, carers and young people. I am pleased to inform the House that the New South Wales Government was involved in many aspects of the fifteenth ISPCAN Congress. The New South Wales Commissioner for Children and Young People, Ms Gillian Calvert, was Co-chair of the International Organising Committee with her counterpart, Dr Robin Sullivan, in Queensland. The New South Wales Children's Guardian, Ms Linda Mallett, was a member of the Organising Committee and Co-chair of the Youth Participation Committee with a nominated representative of the Queensland Commission for Children and Young People. Both the Commissioner and Children's Guardian brought their considerable skills, experience and commitment to these leadership roles over a two-year planning period.

The congress theme "Working Together for a Child Safe World" recognised that child abuse and neglect is a complex issue that calls for the mobilisation of many kinds of skills and resources. This year's congress was the first ISPCAN congress that included a Youth Participation Program. State and Territory governments in Australia, including New South Wales, Kids HelpLine and Parkerville Children's Home in Western Australia sponsored young people to attend the congress and take part in the Youth Participation Program. Thirty-one children and young people from Australia and overseas joined other congress delegates to exchange and discuss ideas and strategies for the prevention and reduction of child abuse and neglect and building stronger, more resilient communities. These young delegates were aged between 11 and 17 years, with 16 of those children and young people coming from an out-of-home care background.

The congress heard their views about what was needed to encourage young people to provide input into decisions that affect them. They also discussed issues of importance to them, which will help inform those who work with children and young people and provide a fresh perspective. Those young people were in a unique position to be able to provide their perspective on their experience of being in care. Six young delegates from New South Wales took part in the program. The Department of Community Services, the Commission for Children and Young People and the Office of the Children's Guardian each sponsored two young delegates to attend the congress. Young delegates had a hands-on role at the congress presenting sessions and also participated in a social program, which included the opening ceremony and welcome reception, a visit to Dreamworld on the Gold Coast, the Australian Woolshed and the congress dinner.

The young delegates prepared their own workshop during the first two days of the congress. Their presentation "Working together for a child abuse free world—Young Delegates Speak Out" included commentary on domestic violence and child abuse, what makes a family and the value of mentors. Each young delegate made a unique contribution to the hour-long workshop; their presentation was hailed a great success. The young delegates received a standing ovation from more than 80 congress delegates who chose to attend their presentation. I am sure that was a wonderful experience for those young delegates. The New South Wales Children's Guardian presented a master class with the Acting Queensland Commissioner for Children and Young People and Child Guardian. The session entitled "Youth Participation in their Care and Protection" focused on the benefits of children and young people participating in decisions that affect their lives. Another six presentations were made by officers from the New South Wales Commission for Children and Young People and the New South Wales Department of Community Services. The fifteenth ISPCAN Congress is a very worthwhile initiative, and I am pleased that the New South Wales Government's involvement in this year's congress played a vital role in its success.

DUBBO CYPRESS PINE INDUSTRY

The Hon. DUNCAN GAY: My question is directed to the Minister for Primary Industries. Did the Minister threaten to cancel a meeting with the Dubbo cypress pine industry last Friday if the Opposition spokesman for Forestry, Andrew Fraser, toured Ramiens Timber Company's Dubbo timber mill on the day before the Minister's visit?

The Hon. IAN MACDONALD: I assure honourable members I have not threatened any industry organisation, and I would not threaten them. But if the industry does not want to meet Andrew Fraser, it is up to the industry to make that decision. I had a very good meeting with those people on Friday morning for an hour and a half, and we went through the various issues. We never spoke about the Opposition. I do not think they thought the Opposition was relevant in any shape or form in relation to any of the issues about their future. We had a very good discussion. I met the workers. There were about a dozen workers at Ramiens. It is a very efficient, well-run cypress plant. We had tea and biscuits and a very good discussion with all the companies present and the different issues that they need addressed. I assured them that the Government—

The Hon. Duncan Gay: Why did you threaten them?

The Hon. IAN MACDONALD: I threatened no-one. I did not threaten anyone in relation to that whatsoever. This is another nonsense that the Deputy Leader of the Opposition regularly brings into this House. He makes up issues at the drop of a hat and raises them here. I had never spoken to any of those companies prior to my meeting on Friday morning. I have never threatened anyone.

The Hon. DUNCAN GAY: I ask a supplementary question. In light of the Minister's answer that he did not speak to them himself, is it not correct that the Minister got someone else to do that? In light of the Minister's answer, does that indicate that he is not only a bully but that he is loose with the truth as well?

The Hon. IAN MACDONALD: I think over his entire career the Deputy Leader of the Opposition has been the absolute class bully—or, at least, he has tried to be, but an unsuccessful one. I have never instructed anyone to talk to any of these industries whatsoever. I have not spoken to them. I believe that, as usual, what the Deputy Leader of the Opposition is telling the House is complete nonsense. Those companies wanted to meet me on the Friday. We had a very constructive meeting indeed, and in very friendly circumstances. We discussed many issues relevant to the cypress pine industry. It was a fantastic meeting. I have only recently learned that Andrew Fraser is actually the shadow Minister for Forestry. It took a by-election in Dubbo to get him to say anything about it, meeting the Hon. John Ryan on a plane and seeing the Hon. Jenny Gardiner for the first time after being in the bush for a long time. I was told by the forestry industry that in fact about a dozen Opposition members of Parliament were in Dubbo on the Thursday. I only learned then that Andrew Fraser was the shadow Minister for Forestry; in all this time I had not heard him say a thing about forestry. I had thought the Deputy Leader of the Opposition was the shadow Minister for Forestry. So I find it very difficult to comprehend how I could have asked the industry to ban Andrew Fraser from meeting them.

SHARK FIN FISHING INDUSTRY

The Hon. JOHN TINGLE: My question without notice is addressed to the Minister for Fisheries. Is the Minister aware of concern over the growth of the shark fin fishing industry in northern Australian waters? Have Indonesian fishermen moved into this area, alongside Australian shark fin fishers, and is there concern that shark stocks are being seriously depleted? Do the Indonesian fishermen cut all fins from the live shark and then put it back into the sea to die of suffocation because it can no longer swim? Does this wasteful and unpleasant form of fishing occur in New South Wales waters? If so, what controls are exercised over it? Or, if it should start up, what controls would the Minister envisage?

The Hon. IAN MACDONALD: The practice of shark fin clipping is banned in New South Wales. A closure under the Fisheries Management Act prohibits the possession of shark fins by any person on board any vessel in New South Wales waters. I am sure the Leader of the Opposition will be very keen on this answer. Any shark legally taken must remain intact, or may be cut into portions provided all fins remain attached to those portions. Similar laws apply in Commonwealth waters adjacent to New South Wales. New South Wales Fisheries officers conduct regular patrols to detect all types of illegal fishing, including shark fin clipping. During recent patrols on behalf of the Commonwealth, New South Wales officers detected shark fins on board a Commonwealth vessel. This matter is likely to be the subject of prosecution.

I understand that a number of foreign vessels were also recently apprehended off the coast of the Northern Territory, in Australia's northern fishing zone. Reports indicate their catch included shark fin, dried tuna and various other fish. Illegal fishing by foreign vessels in Commonwealth waters is a matter for the Australian Government. One of the fine things the Hon. Eddie Obeid did when he was Minister for Fisheries was that on 20 July 2001 he issued a section 11 and 8 "Notification—Fishing Closure", which in fact banned the possession of shark fins in New South Wales—a very strong and very noble environmental concern on this issue.

STATE EMERGENCY SERVICE VOLUNTEERS

The Hon. KAYEE GRIFFIN: My question is addressed to the Minister for Emergency Services. What is the Government doing to raise community awareness of the important role of the New South Wales State Emergency Service?

The Hon. TONY KELLY: State Emergency Service [SES] volunteers around the country are this week celebrating National SES Week. Here in New South Wales we are fortunate to have 10,000 volunteers, belonging to 230 local SES units. That is 10,000 men and women training every week and standing ready to respond whenever their communities call on them. Nearly every council area in New South Wales is covered by at least one SES unit. While the volunteers in orange overalls focus on their core roles of responding in floods and storms, they also frequently assist police and firefighters during major operations and assist at community events. Many also are accredited to rescue people from road crashes—operations that require detailed skill and expertise but can often be traumatic for all involved.

In some remote communities first aid and rescue trained SES volunteers are often the only medical help available within an hour's drive or more. Last year SES volunteers across New South Wales gave more than half a million hours in responding to storms, floods and assistance to other emergency services, training, unit maintenance and support for community events. This Government is committed to supporting the volunteers who give so selflessly of their time with the facilities and resources they need for their job. Over 10 years the Government and the Treasurer have provided the SES with unprecedented levels of funding, totalling more than \$232 million and including \$34.3 million this year—record funding again!

So it was with pleasure that I officially recognised this commitment of time and energy at last night's opening of the upgraded SES Sydney Western Division headquarters at Seven Hills. The Sydney Western Division of the SES is the frontline service responsible for managing flood events on the Hawkesbury-Nepean river system. This river system is prone to severe flooding, with several moderate to major floods in the 1970s and 1980s. While there has been no significant flooding since 1991, the SES has not been resting on its laurels but has been actively involved in the implementation of the Hawkesbury-Nepean Floodplain Management Strategy. This strategy draws on the expertise of several agencies involved in local planning, development, emergency management and community assistance.

At a cost of more than \$550,000, the project to upgrade the Sydney Western headquarters was a major initiative by the SES as part of its commitment to the floodplain strategy. It has provided significantly improved facilities for managing a severe flood on the river system and the impact on the surrounding community. The refurbished centre now provides more space for operations, planning and logistics personnel and liaison officers, with upgraded computer, video and audio systems. A major flood event in this region would be likely to require extensive evacuations, and facilities have now been provided for the Roads and Traffic Authority and New South Wales Police to monitor evacuation routes.

Improved media information facilities also will help to ensure that crucial information can be easily, accurately and rapidly transmitted to affected communities. This is a significant development for the SES in Western Sydney and it is fitting that the official opening takes place in National SES Week. This week is an opportunity for us to say thanks to all our SES volunteers for the invaluable work they do for their communities. They receive no pay but they do receive the gratitude of the people they help. If at no other time, then National SES Week is the one time of the year we should make a point of saying, "Thanks. Job well done". I am sure every member of the House joins me in saying that. Anyone who is interested in becoming an SES volunteer or, of course, in finding out about preparing their family and property for severe weather can call 1800 201 000.

KARIONG JUVENILE JUSTICE CENTRE DETAINEES PROFILE

The Hon. Dr PETER WONG: My question without notice is directed to the Special Minister of State, representing the Minister for Juvenile Justice. Given the Dalton report's evidence about the lack of case management and planning at Kariong, will the Minister direct the responsible Department of Community

Services and Department of Juvenile Justice officer to undertake a study to inform the House of the number of young people who are, or have been, in the care of the State who were among the 28 at Kariong and the subject of the Dalton report? Will the Minister direct that officer to undertake a study of the involvement of the Department of Community Services in these young people's lives after they first entered juvenile justice so as to inform members of the House of the history of these serious young offenders, giving the details of Department of Community Services and Department of Juvenile Justice programs and case management that these young people received?

The Hon. JOHN DELLA BOSCA: The Dalton report into Kariong identified the very significant change in the profile of Kariong detainees over the past 10 years; they are more dangerous and more violent criminals who no longer fit the broad category of the original juvenile justice system. The Minister for Juvenile Justice has taken the tough decision to set up a special juvenile correction facility for these detainees to be managed and controlled by people best equipped to deal with them: officers of the Department of Corrective Services. The Minister is implementing a redeployment strategy for juvenile justice staff at Kariong. Support staff will be offered transfers to Corrective Services at Kariong. Both youth workers will be transferred temporarily to the nearby Baxter Juvenile Justice Centre. Suitable staff will be offered permanent transfers to either Baxter or other areas of juvenile justice. They will be given work placement counselling and the option of voluntary redundancy. The Department of Juvenile Justice is working closely with the Public Service Association. A special consultant has been appointed to assist with and co-ordinate this redeployment.

The Hon. Melinda Pavey: Will they get travelling allowance, like you?

The Hon. JOHN DELLA BOSCA: It is only about 100 metres from their current workplace. I do not get a travelling allowance. What is the honourable member talking about?

COMMUNITY PARTICIPATION PROGRAM

The Hon. JOHN RYAN: My question is directed to the Minister for Disability Services. Last week did officers of the Department of Ageing, Disability and Home Care telephone almost every Adult Training, Learning and Support [ATLAS] Program provider in the State requesting them to provide budgets for the Community Participation Program by tomorrow? Did the department ask service providers to prepare budgets based on an 18-hour-a-week program? If so, what provision will be made for ATLAS clients who currently receive more than three days a week? Why are requests of this nature not made in writing?

The Hon. CARMEL TEBBUTT: The department is making good progress with the introduction of the two new programs that will replace the Adult Training, Learning and Support [ATLAS] Program, the Transition to Work Program and the Community Participation Program. The department has been seeking additional information from service providers who participated in the process to offer their services for the Community Participation Program. We are working closely with service providers and peak bodies, such as the Australian Council for Rehabilitation of the Disabled [ACROD], to provide solutions to a range of concerns that have been identified, and about which I have spoken previously in this House, before we roll out the two programs early next year. With regard to the Transition to Work Program, which is a fixed-term program that aims to improve post school training opportunities and employment for young people with a disability, disability service providers across New South Wales submitted a total of 125 tenders by the closing date of 3 September. Following assessment of tenders I am pleased to say that last week the Department of Ageing, Disability and Home Care [DADAHC] announced that 90 disability services are eligible to deliver the Transition to Work Program. The department has notified eligible service providers.

The next step is for a list of providers to be sent to new school leavers with a disability and current eligible ATLAS participants for them to indicate their preferences. Once clients have indicated their preferences, DADAHC will enter into contract negotiations with providers, which will include issues such as service content and cost, and their ability to sustain the proposed services. Service providers who are not considered eligible have a right of appeal. With regard to the Community Participation Program, which provides a longer-term commitment to community-based support for those unable to move into employment, DADAHC announced last week that applications by current ATLAS service providers to run the Community Participation Program were still undergoing evaluation. What the Hon. John Ryan has referred to is that DADAHC has asked some service providers to provide further information to build a total picture of the programs on offer and their viability. A number of service providers have not provided the sort of information the department needs to assess whether they can appropriately deliver the new program and whether they should be eligible for funding from the Government.

For example, only 2 of the 10 tenders from Western Sydney provided a proposed budget. Others provided only partial service descriptions or insufficient detail on how they would meet standards. I am sure that service providers will recognise that if they want to be part of the process they must provide information to the Government to enable us to assess appropriately whether they can deliver the sort of service we are asking for the funding we are making available. Also we are working with ACROD and service providers to address any areas of concern that have been identified with the Community Participation Program. I am confident that we will be able to announce a list of eligible providers in the very near future. We will then be in a position to ask people with a disability, their families and carers for their service provider preferences. There is no doubt that this has not been an easy process. Reform in disability services never is. But the reality is that this program will provide families with a long-term commitment to a Community Participation Program.

The Hon. John Ryan: They've got that already.

The Hon. CARMEL TEBBUTT: They do not have that already because, as the Hon. John Ryan well knows, the ATLAS Program is a two-year time limited program. I suggest that the Opposition goes back and checks the commitments in its policy.

CORRECTIVE SERVICE INDUSTRIES

The Hon. IAN WEST: My question without notice is addressed to the Minister for Justice. Will the Minister advise the House of the contribution made by Corrective Service Industries to the strategy of the New South Wales Government to reduce rates of recidivism among the New South Wales prison population?

The Hon. JOHN HATZISTERGOS: Corrective Service Industries [CSI] is a business that is having a real impact in the correctional system. Most offenders in this State have brought harm to themselves and others. They have caused damage and loss of property, and they have made a big mistake or trapped themselves through a series of mistakes with no way out. A reduction in the numbers entering the system is what everyone would wish for, and in an ideal world we would have no need for an organisation like Corrective Service Industries. But we do not live in an ideal world. What we can do best is guide at least some of those in custody towards a place in society where they have no wish or need to reoffend. That is a vital function performed by Corrective Services Industries. Success and profit for CSI are as much, and more, about social and human objectives as they are about the bottom line. For an entity like CSI one cannot exist without the other.

In 2003-04 Corrective Service Industries achieved its highest ever turnover of \$40.1 million, a significant commercial achievement. Sales for the preceding year amounted to \$36 million. The net contribution to the Department of Corrective Services increased by an enormous 82 per cent from \$2.8 million in 2002-03 to \$5.1 million in 2003-04. This means that inmates' labour put more than \$5 million back into the correctional system, which helps to reduce the pressure on New South Wales taxpayers. The percentage of the turnover was directed towards victims of crime groups. It is estimated that the prison population in New South Wales will reach 10,500 within the next five years. For Corrective Service Industries that means keeping most of those inmates gainfully employed. Work readiness equips inmates for post release employment, and contributes to the department's strategy of reducing reoffending. A reduction in reoffending of 5 to 10 per cent can be significant.

In the year following June 2003 the organisation was able to increase employment from just over 4,800 to over 5,100. CSI is successful because it has risen to the expansion of its responsibilities and has helped to build creative and rewarding environments. CSI's real impact goes beyond its bottom line: it is in the value of work and the capacity for demonstrating that value to people who have never known it or who go out of their way to avoid it. That is the process of rehabilitating offenders for a more secure community, and that is what keeps all of us on that tightrope and moving forward, the understanding that something can be done for the betterment of society. Work is an essential part of that equation. Ability to find and stay in a job is essential to staying out of the prison system. Many inmates now acquire skills that can be applied directly in the private sector after release. CSI can take direct credit for their success. In 2003-04 some of the work undertaken included the manufacture and supply of fire trailers to the New South Wales Fire Brigades, a vegetable processing facility at St Heliers Correctional Centre, furniture refurbishment and expansion of CSI's arrangement with Commscope Cable to provide computer cabling from Bathurst and Lithgow.

At full operation it will provide employment for more than 130 inmates. The next 12 months offers further opportunities, such as coffee and tea bag packaging for internal and external use, security soaps and toiletries produced and decanted in Sydney, a telemarketing operation at Dillwynia and a plastic recycling initiative. To take offenders from being unemployable to being ready for work on release demands a more

structured approach than simply putting them to work or giving them a vocational skill. The intention behind this new approach is that an offender will learn key intrinsic lessons. They are lessons everyone in a successful workplace understands.

A couple of weeks ago I had the honour of attending the CSI corporate excellence awards, which recognised excellence in individual effort that contributed to the overall success of CSI's projects in the last financial year. None of these pursuits could have come to fruition without the kind of people that make up the CSI team. The team thrives in an organisational culture that is rich with integrity, purpose, commitment and professionalism. Individual excellence helps a team to perform at its best. The corporate excellence awards recognise such individual excellence and, indeed, help to foster it.

LEGAL FEES INQUIRY

The Hon. PETER BREEN: My question without notice is addressed to the Minister for Justice, representing the Attorney General. Is the Minister aware that the legal fees inquiry, which was expected to publish terms of reference in March this year, has still taken no evidence from the public about lawyers overcharging and has provided no information as to the issues it will consider? Will a community representative be included on the inquiry's panel? Is there any prospect that the inquiry will begin taking evidence before the end of the year?

The Hon. JOHN HATZISTERGOS: I will refer those matters to the Attorney General.

PEEL VALLEY EXPORTERS PTY LTD WORKERS COMPENSATION PREMIUMS

The Hon. JENNIFER GARDINER: My question is directed to the Special Minister of State. Is he aware of the recent \$15 million investment by Peel Valley Exporters in a state-of-the-art lamb abattoir in Tamworth and its proposal to expand to a work force of 600 employees? Is he also aware that the WorkCover bill for Peel Valley Exporters has jumped from 13 per cent to 33 per cent of its wages bill, with an annual premium approaching \$2 million following a couple of fraudulent claims? What immediate action will he take to rectify the situation and to prevent Peel Valley Exporters from moving its complete operation from Tamworth to Queensland?

The Hon. JOHN DELLA BOSCA: I thank the Hon. Jennifer Gardiner for her question, which deals with a very specific matter in relation to premiums charged to an employer. The question involves a fairly serious allegation of premiums increasing owing to allegedly fraudulent claims. I will immediately obtain advice and provide that to the honourable member as quickly as possible.

SYDNEY-BEIJING OLYMPICS SECRETARIAT

The Hon. TONY CATANZARITI: My question without notice is addressed to the Treasurer, and Minister for State Development. Will he inform the House about New South Wales exports of Olympic expertise following the 2000 Olympic Games?

The Hon. MICHAEL EGAN: A range of New South Wales companies has benefited from their involvement in the Sydney 2000 Olympic Games by winning subsequent contracts for Athens. I am pleased to advise the House that the same is happening again for the Beijing Olympics, which will be held in 2008. As honourable members know, a number of New South Wales companies have developed their expertise beyond their Sydney 2000 capabilities and are now operating globally in the sports infrastructure and games management areas with quite some success. The New South Wales Government has taken a very active approach by creating a special body, the Sydney-Beijing Olympics Secretariat.

The secretariat is spearheaded by its director, David Churches, the former chief of the Sydney Organising Committee for the Olympic Games [SOCOG], Sandy Hollway, and a Department of State and Regional Development officer, Eric Winton. It is also assisted by other former Sydney 2000 senior personnel, the New South Wales Premier's Department, the Sydney Olympic Park Authority, Austrade and the Australia China Business Council. In China, the secretariat works closely with the Beijing Organising Committee for the Olympic Games, the Beijing Municipal Government, the Qingdao Olympic Sailing Committee, and most other Olympics-related agencies as well as Chinese businesses. Today, significant Australian successes have been achieved in venue designs and operational planning.

In the area of science and technology, the secretariat has been active in food safety and public health, security, high-technology building products and services, intelligent traffic systems, and environmentally sustainable development projects. In the field of food safety, the secretariat has initiated a draft memorandum of understanding between Beijing and expert New South Wales and Federal organisations. Last month an international food safety conference was held in Beijing at which a number of Australians were invited to speak, including the NSW Food Authority's Director General, George Davey, Dr Martin Cole and Dr Jason Wan, of CSIRO Food Science Australia. Last week Sandy Hollway and David Churches were in Beijing, where an update on Olympics venues and a debriefing by the International Olympic Committee [IOC] of the Athens Games took place. Last Friday they were invited to speak, along with Mike Williams of Collex and Brian Pilbeam of Telstra, at a high-level Olympics science and technology forum.

In recent weeks the secretariat has also hosted a number of Beijing Olympics related delegations to New South Wales, including the municipal government of Qingdao, which has sought advice on environmental management from URS Corporation, GHD and Sinclair Knight Mertz. Last week the Beijing Municipal Government's Forestry and Green Trees Bureau visited Sydney Olympic Games sites to discuss urban landscaping and tree planting, and met with three New South Wales companies, Designed Landscapes, Turf Design Studio and Greening Australia. This week Beijing Development and Reform Commission officials meet with the Government and former Sydney Olympics officials to discuss the Beijing's Olympics and venue management. I welcome the ongoing work of the Sydney-Beijing Olympics Secretariat. I look forward to hearing more about its efforts in the lead-up to the Beijing Olympic Games.

MS SEREANA NAIKELEKELE DEPORTATION

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question without notice is directed to the Minister for Community Services and concerns the potential deportation of Sereana Naikelekele, who is a Fijian national and who is currently held at the Villawood detention centre. What arrangements has the Department of Community Services made to support her two children who are not Australian citizens and who will be unaccompanied minors in detention? What arrangements have been made for her three children who are Australian citizens in the event of their mother being deported? Will the Department of Community Services be liable for any psychological and behavioural problems that will occur if Ms Naikelekele's five children under 12 years of age are separated from their mother? Is the Government concerned that this deportation will be in breach of the United Nations Convention on the Rights of the Child? What has the Labor Government done to reduce the number of children in Australian detention centres, given that the largest numbers of children in detention—40 out of 107—are in New South Wales?

The Hon. CARMEL TEBBUTT: I am able to provide the honourable member with some information about the case to which he refers. I am sure that all members have read about this case in the newspapers. It seems to be a particularly tragic case but I preface my comments by reiterating what I have said on many occasions: the issue of children in detention centres is not primarily a matter for the New South Wales Government. The New South Wales Government does not operate the Villawood detention centre. I also have pointed out to the Hon. Dr Arthur Chesterfield-Evans on a number of occasions that the Department of Community Services [DOCS] can respond to reports of concern only if the Department of Immigration and Multicultural and Indigenous Affairs [DIMIA] chooses to invite the department into the Villawood detention centre, which has happened on occasions. However the Department of Community Services can make recommendations only in regard to children who are at the Villawood detention centre.

Nonetheless I point out, as the honourable member has asked what the Labor Party has done, that the Labor Party presented a very clear policy during the most recent Federal election of not supporting children being detained in immigration detention centres. The Labor Party's policy position in relation to this matter is very clear at the Federal level, which is the appropriate level for deciding these matters. It is my understanding in relation to the specific case referred to by the Hon. Dr Arthur Chesterfield-Evans that Ms Naikelekele has been in custody at the Villawood detention centre for more than two years and that five of her six children live there with her. I understand that Ms Naikelekele has exhausted all avenues of appeal and faces deportation to Fiji.

I am aware that three of the children residing with Ms Naikelekele are Australian citizens and two are not. Currently a court injunction is being sought to prevent deportation of the two non-citizen children. I understand that an injunction hearing is pending and that the Department of Immigration and Multicultural and Indigenous Affairs will not act to deport Ms Naikelekele until the issue of the future of the non-resident children is decided. I understand that it is Ms Naikelekele's decision whether she leaves Australia with or without her

children who have Australian citizenship. I am told that the children have close relatives who are likely to be able to care for some or all of Ms Naikelekele's children should they remain in Australia after she is deported. If that does not eventuate, it is likely that the Department of Community Services will have a role in arranging alternative community care for some or all of these children.

I present these bare facts as advice I have received from my department. Obviously they do not address in any way the great tragedy of this case. I feel very keenly the issues being pursued by the Hon. Dr Arthur Chesterfield-Evans, but I make the point that it is neither appropriate nor possible for him to pursue those issues through the Department of Community Services.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I ask a supplementary question. Minister, what is the progress of the memorandum of understanding with regard to detention centres, which seems to have ground to a halt in New South Wales, although other States have similar understandings with the Commonwealth?

The Hon. CARMEL TEBBUTT: That matter has some history with the Department of Community Services and the Department of Immigration and Multicultural and Indigenous Affairs [DIMIA]. I understand that the negotiations that have taken place would not go to the issues raised by the Hon. Dr Arthur Chesterfield-Evans in his question; nonetheless, I indicate that discussions are ongoing. The Commonwealth department is negotiating a separate memorandum of understanding with each State's child protection agency on the provision of child protection services in Commonwealth immigration detention centres. However, there still remains a substantial difference between the Department of Community Services and the DIMIA with regard to the draft memorandum of understanding. The Department of Community Services will continue discussions with the DIMIA to resolve those issues, but nothing will change the fact that there is a primacy of Commonwealth legislation and powers over State child protection agencies.

KARIONG JUVENILE JUSTICE CENTRE MANAGEMENT

The Hon. DON HARWIN: My question without notice is addressed to the Minister for Justice. Will the Minister table the memorandum of understanding between the Department of Corrective Services and the Department of Juvenile Justice that explains how the Kariong detention centre will be able to function as a juvenile facility operated by the adult prison system?

The Hon. JOHN HATZISTERGOS: That question should be directed to the Minister representing the Minister for Juvenile Justice, with whom the Department of Corrective Services has an agreement to conduct the facility at Kariong. If the question were so directed, no doubt the Minister who represents the Minister for Juvenile Justice would seek appropriate advice. The Opposition should not ask too many questions about Kariong. I have not been there, but I have read a lot about it. I have read particularly the comments of the shadow Minister who, interestingly enough, did not have the guts to get up and ask this question, because she was—

The Hon. John Ryan: Point of order: The Minister is debating the question, both in its content and substance. There is no special provision in this House that says that a shadow Minister has to ask a question. The Minister is making imputations against the member, and that is disorderly also, given that there is no opportunity to debate them. And, frankly, his comments are cowardly. I ask you, Madam President, to ask the member to be relevant in answering the question.

The PRESIDENT: Order! I remind the Minister that it is disorderly for a Minister when answering a question to debate the question. I rule further that debating the name of the member who should ask the question is in fact debating the question, and that is out of order.

The Hon. JOHN HATZISTERGOS: It is interesting, although I have not been following this issue—

The Hon. Duncan Gay: You have not been there, and have not been following it.

The Hon. JOHN HATZISTERGOS: We have not formally taken control, we do not do that until tomorrow. I thought it would be a bit impertinent of me just to walk into a place before I have actually taken control.

The Hon. Melinda Pavey: But you signed the agreement.

The Hon. JOHN HATZISTERGOS: I have not signed any agreement. Sorry, I withdraw that, I did sign a memorandum of understanding.

The Hon. Don Harwin: Will you table it?

The Hon. JOHN HATZISTERGOS: There is no big secret about it; I will tell the House what it does. The memorandum of understanding delegates the functions of the Director-General of Juvenile Justice to the Commissioner for Corrective Services. That is what it does. Big deal! I have no problem about it, but I will get advice on it.

The PRESIDENT: Order! I call the Hon. Don Harwin to order for the first time.

The Hon. JOHN HATZISTERGOS: It will all be redundant because the Coalition will be considering legislation very soon that will underscore our arrangements. I do not know what the big deal is about this issue, because a few weeks ago the shadow Minister said—

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

The Hon. JOHN HATZISTERGOS: On 26 October the shadow Minister said that Kariong needs a fresh start. And it is getting that. It will be a big fresh start, because the brainchild for Kariong was none other than the Hon. Catherine Cusack, who was the senior policy adviser to Virginia Chadwick, who dreamt up all this. We have all seen the articles with her peering over the models of Kariong and announcing plans. Next time there is a question on this issue perhaps the shadow Minister will get up and ask it.

PUBLIC SECTOR DEFENCE FORCE RESERVISTS LEAVE ENTITLEMENTS

The Hon. JAN BURNSWOODS: My question is addressed to the Special Minister of State. What measures is the New South Wales Government taking to support Defence Force Reservists?

The Hon. JOHN DELLA BOSCA: The New South Wales Government is committed to ensuring that it plays a strong role in contributing to Australia's national security and our security in the region. Yesterday the Government announced a significant new policy to support Defence Reservists in the public service who make themselves available for peacekeeping operations overseas or who undertake defence force training. In addition to the existing military leave entitlement of up to 28 days paid leave the Government will now provide reservists with top-up pay for any further period of military leave. The Government will top up the difference between employees' tax-free reservist pay and what they would ordinarily receive if they were performing normal duties at work. The Government will also maintain reservists' superannuation and continue to accrue sick leave and extended leave entitlements. This initiative has been welcomed by Major-General Paul Irving, Commander of Two Division, with whom I made the announcement yesterday.

Major-General Irving said that by maintaining employees' pay for extended periods of service the top-up pay scheme would enhance the capacity of Australian Defence Force Reserves. Someone else who has worked hard to promote this cause and initially drew it to my attention is well known to many honourable members, and he joined me at the announcement yesterday. He is the Chair of the Defence Reserves Support Council for New South Wales, and a former member of this House, Mr John Jobling. Mr Jobling said he was pleased that public servants who volunteer for peacekeeping and training duties in the service of our nation would not be out of pocket. Mr Jobling said, "I think the State Government should be congratulated for its continuing support for reservists in New South Wales."

Mr Jobling noted that it is essential to have specialists such as surgeons and orthopods and engineering and technical people as part of the team. Many serving reservists are public servants who work in our major hospitals and public instrumentalities. Their skills are vital when sending troops to the world's trouble spots. Over the past few years reservists have contributed to all Australian Defence Force deployments including Cambodia, Somalia, Rwanda, East Timor, Bougainville, Afghanistan and Iraq. At the moment reservists are serving in East Timor, mainly in medical and engineering roles, and in Iraq, again, mainly in a medical capacity. Reservists are also providing boarding parties on Royal Australian Navy ships patrolling Australia's northern approaches and a company of Army Reservists is about to deploy to Malaysia as part of Australia's Five Power Defence Arrangement.

I have been advised that the Carr State Government is the first State Government to implement this initiative, which we believe will assist about 1,500 New South Wales public service personnel each year. The

top-up pay scheme is now mandatory for the public service, but not the entire public sector. However, State agencies will be strongly encouraged to follow the same arrangements. The New South Wales Government is ensuring that employees undertaking important reservist and peacekeeping duties maintain their income and are given moral support.

JENOLAN CAVES

Mr IAN COHEN: My question without notice is addressed to the Treasurer. Given the iconic status of Jenolan Caves as an environmental wonder and major public resource, will the Treasurer give a cast-iron guarantee that there will be no further privatisation of Jenolan Caves?

The Hon. MICHAEL EGAN: I am not aware of any proposal to privatise Jenolan Caves. This is a bit like asking whether there is any proposal to privatise the Pacific Ocean! I will refer the question to the appropriate Minister.

KARIONG JUVENILE JUSTICE CENTRE OBJECTIVE CLASSIFICATION SYSTEM

The Hon. CATHERINE CUSACK: My question without notice is directed to the Minister for Justice. Will the objective classification system of the Department of Juvenile Justice continue to operate at Kariong? Will Kariong detainees continue to be able to have their security classification—

The Hon. Amanda Fazio: Point of order: My point of order relates to the inquiry that is currently being conducted by General Purpose Standing Committee No. 3 into the operations of Kariong. One of the issues into which the committee is inquiring is the new classification system that has been implemented at juvenile detention centres. I am concerned that the question is out of order as it cuts across an inquiry that is currently being conducted and that has not yet been reported to the House. I seek your advice on that matter.

The PRESIDENT: Order! I remind members that they cannot ask questions that anticipate the report of a committee. If the question has been asked in public, it is not out of order; however, if the question has anything to do with the deliberations of the committee, it is out of order.

The Hon. CATHERINE CUSACK: It does not relate to the work of the committee.

The Hon. Amanda Fazio: Madam President, further to your ruling, I seek clarification. Without going into too much detail of what is being discussed in deliberative meetings of General Purpose Standing Committee No. 3, at its last meeting the committee sought and received from the Minister the classifications to which the Hon. Catherine Cusack is referring. I am not sure how that stands in regard to your ruling.

The Hon. CATHERINE CUSACK: To the point of order: The committee is inquiring into the content of the classification system. My question relates to who is responsible for the continuation of that system; it does not relate to the detail of what is contained therein. The committee is not inquiring into the transfer of Kariong from the juvenile system to the corrective services system. My question simply relates to the continuity of a program that is already in place; it does not seek any information about the content of that policy.

The PRESIDENT: Order! I heard only a few words of the question. If it relates in any way to a discussion of the classification system at Kariong, it is out of order.

The Hon. CATHERINE CUSACK: Anything to do with Kariong is out of order?

The PRESIDENT: Anything relating to the classification system.

The Hon. CATHERINE CUSACK: My question was: Will the objective classification system continue to operate at Kariong—

The PRESIDENT: Order! The question is out of order.

FRESH ORANGE JUICE PRODUCTION

The Hon. PETER PRIMROSE: My question without notice is directed to the Minister for Primary Industries. Is the Minister aware that the demand for fresh orange juice is rapidly growing in Australia and overseas? Can he inform the House about plans in New South Wales to help meet that growing demand?

The Hon. IAN MACDONALD: It is estimated that Australia's fresh juice market is growing at a rate of 6 per cent to 8 per cent each year. Demand in many European and Asian markets is also booming. In total, Australia exports 167,011 tonnes of citrus, including oranges, to those two regions. Of that amount nearly 1,400 tonnes went to Europe in 2002-03 and 121,000 tonnes went to Asia. New South Wales supplies 43 per cent of Australia's oranges. Our growers currently manage nearly four million orange trees covering 12,000 hectares in citrus-growing regions such as the Riverina, along the Murray, on the Central Coast and in the Sydney Basin. Those trees help to produce 275,000 tonnes of oranges. That sizeable and valuable industry is about to expand to help meet the rising demand for quality fresh orange juice.

Last Friday I announced an exciting new development strategy that will result in over 1,200 hectares of new orange trees being planted in New South Wales, this time in the central and north-western parts of the State. By establishing those new citrus orchards we will be able to extend our growing season and deliver a year-round supply of oranges for juicing. We can also help farmers diversify their businesses and provide more opportunities for regional communities.

Under the plan the 1,200 hectares of new trees will be planted over the next 15 years in areas such as Narromine, Gunnedah, Narrabri, Moree and Bourke. By year 15 that new citrus sector is expected to be worth an estimated \$108 million. It is also expected to provide up to 500 new full-time and casual jobs in coming years through orchard development, harvesting and other aspects of the industry. In order to get the strategy up and running, the Best Juice Company, which represents growers, and Pure and Natural, a major juice processor and marketer, joined forces to provide a ready market for the new oranges. That partnership provides security for growers to invest in the new plantings that are due to begin in 2005.

Already 25 growers in the Central West and north-western districts have signed up to this exciting development opportunity and the majority will use existing water allocations as they diversify into this new sector. A successful orange industry in the central and north-western areas could also open the door for growers to explore additional crops of other fruits, vegetables and nuts. This development strategy is a result of four years hard work and industry collaboration. The Department of Primary Industries, the Department of State and Regional Development, Horticulture Australia Ltd and involved growers have so far contributed financial and in-kind support of the order of \$500,000. Growers and private sector partners are expected to invest roughly \$19 million over the next few years to help establish the industry.

While these new plantings provide many positive aspects I point out that the estimated 1,200 hectares of new trees is 10 per cent of the total New South Wales industry. Growers in established citrus regions, in particular, the Riverina and Murray regions, clearly have the lion's share of the citrus market. Growers in those areas have worked hard to establish New South Wales as one of the premier providers of orange juice. In the time I have left to answer the question I will try to explain to the Deputy Leader of the Opposition why this issue is important for citrus growers in New South Wales. Australia and, in particular, New South Wales do not have year-round production of fresh fruit for the juicing sector, and this results in large gaps in production techniques and a lack of fresh juice supplies in other areas of the State. This proposal will result in the utilisation of about 800 hectares of orange trees in the south of the State. The new 1,200 hectares of trees in the north of the State will ensure year-round production of orange juice. *[Time expired]*.

The Hon. PETER PRIMROSE: I ask the Minister a supplementary question. Will he elucidate his answer?

The Hon. IAN MACDONALD: New South Wales cannot supply fresh orange juice all year round. As I pointed out earlier, there is an increasing demand—of the order of 6 per cent to 8 per cent—for fresh orange juice in New South Wales. This project will extend the growing season so that fresh orange juice can be produced all year round. Are the Deputy Leader of the Opposition and the Hon. Jennifer Gardiner telling people in Bourke and Moree—growers that I met last Friday in Narromine—that they should not be providing juice for the New South Wales market all year? Are they telling the consumers of this State that they cannot have fresh juice all year? If that is the case, they are wrong and they have this whole proposal terribly wrong. We need a supply of fresh orange juice all year round.

The PRESIDENT: Order! I call the Hon. Don Harwin to order for the second time.

The Hon. IAN MACDONALD: Orange growers in Narromine will be able to participate in this wonderful project, which will result in the supply of fresh orange juice all year. Even the Hon. Jennifer Gardiner will be able to enjoy fresh orange juice all year. Consumers have previously been unable to obtain fresh orange

juice in New South Wales all year round. I would have thought that Opposition members would have been quite keen on this proposal, which will ensure that every consumer in this State is able to drink fresh orange juice every day of the year—orange juice produced by growers in New South Wales.

WARRINGAH COUNCIL ADMINISTRATOR MR DICK PERSSON

Ms SYLVIA HALE: I direct my question without notice to the Minister for Local Government. In light of the motion passed unanimously at the recent local government conference in Armidale calling on the Minister to reverse his decision to extend until 2008 the term of Warringah council administrator Dick Persson, will he reconsider his decision? Are the people of Warringah being denied democratic representation in order to give the Government additional time to push through controversial projects such as the sale of the Dee Why Civic Centre and the Mona Vale hospital site?

The Hon. TONY KELLY: I am absolutely amazed that a member of the Greens would ask a question like that. I am even more amazed that the Greens would issue a media release opposing extending the term of the administrator of Warringah Council, Dick Persson—the honourable member mispronounced his name. One of the main reasons the council was sacked was that developers exerted influence not just on the most recent council but on three generations of that council. Yet the Greens are supporting the return of that same group.

DUBBO ELECTORATE BY-ELECTION

The Hon. MELINDA PAVEY: My question is directed to the Minister for Local Government, Minister for Lands, and Country Labor member. Why is the Labor Party not running—

The Hon. Michael Egan: Point of order: As proud as we all are to be members of Country Labor—I am not a member yet but I intend to join—

The Hon. Jennifer Gardiner: You're the patron; you said you were the honorary patron.

The Hon. Michael Egan: You can be the patron of an organisation without being a member. Madam President, it is out of order to ask anyone a question in his or her capacity as a member of a political party.

[Interruption]

The Hon. Michael Egan: The question cannot be half in order and half out of order. The question is entirely out of order if any part of it is out of order.

The PRESIDENT: Order!

The Hon. MELINDA PAVEY: I ask the former convenor of Country Labor: Why is the Labor Party not running a candidate in the Dubbo by-election—

The Hon. Michael Egan: Point of order: Convenors of Country Labor—

The Hon. Tony Kelly: As good as they are.

The Hon. Michael Egan: Yes. Convenors of Country Labor, as good as they are, are not accountable to this House for the activities of Country Labor. We cannot ask the Hon. Duncan Gay a question in his capacity as Leader of the National Party, we cannot ask the Hon. Michael Gallacher a question as Leader of the Liberal Party, and, unfortunately, we cannot ask questions of the convenor of Country Labor.

The Hon. Duncan Gay: To the point of order: The question was addressed to the Minister for Local Government, who happens to be the former convenor of Country Labor. It is a very important question about the fact that there were four Labor Ministers in Dubbo and no Labor candidates. In fact, the Minister announced that they could not afford to run. I suspect it is because the former general secretary had lost—

The PRESIDENT: Order! The Deputy Leader of the Opposition will resume his seat. He is not taking a point of order. The Hon. Melinda Pavey knows that questions may be put to Ministers relating only to public affairs with which the Minister is officially connected. The question is out of order.

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

PEEL VALLEY EXPORTERS PTY LTD WORKERS COMPENSATION PREMIUMS

The Hon. JOHN DELLA BOSCA: Earlier today during question time the Hon. Jennifer Gardiner asked me a question about Peel Valley Exporters Pty Ltd. I have some information that may satisfy her concerns. The Government's 2001 changes to workers compensation have saved New South Wales farmers and businesses more than \$1.8 billion. More than 90 per cent of these savings have come from legal and related costs. During this period the average premium rate has remained stable. The rate for abattoirs has reduced by 7.5 per cent in the past year—which I think anyone would agree is an excellent improvement.

WorkCover has investigated the case of Peel Valley Exporters, which the honourable member drew to my attention in her question. I am advised that the company paid a premium of \$256,680 not \$1.9 million as has been reported and as was implied by the Hon. Jennifer Gardiner's question. Contrary to other statements, "no win, no pay" lawyers are not a problem as the reforms have eliminated them from the system. The media report on which I think the honourable member based her question alleged that Peel Valley's premiums have increased because of fraudulent claims. WorkCover is extremely active in investigating possible fraud by both workers and employers. In the past 12 months WorkCover has launched more successful prosecutions of fraud than the Australian Taxation Office. Any employer who has concerns regarding fraudulent claims should be encouraged to contact his or her insurer or WorkCover immediately. To the best of my knowledge, that has not happened in the case of Peel Valley Exporters but I will follow up the matter and ascertain whether it has occurred.

Questions without notice concluded.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by Ms Lee Rhiannon agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 18 outside the Order of Precedence, relating to the Mining Amendment (Cyanide Leaching) Bill, be called on forthwith.

Order of Business

Motion by Ms Lee Rhiannon agreed to:

That Private Members' Business item No. 18 outside the Order of Precedence be called on forthwith.

MINING AMENDMENT (CYANIDE LEACHING) BILL

Second Reading

Debate resumed from an earlier hour.

Ms LEE RHIANNON [5.05 p.m.], in reply: Ongoing research by CSIRO scientists at the A. J. Parker Co-operative Research Centre for Hydrometallurgy are investigating ways of making thiosulfate leaching of gold more economically attractive. Thiosulfate has typically been used to leach gold in applications where the use of cyanide is problematic, such as when ores contain large amounts of copper. Interest in using thiosulfate as a non-toxic replacement for cyanide is increasing as the legislative and environmental requirements placed on the use of cyanide become more restrictive. Reagent cost is one of the major problems to be overcome in making thiosulfate leaching a variable process. Gold can be leached with low reagent consumption when conditions are controlled closely, and with some ores it has been possible to match the recoveries achieved using cyanide.

In addition, CSIRO researchers have lodged a provisional patent for natural leaching of gold from auriferous ores. Using ore materials to leach high concentrations of gold can reduce reagent costs substantially and potentially the process could have a lesser impact on the environment. The results of these investigations have the potential to make thiosulfate leaching of gold ores both practical and economical, providing a viable alternative to processing with cyanide.

Sadly, the contribution by the Minister for Primary Industries on this aspect of the debate was yet another con job. The Minister tried to perpetuate the old myth that Labor cares for workers and is the party that creates jobs. The Minister waxed lyrical on this point and, warming to his subject, told us that he was the workers' friend. He invited Ian Cohen and me to visit his local pub. I would like to take the Minister up on his offer, and I will bring along some of his former colleagues. I am often buttonholed by unionists and Labor members who tell me stories about the Minister, whom they long ago dubbed "Squire Macdonald". I know the Minister is quite sensitive about his nicknames—members can read about that in *Hansard*. The Minister just does not get it. He might think he is smart attacking the Greens about jobs but look at what he and his Government are doing to workers in regional New South Wales. Just last week workers in the Department of Environment and Conservation in western New South Wales were sacked. Guess how they heard about it? They were sacked via email. It is bad enough being sacked but how insulting to be told by email that one has lost one's job!

The Hon. John Della Bosca: What department?

Ms LEE RHIANNON: It was the Department of Environment and Conservation.

The Hon. John Della Bosca: I think you've got that wrong, Lee.

Ms LEE RHIANNON: I rely on Workers Online, so you had better get onto your mates down there.

The Hon. Michael Egan: Workers Online!

The Hon. John Della Bosca: I'd improve my research if I were you.

The Hon. Michael Egan: I didn't think you'd read that. That's a Trotskyist document, isn't it? It's not a Stalinist document.

The Hon. John Della Bosca: I think Green Labor might be more reliable than that.

The Hon. Michael Egan: What's a Stalinist doing reading a Trotskyist document?

Ms LEE RHIANNON: I am enjoying the interjections and I acknowledge them all. I am sure they will be much appreciated. No wonder Minister Macdonald is desperate to distort the Greens' position on jobs. He is desperate to create a smokescreen to cover Labor's failure. Despite the Minister's bleating, the Greens' strong commitment to the rights of unionists and support for sustainable job growth is being recognised widely. A poll conducted by Unions New South Wales found that 12 per cent of unionists in this State voted for the Greens at the last election.

The Hon. John Della Bosca: Not many workers.

Ms LEE RHIANNON: Absolutely, workers. Minister, there are alternatives, and an injection of funds for research and development would be a real way to boost long-term job growth in regional New South Wales. The Greens argue that goldmines should be restricted to at least medium-grade to high-grade ore bodies and small-scale operations that are less damaging to the environment. Some practices are just not worth it.

The Hon. Ian Macdonald: I will be sending this part of the speech to the AWU.

Ms LEE RHIANNON: I am pleased that the Minister is working closely with the Australian Workers Union [AWU]. He has come a long way. The AWU has a commendable policy and I look forward to working with it to resist the Treasurer's push for the privatisation of State Forests.

The Hon. Michael Egan: The AWU is a very good union. There are no Coms in the AWU.

Ms LEE RHIANNON: Yes, and I look forward to working with it to resist the push for the privatisation of State Forests. As I said, some practices are just not worth it. No arguments about jobs and economic benefits can justify damaging mining methods such as the use of cyanide when only one ounce of gold is gained from a tonne of ore and we have to deal with cyanide waste products. It is just not worth it. Honourable members may know that Montana, in the United States of America, banned the use of cyanide technology in new gold or silver mining. This is another area in which there have been developments since this

bill was introduced on 19 October. Earlier this month a referendum was held in Montana in relation to this ban. The mining industry pushed for the vote last Tuesday when United States citizens went to the poll. Voters refused to reverse the ban. The vote was 153,080 against overturning the ban, which voters approved six years ago, and 104,374 in favour—that is, 59 per cent voted to keep the ban and 41 per cent backed the miners.

Paul Roos of Ovando, treasurer of a group that forced the attempts by the mining companies to overturn the ban, said "voters made the right decision for clean drinking water and our rivers, and for our economy". When commenting about the use of cyanide to separate gold and silver from rock, Roos said "all right in a State where there's no water ... it's proven that it doesn't work here". The victory to retain the ban was considerable, as the miners threw vast amounts of money into the campaign—about \$2.2 million to overturn this most important ban, more than four times the contributions to campaign groups fighting to retain the ban. Montana has shown New South Wales the way. Bans are in place. We can learn from this experience. I commend the bill to the House.

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

The House divided.

Ayes, 6

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

Noes, 24

Ms Burnswoods	Mr Jenkins	Mr Roozendaal
Mr Catanzariti	Mr Macdonald	Mr Tingle
Mr Clarke	Reverend Dr Moyes	Mr Tsang
Ms Cusack	Reverend Nile	Mr West
Ms Fazio	Mr Obeid	
Mrs Forsythe	Mr Oldfield	
Miss Gardiner	Ms Parker	<i>Tellers,</i>
Mr Gay	Mrs Pavey	Mr Harwin
Ms Griffin	Mr Pearce	Mr Primrose

Question resolved in the negative.

Motion negatived.

GENE TECHNOLOGY (GM CROP MORATORIUM) AMENDMENT BILL

Second Reading

Debate resumed from 27 October.

The Hon. JON JENKINS [5.20 p.m.]: Genetic modification of crops has been discussed on three occasions since I have been a member of this House; we are quite regularly required to vote on the issue. Perhaps that is as it should be. The field of molecular biology, or genetic engineering as it is more colloquially known, is fast moving and very dynamic. Accordingly, the legislation and management relevant to this field needs to be equally as dynamic and as fast moving. In my first career I was intimately involved in this field. In fact, my doctoral thesis was centred on genetic control mechanisms between nuclear and organelle based genes. During my research in this area I routinely genetically modified bacteria and viruses to achieve some research goal. As I have said in the past, this particular field of science holds no great scientific mystery for me, although it may hold some other mysteries. However, I have some reservations about its use, and I would advise caution and care rather than haste and negligence.

The first thing I want to consider is the general case of genetic modification, or genetic engineering. In terms of human biology, I feel this is a reasonably desirable tool to extend our knowledge as much as possible in this area. In the short term, it will free us from many common diseases and will offer a better quality of life for much of the human race. In futuristic terms, though this may sound like science fiction, I can see such benefits as perhaps one day our cells being engineered to contain chloroplasts, and all we will need to do for basic survival is to drink some basic nutrients and stand in the sunshine for a while. As futuristic as that sounds, is it science fiction? The technology to do it is almost here now. But, as I said, let us move forward cautiously and carefully.

Let me turn to the benefits to the environment, for this is where I see many of the real benefits of genetic modification. Let us look at the day in the life of a genetically engineered environment. You wake and turn on the light, which is powered by energy produced by 100 per cent efficient genetically engineered organic solar panels. To give honourable members an idea, current solar panels are only about 16 per cent efficient, whereas plant light harvesting through chlorophyll-based systems is close to 100 per cent efficient. Your house is designed with materials that can be recycled by bacteria, and you take a dose of a genetically engineered virus which protects you from cancer and disease, and you eat a breakfast grown without the use of herbicides or pesticides, and then you drive to work in a car powered by ethanol fuel produced by bacteria breaking down our waste products. Is this science fiction? No, it is not. The technology is already here. It really is just a matter of time before we incorporate some of this technology into our everyday living.

One of the benefits of this type of technology is that in the future the human race will have a much lower impact on the environment because of our reduced demand on it attributable to the need for products and materials, but also because of changes to our energy needs. Genetic engineered organisms will provide a large portion of our structures and processes in the future. But we will still need to rely on other sources of energy. The sun will never melt blocks of steel. Heavy energy requirements will have to be met by the production of energy by nuclear fission, as it seems that nuclear fusion probably will elude us as an efficient power source. Further, things such as air travel, heavy transport and shipping almost certainly will remain the domains of either fossil fuel or nuclear fuels well into the future. Otherwise, it is basically back to the caves.

I come now to the specifics of the Gene Technology (GM Crop Moratorium) Amendment Bill. I believe that one of the greatest dangers posed to our society is in the chemicals we spray onto our food. These chemicals are used to protect our crops from insect and microbial pests and to inhibit weed growth. Although anecdotal, I would not be surprised to learn that the vast majority of our cancers et cetera are caused either by pesticide or herbicide residues or by the plastics we use in our food processing industry. Both of those requirements can be negated to a certain extent by the use of genetic engineered organisms. The use of herbicides and pesticides will be vastly reduced by GM crops, and this is a good thing. To me, it is the main benefit of genetically modified crops. It is far more important than increased yields or increased profits for some global corporations. However, as I have said before, we should proceed with caution and care, and plan for the obvious eventualities.

Plant breeders are already producing genetic mutants by blasting crops with gamma rays, electric shocks and mutagenic chemicals. In the industry, this used to be known as the shotgun approach to producing genetic variation. These organisms are already genetically engineered. In terms of safety, as a molecular biologist I have far more concerns about this method than I do about specifically engineered organisms. So what sorts of things should government be planning for? They should include: a flexible regulation framework that is responsive to both the technology and the community; a co-ordinating group of scientists to advise on the benefits and dangers of various crops and the genetic modifications; a strategic plan to do with the logistics of handling GM crops from the farm gate to their end distribution; plans to manage the escape of GM crops to the wild and to other farms, because this will occur, either by human means or by animal transfer; and a start to the consultation process and feasibility of segregated regions and handling equipment.

Other primary issues to be resolved include, first, whether it is simply inevitable that GM crops will become the norm, as they have now in Canada and the United States of America, where they predominate in basic food crops or, second, whether it is feasible or practical to segregate handling and processing of the crops. I would like the Minister to listen to what I am saying, because it is important to consider and address the issue of whether it is practical to run segregated systems. This is an important issue to a lot of people. I do not know whether it is technically possible. I do not know whether it is practically possible. I would like the Minister's opinion, and perhaps even the scientific committee's opinion on that.

Further, government should ensure we have a system of transparency and openness to prevent the subverting of the process by large corporate entities or other interests. As I always do, I urge the Minister to put

the competent people in charge to oversee and manage this process. The Government should not make the scientific advisory committee a political appointment or make it subservient to non-scientific interests. It should put in place the best possible plan to deal with the foreseeable eventualities. It should put in place a flexible management practice that can respond rapidly to unforeseen eventualities—most particularly the escape of GM crops.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [5.27 p.m.]: The Opposition will not oppose the Gene Technology (GM Crop Moratorium) Amendment Bill. Frankly, in most respects, it is heading in the right direction. It seeks to simplify and streamline procedures and consultation between the Minister for Primary Industries and the New South Wales Agricultural Advisory Council on Gene Technology, and to tighten penalties. We think the tightening of penalties is a good move. We will watch the operation of the streamlining measures, some of which are needed given the breakdown in the system last year.

However, in Committee, we will move several important amendments that will strengthen the bill and tackle the issues that the Government has continually failed to address on behalf of the farmers of New South Wales. We believe these amendments are vital to ensure the successful control of what is potentially the most powerful technology that we have seen: gene technology. If these amendments—or, at the very least, the insurance liability and post farm gate protocols—are unsuccessful we will review our support of this bill. Frankly, the insurance liability and post farm gate protocols are essential if we are to allow the Minister the right to grant an exemption to the moratorium.

The Opposition strongly recognises the need for GM trials and continues to support them, but only if they are conducted within rigid guidelines, and with transparency and regulatory frameworks for pre-farm, on-farm, and post farm control, liability and insurance. A cautious approach to gene technology trials must be adopted, rather than the gung-ho, up-and-at-them approach the Minister seems to adopt. New South Wales must take a staged approach to gene technology trials.

Last year the New South Wales Government gazetted moratorium orders under the Gene Technology (GM Crop Moratorium) Act 2003, prohibiting the cultivation of InVigor and Roundup Ready canola. An exemption order has been issued to allow the continuation of field trials, which were established last year by Bayer CropScience. At the time the Opposition supported GM trials, and we still do, but we were particularly concerned with the lack of detail throughout the legislation. It has continued to be an outstanding issue for us and for many people in New South Wales involved in agricultural industries.

The Government's amendments to the Gene Technology (GM Crop Moratorium) Act seek to simplify and streamline procedures and consultations between the Minister and the New South Wales Agricultural Advisory Council on gene technology trials that are required before issuing an exemption order. Under these amendments the Minister must still seek the written recommendation of the advisory council, and provide them with the exemption order application and/or—this is a funny one—the written details of the proposal to make the exemption order. The amendments will ensure that conditions can be included in an exemption order that relate to the handling, storage, transport, and disposal of grain or seed harvested from a trial conducted under an exemption order.

The bill seeks to expand the offence to contravene the conditions of exemption orders to cover breaches of post harvesting and handling conditions. It imposes 1,250 penalty units for a corporation, 500 penalty units for a person, and/or two years gaol, which we support. The bill also ensures that conditions relating to post harvest monitoring and the use of a trial site approved under an exemption order can be included in an exemption order. This important amendment will go a long way to appeasing the concerns of our overseas customers about the segregation of GM and non-GM grain. In a broad sense we support the amendments.

Under the current legislation the process for deliberation with the advisory council and interaction between the Minister is lengthy and convoluted. It can take up to three months. We are confident that these changes will not diminish the process in any way but, rather, strengthen the approval process and perhaps shorten it. The Opposition welcomes the Government's amendments that will result in conditions relating to handling, storage, transport, and disposal of grain or seed harvested from a trial being included in an exemption order. However, we would like these conditions to be expanded and more clearly defined within the legislation, rather than leaving them to the whim of the Minister.

The Opposition supports the creation of an offence and the imposition of penalties when the conditions of an exemption order are contravened. The Opposition appreciates the amendment that will include conditions

in an exemption order relating to post harvest monitoring and use of the trial site under an exemption order. The Opposition proposes a number of important and commonsense amendments to the bill to adequately address insurance and liability, to include a representative of the Australian Grain Harvesters Association on the advisory board, to improve post-farm-gate protocol, and to make GM trial sites public to avoid contamination and to alert neighbours. The liability debate in the international arena has been fierce. The Opposition is concerned that the State Government has failed to deal with it. Contact harvesters, grain growers, and the general farming community share the concern of the Opposition that it has been ignored. We must consider it now, not in the aftermath of the legislation being passed.

The Opposition's largest concerns with gene technology trials are cross-contamination by environmental and/or mechanical operations, not deliberate but accidental—it could happen; extra costs for growers and handlers in verification and liability concerns of any participant in the supply chains; restricted freedom to undertake harvests; and discrimination from harvesting jobs. The Opposition believes that gene technology companies must accept full liability for the contamination of GM-free crops during these trials. This must be reflected in strict liability legislation. Gene technology companies must be made liable for any economic loss that their product causes.

We are talking about trials in very limited areas. Only one group will benefit: the multinationals that own the seeds in the trials. It is not too big an ask on behalf of farmers in New South Wales that the multinationals bear the cost of any economic loss. It would be unfair if the cost has to be borne by the farmer conducting the trial, the farmer who lives beside the farmer conducting the trial, or the farmer who lives on the road where the seed from the trial may escape. In the first instance only one group will benefit, and it is not the farmers, though ultimately they may if gene technology is successful and people decide to adhere to it.

The Hon. Dr Arthur Chesterfield-Evans: If it is, who will make the profits?

The Hon. DUNCAN GAY: As the honourable member says, if it is successful and it is good as they say, there will be profits for both sides.

The Hon. Dr Arthur Chesterfield-Evans: And the environment.

The Hon. DUNCAN GAY: Maybe. That is in the future. We are not talking about the future. We have a number of issues to deal with before we get to the future. We must ensure that we are as tough as possible on the companies who produce the seeds, and the way to do that is through their hip pocket. If companies know they are liable they will make sure the trials are as safe as possible.

The Hon. Ian Macdonald: Totally absurd.

The Hon. DUNCAN GAY: The Minister says, "Totally absurd." That is the typical gung-ho attitude of the Minister. We are putting forward a case for Australian farmers against overseas multinationals—bear in mind we are talking only about trials, not widespread planting—but the Minister tells me I am absurd. Yet the Minister is meant to represent the farmers. The Hon. Ian Macdonald likes to claim he is the farmer's friend! Phooey, absolute phooey! The Australian Grain Harvesters Association [AGHA] has called for no-fault compensation and insurance. The view of the AGHA is as follows:

Harvesters following "Harvester Hygiene Guidelines" must have total exception from all liability and responsibility from any possible contamination of GM into Non GM canola. Compensation must also cover discrimination from growers who will not accept harvesters onto their farms once they have harvested GM canola. No Fault Compensation and Insurance would be funded by the technology providers.

The situation is that currently crops are being grown under trial conditions and they have to be harvested. Almost invariably in New South Wales, harvesting is done by contractors. We do not know where the GM crop trials are, and contractors may be brought in blind to carry out the harvesting of GM crops.

I hope the Government will accept the Opposition's amendment to address those problems. I note that the Minister's adviser nods in acknowledgement, although the Minister has declined to comment. As matters stand, harvesters who operate throughout the State travel from district to district and would not know whether a trial crop is a GM crop or not. Generally they own equipment worth between \$500,000 and \$1 million and they are very professional. However, some people have told the Opposition that harvesters could not be members of the advisory board because they are greenies! Hello!

Mr Ian Cohen: The Deputy Leader of the Opposition would be surprised.

The Hon. DUNCAN GAY: All year round, harvesters have diesel fumes in their nostrils and are living the John Laws slogan of keeping the dream alive, yet a representative from one of the associations said that a harvester could not be a member of the advisory board because harvesters are greenies. But harvesters are concerned.

Mr Ian Cohen: That is what a greenie is.

The Hon. DUNCAN GAY: Some, but others go to extremes. Professional harvesters are businessmen who have to protect their interests, their family and their equipment. They also have to look after the farmers for whom they carry out harvesting to make sure that the farm is not contaminated.

The Hon. Ian Macdonald: They have to clean their equipment down after every job.

The Hon. DUNCAN GAY: From talking to harvesters, I know about the immense problems and the cost of removing every canola seed from a harvester. The Minister and his advisory board would not know that because they do not have a representative of the Australian Grain Harvesters Association as a member. I suspect that the Government will oppose the inclusion of these crucial cogs in the wheel of agricultural enterprise, but I would have thought that anybody who claims to care for the bush would jump at the opportunity to include harvesting expertise on the advisory board.

The Greens have indicated that they want strict product liability. The Network of Concerned Farmers has identified a number of liability risks and has called for legislative protection. The Organic Federation of Australia [OFA] has stated that the right to be GM-free is a fundamental right. For the benefit of the Minister, who has not been listening to me, I point out that the National Farmers Federation has stated that one of the greatest uncertainties surrounding the commercial uptake of new GM varieties relates to the distribution of liability, which is what I have pointed out, throughout the supply chain and the willingness of insurance companies to provide coverage for modified crops or enterprises that are growing such varieties. They are not my words. However, they show that I am not the only one who is concerned about liability. The National Farmers Federation, which is hardly a fringe organisation, believes that clarification of the legal framework and associated insurance issues is vital to provide confidence to farmers. Hear! Hear!

The New South Wales Farmers Association has also been highly vocal about liability and insurance. On 25 February 2004 the association's grains committee chairman, Angus Macniel, stated:

The association believes the proponents of the trial must ensure that farmers who participate in these trials are covered, and the biotech companies must publicly identify their position on insurance and liability.

Farmers need some assurance that they won't end up with the prospect of court and legal fees.

They are the words of Angus Macniel, the chairman of the grains committee of the New South Wales Farmers Association.

The Hon. Jon Jenkins: An excellent person.

The Hon. DUNCAN GAY: Exactly, he is an excellent person—an absolutely top bloke. He is a bit muddled about his politics, but he is a good bloke.

Mr Ian Cohen: Is he a Green?

The Hon. DUNCAN GAY: No, he is a Liberal.

The Hon. Jon Jenkins: He is a green Liberal.

The Hon. DUNCAN GAY: Probably, but he is a very good farmer and a very decent man. On 16 March 2004 Mr Macniel again indicated his concerns that liability insurance had not been addressed. He said:

The association will be pushing for all areas of the trials to be run within the strictest guidelines with close monitoring of each step, and for contingency plans to be drawn up to deal with anything that may go wrong.

On 25 March 2004 the President of the New South Wales Farmers Association, Mal Peters, said that "if the trials go ahead, farmers and anybody else contemplating becoming involved should have comprehensive insurance". He went on to state:

We want a new laws introduced that will ensure biotech companies are made fully responsible for their products.

For the sake of debate, I emphasise, "fully responsible for their products". They are not my words: Those views have been expressed by the National Farmers Federation and the New South Wales Farmers Association, who support the Opposition's position on this bill and the amendment we have proposed.

It is clear that there is widespread concern that the liability issue has been ignored. Farmers are worried about who will take responsibility for any contamination. In order to eliminate that concern and any future confusion, an assurance must be given that gene technology companies will cover farmers. Farmers need some assurance that they will not end up with the prospect of legal fees. It is unreasonable to expect farmers who have not been consulted on many of the details of these trials to be financially liable, should any contamination occur. The Opposition also wants to ensure that anyone who takes part in the GM trials will have adequate insurance to cover any losses that may be suffered as a result of contamination from another property.

The Opposition will move an amendment to ensure that a member of the Australian Grain Harvesters Association will be nominated as a member of the advisory board. The association's members conduct large-scale contract harvesting and should therefore have an appropriate role as part of the board. The introduction of GM crops to Australia has many implications for professional harvesting contractors, as I have already said. There is widespread concern that New South Wales post-gate harvest cleaning and transport procedures are minimal and are not adequately dealt with by the bill.

The South Australian GM Crops Management Act 2004 is an example of providing strong legislative procedures. Under that Act, post-harvest cleaning procedures are clearly outlined. It details the procedures to be adopted for cleaning pollen trap plants or removing material from pollen trap plants. Under that Act, the location site must be cleaned within 14 days of a harvest or 9 months after planting. After equipment has been cleaned, the area in which the equipment has been cleaned must also be cleaned. Such procedures could and would reduce the risk of contamination and cross-pollination. In the bill the Government has not addressed pre- and post-farm gate issues. I understand that the Minister has guidelines with which he is happy, and I have been told that those guidelines may be better than the South Australian model.

The Hon. Ian Macdonald: Where?

The Hon. DUNCAN GAY: I have not seen them, and I understand there is a reluctance to include them in the bill because of commercial in-confidence with a company involved with the Advisory Council. That could be true and it could be a lie, but in an offer of glasnost I have indicated to the Minister's office that if we were able to see those guidelines, detail them, and number them for inclusion—and if they are better than the South Australian model—we would be more than happy to drop our amendment in favour of the guidelines, provided they are included in the bill.

The Hon. Jon Jenkins: They won't do that.

The Hon. DUNCAN GAY: My colleague said, "They won't do that." The offer is there; no-one can say we have not tried. The Nationals are here to help. Our offer is legitimate and has been drawn up by a company that is well recognised and has a good reputation within the industry that has been appointed by the Minister to the Advisory Council

The Hon. Ian Macdonald: It is a stakeholder.

The Hon. DUNCAN GAY: Yes, it is a stakeholder company and a member of the Advisory Council, and I hope the Minister takes up that offer. The Opposition strongly believes there is a great need to reveal the location sites of the genetically modified canola trials to avoid any secrecy.

The Hon. Ian Macdonald: I told you, they are on the web site.

The Hon. DUNCAN GAY: It is absolutely crucial that there is openness and accountability by the Government. Farmers, small business operators, local councils and the general public should be informed of the trial sites, keeping in mind that such trials affect the whole community, particularly the farmers next door. The Minister said, "I told you, they are on the web site", but, frankly, that is not always appropriate for a farmer in regional New South Wales. Where I live—

The Hon. Rick Colless: With Telstra?

The Hon. DUNCAN GAY: Yes, Telstra. I have been given some options on how to fix the problem, but it involves a lot of money. Many farmers whose properties are adjacent to the trials do not have access to the web site. The Opposition suggests that a letter drop in the local council area, notification to authorities including the rural lands protection boards and the Department of Primary Industries, notices in local newspapers, and notices on the Department of Primary Industries web site is a way of informing neighbours what is happening so they can take adequate precautions. In that way neighbouring farmers would know to be careful of their plantings.

The Hon. Rick Colless: Why the secrecy?

The Hon. DUNCAN GAY: Exactly: Why the secrecy? I hope the Minister will address this in his response. Neighbouring GM-free farms could be put at risk of contamination and cross-pollination by GM seeds blown by the wind. Should a GM-free farm be contaminated, that could result in market rejection for that farmer and a risk of decertification, particularly for organic farms or certified seed growers. That should be avoided as much as possible. The best way to be a good neighbour is to let your neighbour know what you are doing. That is the way we do things in the bush: we get along with our neighbours, we talk to each other and keep the dialogue going.

This matter was not addressed properly in Victoria. The Network of Concerned Farmers fought long and hard against the Victorian Government and Bayer CropScience to have the four sites revealed. As a result the GM trials there received a lot of unwarranted publicity. If Bayer CropScience had agreed in the first place it would have avoided a lot of unwarranted publicity about the trials. New South Wales should avoid that scenario.

The Government's legislation lacks detail. Our amendments, combined with the Government's, would strengthen the legislation and help to protect farmers. The liability, the makeup of the Advisory Council, the post-farm gate protocol and the location of GM trial sites are sticking points for the Opposition. In order for the Opposition to support the Government's amendments the Opposition's amendments must be carefully assessed. The important amendments concern insurance/liability and post-farm gate procedures. Liability is the issue about which farmers remain in the dark. Farmers who have not been consulted on any details about the trials cannot be expected to be financially viable should any contamination occur.

Farmers, stakeholders and representative groups recognise the need for such legislation. The Australian Grain Harvesters Association should hold a position on the Advisory Council so that contract harvesters are fairly represented and are able to present the point of view of the farmers they service. Post-farm gate protocol is absolutely essential. If we are to enter into this kind of technology we must ensure that the appropriate protocols and procedures are in place to prevent any disastrous contamination.

The Opposition believes also that it is important to be transparent and open with the public on the location of GM sites, despite the risk of sabotage. In avoiding secrecy we have a better chance of preventing contamination. The Opposition also seeks clarification from the Minister on the "and/or" situation. Depending on that clarification the Opposition will decide whether to move an amendment.

The Hon. Ian Macdonald: On what point?

The Hon. DUNCAN GAY: The position of "and/or" as to whether the application may or may not go to the Advisory Council. The Opposition seeks clarification from the Minister on that point. We have been led to believe that that clarification is forthcoming, but if it is not, the Opposition will move an amendment. Finally, I remind honourable members that the National Farmers Federation said that one of the greatest uncertainties surrounding the commercial uptake of new GM varieties relates to the distribution of liability throughout the supply chain and the willingness of insurance companies to provide coverage for modified crops or enterprises growing such varieties.

The National Farmers Federation believes that clarification of the legal framework and associated insurance issues are vital in providing confidence to farmers. As I said earlier, on 25 February 2004 the New South Wales Farmers Association, through its Grains Committee Chair, Angus Macneil, said:

The association believes the proponents of the trial must ensure that farmers who participate in these trials are covered, and the biotech companies must publicly identify their position on insurance and liability.

Farmers need some assurance that they won't end up with the prospect of court and legal fees.

Angus Macneil from the New South Wales Farmers Association also said on 16 March 2004:

The association will be pushing for all areas of the trials to be run within the strictest guidelines with close monitoring at each step, and for contingency plans to be drawn up to deal with anything that may go wrong.

On 25 March 2004 my great friend Mal Peters, President of the New South Wales Farmers Association, said:

If the trials go ahead, farmers and anybody else contemplating becoming involved should have comprehensive insurance and we want new laws introduced that will ensure biotech companies are made fully responsible for their products.

That is what the Opposition's amendments seek to do.

Reverend the Hon. Dr GORDON MOYES [6.00 p.m.]: Gene technology is of concern worldwide. In Canada and the United States of America gene technology has been largely accepted, with genetically modified [GM] cotton, soybeans and canola now constituting about 80 per cent of the growers market. At the same time there has been a large decrease in the use of herbicides and insecticides. However, in Europe and the United Kingdom consumers are consistently opposed to the purchase of GM foods in stores. The Gene Technology (GM Crop Moratorium) Amendment Bill will amend the Gene Technology (GM Crop Moratorium) Act 2003. On the last occasion that legislation such as this was debated in the House I spoke at length on the general issues contained in it.

This bill will enable the Minister for Primary Industries to declare a moratorium on the cultivation of certain GM food crops—a matter that I addressed in debate on other gene technology legislation. The proposed amendments are intended to simplify and streamline procedures and consultation between the Minister and the New South Wales Agricultural Advisory Council on Gene Technology—which is required before any exemption order is issued. I refer now to that matter. Currently the Act requires that before the Minister makes an exemption order, that is, an exemption from the operation of a moratorium order, he is to consult with the Advisory Council and seek in writing its recommendations as to whether the exemption order should be made.

The New South Wales Agricultural Advisory Council on Gene Technology comprises 10 individuals each appointed by the Minister. Those individuals, in turn, are persons nominated by their representative groups, including the Department of Agriculture, the New South Wales Farmers Association, the Network of Concerned Farmers, the Nature Conservation Council of New South Wales Inc, Graincorp Ltd, the Australian Wheat Board Pty Ltd, the Commonwealth Scientific and Industrial Research Organisation, Avcare Ltd and the Grains Research and Development Corporation. One person is to be appointed as the independent chairperson of the Advisory Council.

In debate on the 2003 bill I referred at length to the need to add the New South Wales Grain Handlers Association to that group, an issue about which I will speak later. The Christian Democratic Party supports the appointment on the board of a representative of the Australian Grain Harvesters Association, which has a large equipment investment in a multi-million dollar industry. Earlier the Deputy Leader of the Opposition said that one of the provisions in the bill required clarification. I support the arguments put forward by him. Under this bill the Minister must be given the option to provide either the application made to him by a person seeking an exemption or order, or the written details of the proposal to make the exemption order. It may be the case that the Minister gives the application only to the Advisory Council and that he withholds the written details of the proposal. Presumably an application would comprise only straightforward facts. Without the written details of a proposal it would be difficult to make a recommendation. In consideration of this material the Advisory Council is required to give its written recommendations as to whether an exemption should be made. Earlier the Deputy Leader of the Opposition referred to the following statement made by Mal Peters, President of the New South Wales Farmers Federation:

In relation to the Advisory Council it is of the utmost importance that it performs in a manner that allows it to fully investigate proposed trials and ensures that the interests of Association members are protected.

The Christian Democratic Party supports that comment. I deal next with the procedural requirements in the bill. It is clear that the current requirement for the Minister to consult with the Advisory Council is to be done away with. The exchange of papers does not constitute consultation. People can insult one another through letters but that is not proper communication. Proper consultation must take place in matters such as these, in particular when the health of many consumers might be affected. I emphasise that appropriate consultation must take place between the Minister and the Advisory Council. That consultation requirement must not be done away with.

A higher level of communication is needed in matters that ultimately concern the health and wellbeing of large numbers of Australian consumers. According to some discussions with persons in this area the information to be provided by the Minister to the Advisory Council, as proposed in this bill, generally has not been given to the Advisory Council. Apparently the proposed requirements to provide the information specified go above and beyond what the Advisory Council currently receives from the Minister. Even so, it is important that the term "consult" should not disappear, as it is a safeguard for a certain level of communication.

The Hon. Ian Macdonald: Everything I have received in relation to the application from Bayer CropScience went to the Advisory Council. Let us be very clear.

Reverend the Hon. Dr GORDON MOYES: I thank the Minister for his assurance that everything he received from Bayer CropScience has been sent to the Advisory Council. I commend the Government for introducing the important provision that an exemption order may be subject to conditions and that persons violating those conditions should be subject to penalties. The list of conditions may relate to the handling, storage, transport and disposal of grain or seed harvested from a trial conducted under an exemption order. The bill also stipulates in proposed section 8 (6B) that persons violating conditions will be subject to penalties, but that will not apply to conditions imposed on an exemption order before the commencement of the bill. We must guard against retrospective legislation. In this scenario the Government upheld that principle.

The bill also guards against double jeopardy by stating that a person cannot be prosecuted twice for the same act or omission. That, too, is commendable. Individuals should not be punished twice for the same offence. The Christian Democratic Party supports the national amendment to safeguard organic and non-GM crop contamination from windborne pollination harvesting equipment contamination post-gate. The Christian Democratic Party also supports the inclusion on the Advisory Council of a representative from the New South Wales Grain Harvesters Association. However, it is not opposed to industries researching, developing and marketing seed crops for profit, although some honourable members are critical of companies such as Monsanto. Monsanto has been scarified in this House but it is acceptable that companies have a right to sell their products to recoup their development costs. We agree with the conditions covering adequate comprehensive insurance for those who are propagating GM crops. Farmers should have their insurance paid for them by the industries providing the grain seed. In general, the Christian Democratic Party supports the Gene Technology (GM Crop Moratorium) Amendment Bill.

Mr IAN COHEN [6.09 p.m.]: The Greens do not support the Gene Technology (GM Crop Moratorium) Amendment Bill, which makes amendments that are far from minor, as the Minister for Primary Industries would have us believe them to be. The first amendment would have the effect of making the New South Wales Gene Technology Advisory Council practically redundant in the process of deliberating on exemption orders for trials under the current moratorium on commercial genetically modified [GM] food crops in this State. The amendment would gut what little consultative process exists for the New South Wales public with regard to this highly controversial issue. The Minister said that the intention of the first amendment is to address what he referred to as a problem with gaining advice from the advisory council. He said that the legislation imposes a drawn-out, excessively bureaucratic process of getting a recommendation from the council.

Nothing in the Gene Technology (GM Crop Moratorium) Act 2003 should give rise to an excessively bureaucratic process. I cannot find anything in the Act that requires an exemption order to be returned to the council once it has made a recommendation in writing to the Minister about whether to grant an exemption order. Section 8 (2) of the Act, which the bill proposes to omit, requires that:

Before making an exemption order the Minister is to consult with the Advisory Council and seek in writing its recommendations as to whether the exemption order should be made.

When the council has given its advice in writing to the Minister about whether to grant an exemption regarding a particular proposal the Minister can go ahead and make the exemption order without having to refer back to the council. The Minister is not required by the Act to follow the advice of the council or to send back the draft exemption order. The Minister must give reasons in writing to the council only if he decides not to accept its advice, as specified in section 8 (4). The Minister also has the option, under section 8 (3) of the Act, to make an exemption order without the council's recommendation if the council has not made a recommendation to the Minister within 28 days. This effectively limits the time frame of the advisory council's deliberations.

I understand that the advisory council may have asked to see the draft exemption order, with the proposed conditions, as a courtesy given the significant amount of work that it had done on the controversial

proposal for a large-scale coexistence planting and the extensive list of conditions it recommended to the Minister be attached to an exemption order. The Minister referred in his second reading speech to "a matter of practice". Perhaps that has regard to the decision to send draft orders back to the majority of members of the council for further comment, because I cannot see how the legislation requires him to do that.

The Minister and his office have also referred to the fact that it took three months to process the exemption order and that that time frame was somehow unacceptable. I recall that the advisory council's advice was timely; it did not exceed the legislated time frame of 28 days and it was apparently thorough given the significance of and controversy surrounding the application and the Minister's final decision not to grant an exemption order for the 5,000-hectare planting despite the council's recommendation that he grant an exemption order with conditions. I understand that during that process the proponents also spent time reassessing their proposal and getting back to the council with points of clarification and details that were missing from the original application. They stretched out the time frame. Time was also apparently given to the Minister to seek legal advice on the matter of contracts and liability, and that is perfectly reasonable under the circumstances. I hope that this legal advice will be available to the advisory council and to members of the House.

I ask the Minister: To whom is this time frame unacceptable? Given the risks involved with the release of this technology into the environment and the highly controversial nature of the 5,000-hectare application, the lack of public consultation on the issue and the advisory council's inability to deal with critical aspects of the application, such as contracts and liability, I believe the application was dealt with expeditiously. The Minister may be more concerned about the timing from the industry's perspective than about insuring a careful and thorough assessment of applications, which takes into consideration the genuine concerns of farmers and the broader public of New South Wales, who also have a right to a fair process.

The proponents could choose to submit their applications earlier. The Minister could make it a requirement for proponents to submit their applications at least three months prior to the intended planting time if he is genuinely concerned about time frames. Bayer and Monsanto have surely had plenty of time to think about trials for next year and could have put an application before the council by now. I do not believe the first amendment is about time frames and simplifying the process. I suggest its motive is to gut the consultative process by ensuring that the council gets only the bare minimum of information and little opportunity to respond. By omitting section 8 (2) of the Act the first amendment in the bill removes the requirement for the Minister to consult with the advisory council about an exemption order. The proposed amendment replaces the need to consult with the requirement that the Minister not make an exemption order unless the advisory council has been given a copy of either or both of the following pieces of information and has been asked to provide, in considering that material, its written recommendation as to whether an exemption order should be made. That information is:

- (a) the application made to the Minister by the person seeking the exemption order
- (b) written details of the proposal to make the exemption order.

This amendment would allow the Minister simply to send the council a letter with written details about his intention to make an exemption order and to ask for the council's recommendation on that basis. The council may not see the full proposal in this instance and it would be very limited in how it could respond. Does the Minister intend that the council be only ever sent the application and never see any details of the exemption order and conditions? Is that the Minister's interpretation of consultation?

The Minister said in his second reading speech that he has no intention of depriving the advisory council of the opportunity to review the full proposal. Why, then, does the Minister need option (b) in amendment No. 1? If that option were to apply, the advisory council's ability to give sound advice would certainly be weakened. Why would the Minister need an advisory council if he could decide what is and is not important for the council to see in a proposal? The amendment's intention is very uncertain and it appears as though the Minister, for whatever reason, is trying to limit the involvement of, and consultation with, the advisory council in these important matters. Does the Minister consider that merely sending the advisory council a letter about his intention to make an exemption order constitutes an adequate consultative process?

Given the fact that a moratorium is in place in New South Wales and that the majority of people expect that to mean that no genetically engineered [GE] food crops will be planted in this State—not even as trials—surely the Minister must see fit to ensure that the most robust consultative process is in place regarding any application for exemptions under the moratorium. Will the Minister please tell the House unequivocally the exact intention of the amendment and the procedures that he will be putting in place with the council for

consulting on proposals and exemption orders? The current procedures are thorough and fair and they are working, so why does the Minister want to change them? The bill is also problematic in that it does not address some matters that should be addressed. The Minister assured the House in writing on 18 March 2004 that he:

... will not issue an exemption order until the issue of liability is resolved in a manner which guarantees farmers are protected.

Curiously, the Minister has not taken the opportunity in the bill to fulfil that undertaking. I simply ask: Why not? Members will recall that the Minister went ahead, regardless of liability concerns, and granted an exemption order to Bayer CropScience earlier this year for trials of up to 40 hectares. Bayer did not act subsequently on that exemption, perhaps because of the drought—or was it because the Minister's advisory council recommended an independent assessment of the trial data so that farmers would finally have access to some meaningful and independent data on which to base their decisions about the much-lauded benefits of GE canola? Perhaps that is not the sort of advice that the Minister wants to hear from the council. Bayer's decision not to proceed was surely not based on the fact that it took too long to grant the exemption order. Given that the Minister makes no mention of liability in the bill, we can guess only that the second amendment is an attempt to take the spotlight off the key issue of liability—as it occurs both on farm and post farm—with regard to any trials that he may approve in New South Wales.

It is true that post-farm gate activities such as handling, storage, transport and disposal of grain or seed harvested from a trial conducted under an exemption order are currently regulated and should be regulated. However, the process proposed in this bill is no guarantee that any of these aspects will ever be regulated because they will still be subject to the Minister making conditions in an exemption order that the Advisory Council may never see. The Minister might choose never to include conditions in an exemption order to regulate these significant activities, or he may choose to include only watered-down conditions that suit the purposes of industry. This bill will allow the Minister to do whatever he chooses without any meaningful input from the Advisory Council.

If the Minister allows any trial to occur without first resolving liability, he will have misled Parliament and would be in contempt of the House. A large planting, such as the 5,000 hectares the Minister very nearly approved earlier this year, would certainly result in contamination and raise the issue of liability. The protocols put forward by Bayer, Monsanto and Australian Oilseeds Federation at the time of the proposal to manage the risk of contamination were specifically designed to allow a level of contamination, which industry refers to as "adventitious presence". It was never planned to strive for zero contamination in the trials, because the industry and the Minister know and have admitted that it is impossible to achieve. But what they do not admit is the enormous issue of liability as a result of this contamination. They are content to see non-GE farmers foot the bill and battle it out in the courts. They are willing to pit farmer against farmer.

Only today the crossbenchers received information to the effect that because of the very fine size of the canola grain seed generally about a kilogram of the seed remains in harvesters after normal cleaning processes. That presents a major problem for grain handlers, harvesters and others in that part of the industry who have a vested interest in keeping their equipment clean and clear so that they can harvest without being impacted upon. Nothing has changed to reassure this House, farmers and the public that the issue of liability has or will be resolved. Liability issues associated with contamination and harm to other farmers must be resolved before any more trials can ever be considered. Farmers, in particular, are very concerned about liability. That was their key opposition to previous applications, together with their concern that none of the proposed trials included an independent assessment of the results of the trials or of the technology itself. Julie Newman, spokesperson for the Network of Concerned Farmers, stated in a media release on 5 November 2004 under the heading "Farmer's fight back in GM debate":

Farmers are now expected to sign contracts guaranteeing no GM is present but why should we accept liability for contamination with a GM product we and many of our markets don't want?

We are positioning ourselves for a future class action against Bayer CropScience if economic loss is caused by contamination with their GM product.

We are encouraging farmers to forward letters to Bayer CropScience insisting they accept liability for their trespassing GM products.

Despite the concerns of many farmers, the Minister has not addressed liability at all with this bill even though he gave an undertaking to resolve the issue. He has offered no solution despite his reassurance to this House that he would. He also said in this House that the Advisory Council was dealing with liability, but I understand the Advisory Council has made it clear to the Minister it is not capable or qualified to address liability and has

consistently recommended that the Minister seek independent legal advice on the matter. The Advisory Council, I understand, has suggested a course of action to the Minister on liability that would involve a comprehensive public consultation process with groups such as the Grain Harvesters Association, apiarists, local government and organic and conventional farmers that stand to be impacted by GE contamination. The council has also suggested the Minister should take up the issue of liability at the Commonwealth Ministerial Council at which he represents the interests of the people of New South Wales.

The Hon. Ian Macdonald: There were huge requirements on anyone involved in Bayer CropScience, as you should know given that you were told they were required to have a \$20 million liability.

Mr IAN COHEN: It is interesting that a Minister of the Crown has to verbal a member of a minority group in the Parliament. He cannot wait to speak in reply to explain the situation. His agitation gives weight to my humble words in this debate, which are attempting to thwart a drive towards what is essentially absolute control by the Minister. He does not want to abide by the findings of the Advisory Council, which might dare to criticise his actions, as he charges headlong into creating commercial crop trials rather than scientific crop trials.

The Hon. Ian Macdonald: What are you talking about?

Mr IAN COHEN: The Minister will have every opportunity to cover these points in reply.

The Hon. Ian Macdonald: You know your words are wrong!

Mr IAN COHEN: The Minister seems intent on contradicting me. Why is the Minister diminishing the ability of the Advisory Council to conduct adequate consultation and to have an impact?

The Hon. Ian Macdonald: I am not.

Mr IAN COHEN: If the Minister is not, it will be a simple task for him to prove me wrong. Many times members, including the Minister, have attempted to ridicule my contributions to debate in this Chamber. Given that, the Minister will have ample opportunity in his reply to answer my questions, which I suggest are representative of the concerns of many farmers throughout New South Wales. The Advisory Council, as I understand, has also proposed an independent legal and scientific assessment of liability and coexistence issues along the lines of the United Kingdom Government Biotechnology Commission report entitled "GM crops? Coexistence and Liability", dated November 2003. But I understand it has not heard back from the Minister about these suggestions.

Would the Minister tell the House in detail what he is doing to resolve the issue of liability to honour his undertaking in this House in March this year that no exemption order would be granted until the liability issue was resolved? The United Kingdom biotechnology commission report, to which I have just referred, is a very comprehensive analysis of liability and coexistence. That would provide an excellent starting point for similar investigations into issues that are precious to New South Wales. The report covers a broad range of issues, including consumer and producer choice, critical control points for co-existence, the practicality of co-existence, options for underpinning coexistence protocols, compensation for economic loss, liability for environmental impacts from growing GM crops commercially, testing for GM content and liability for damage caused by genetically modified organisms. The report makes 12 recommendations. Recommendation 5 states:

There should be special arrangements for compensation for farmers suffering financial loss as a result of their produce exceeding statutory thresholds through no fault of their own.

The Biotechnology Commission also recommended that crop management protocols be legally binding. Interestingly, the United Kingdom commission reported it was unable to agree on how coexistence arrangements could deliver an adventitious presence—one might read there "contamination threshold"—of 0.1 per cent for organic farmers and any other farmer who wishes to work non-statutory thresholds. Things are different in Australia though, where there is no statutory level of accepted contamination.

The Hon. Ian Macdonald: It is 0.9 per cent, not 0.1 per cent.

Mr IAN COHEN: I accept that the Minister may be correct. If he is, I will acknowledge that. But I am advised that it is a presence of 0.1 per cent for organic farmers and any other farmer who wishes to work to non-statutory thresholds.

Things are different in Australia though, because there is no statutory level of accepted contamination. The Australian Competition and Consumer Commission [ACCC] said recently that GM free means 100 per cent GM free—not 0.9 per cent contaminated, which the trials are designed to deliver. Therein lies the basis of our difference of opinion. That is in normal circumstances. Clearly, I was talking about organic products and those who wish to work in a non-statutory threshold. It would be illegal for anyone in Australia to claim that their grain—canola or otherwise—is GM free if it has any level of GE contamination.

Another important point the United Kingdom report raised was the availability of effective testing methods and laboratories to test for GE content. A reliable and reproducible testing process for the presence of GE constructs is essential to test any protocol that says it can consistently keep GE contamination at a certain level. I understand that this issue was raised by the advisory council also, and that it still has not been resolved. Farmers have real concerns that the relevant tests are not widely available and have not been thoroughly evaluated for the purposes required.

[The Deputy-President (The Hon. Eric Roozendaal) left the chair at 6.32 p.m. The House resumed at 8.15 p.m.]

Mr IAN COHEN [8.15 p.m.]: Earlier I was saying that farmers were concerned about the availability of the results of relevant tests and their evaluation. Such tests are likely to be expensive and time consuming. This is a cost that would be borne by non-GM farmers if Monsanto and Bayer have their way. With this bill, the Minister looks set to expedite applications for trials under what is increasingly looking like a fake moratorium in New South Wales. I have no doubt the Minister intends to grant an exemption order for large-scale so-called co-existence trials in New South Wales, and this bill would pave a smoother way for the Minister and for Bayer and Monsanto. It would seem the Minister is intent on making it even easier for the multinationals to get what they want in New South Wales by further disregarding the genuine concerns of the people of this State, and in particular the farming community.

The Minister's support of the multinationals, at the expense of farmer and community concerns, is no secret. The Minister has always stated his support for genetically engineered crops. The Minister likes to think of himself as a bit of a science buff, but he continues to ignore the peer-reviewed scientific and independent studies in favour of the dubious junk science put forward by those with vested interests in this technology. In his second reading speech the Minister talked in glowing terms about the benefits of genetic engineering to humankind, including in developing countries. He may have bought the absurd notion that genetic engineered crops can feed the world. It is interesting that, while the Minister talked about the benefits of GE crops and how last year the global area of such crops had grown to 67.7 million hectares, he conveniently completely ignored the down side. Surely the Minister should be more balanced in his approach to this issue.

The Minister should let honourable members and the public know not only Monsanto's and Bayer's views but also those of independent scientists who are expressing severe doubts about the genetic engineering of food crops. While the Minister often accuses those more cautious about GE food of being overly emotional and unscientific, he consistently presents a totally one-eyed view on the issue. Who wrote his speech? It could not have been more biased if it had been written by an executive of Monsanto or Bayer. As the Minister has failed to put on the record the concerns of farmers, and even some of his own colleagues, it is left to the Greens and the Opposition to do so. The Minister ignores global consumer rejection of genetically engineered food and the growing number of credible scientists and eminent persons who continue to raise serious concerns about the untested consequences of foisting genetically engineered food on the population and releasing it into the environment.

Although countries claim to sell their GE crops, this is not evidence of a real market for GE. The majority of people do not know that up to 80 per cent of GE crops currently grown are fed to farm animals. People do not know that the vast majority of chickens they buy in Woolworths have been fed on GE soy. They cannot make a choice not to buy them because the chickens are not labelled as being fed on GE grain. People do not know that GE cottonseed oil is blended into vegetable oil, because it is not labelled. I have asked questions about it in the House. How can we guarantee that what is essentially a material production, cottonseed used as oil, does not go into the food chain, particularly in the catering industry in New South Wales? These oils are not labelled GE. People are unaware that many processed foods contain GE ingredients because they are never labelled.

In Britain in 2003 more than 28,000 people were involved in wide consultation that sent a clear message to the British Government and the retail trade. Only 2 per cent said that the crops were acceptable in any circumstances and only 8 per cent said that they were happy to eat GE food. In July 2003 32 food

producers in China, the largest food market in the world, announced their official commitment not to include GM ingredients. Supermarkets have the power to make or break GE. Indications are that they are moving away from it because their customers do not want it. Despite industry claims that GE crops produce higher yields, no independent evidence supports them. According to a study at the University of Nebraska, recorded yields for Monsanto's Roundup Ready maize were 6 to 11 per cent less than those of non-GM varieties. A 1998 study of more than 8,000 field trials found that Roundup Ready Soya seeds produced 6.7 to 10 per cent fewer bushels of Soya than conventional varieties.

Early in 2003 a researcher at the Institute of Development Studies at the University of Sussex published an analysis of GE crops that biotechnology companies are developing for Africa. Among the plants studied by the researcher, Aaron degeare, were cotton, maize and sweet potato. He discovered that conventional breeding procedures and good ecological management produced a far higher yield at a fraction of the cost. The GE research on sweet potato, which has involved the work of 19 scientists and cost \$6 million to date, is now approaching its twelfth hour. Results indicate that yield has increased by 18 per cent. On the other hand, conventional sweet potato breeding working with a small budget has produced a virus-resistant variety with a 100 per cent yield increase. A number of top scientists have raised serious questions about the genetic engineering of food crops. Some 21 distinguished scientists, including Professor Brian Goodwin, Professor Jacqueline McGlade, Professor Peter Saunders and Professor Richard Lacy said:

With genetic engineering familiar foods could become metabolically dangerous or even toxic.

Professor James, the main architect of the United Kingdom Food Standards Agency, commenting on genetically engineered food, said:

The perception that everything is totally straightforward and safe is utterly naive. I don't think we fully understand the dimensions of what we're getting into.

He also said:

There is a need to develop more effective and appropriate screening methods to alert companies and government agencies to the unexpected consequences of the often random insertion of genetic traits into plants.

Professor Norman Ellstrand, ecological geneticist at the University of California, said:

Within 10 years we will have a moderate to large-scale ecological or economic catastrophe, because there will be so many products being released.

Dr Vivian Howard, expert in foetal and infant toxic-pathology at Liverpool University Hospital, said:

Swapping genes between organisms can produce unknown toxic effects and allergies that are most likely to affect children.

Dr Mae Wan-Ho, geneticist at the United Kingdom Open University Department of Biology, said:

Genetic engineering bypasses conventional breeding by using artificially constructed parasitic genetic elements, including viruses, as vectors to carry and smuggle genes into cells. Once inside cells, these vectors slot themselves into the host genome. The insertion of foreign genes into the host genome has long been known to have many harmful and fatal effects including cancer of the organism.

Dr George Weld, Nobel Laureate and Higgins Professor of Biology, Harvard University, writes:

Up to now, living organisms have evolved very slowly, and new forms have had plenty of time to settle in. Now whole proteins will be transposed overnight into wholly new associations. Going ahead in this direction may be not only unwise, but dangerous. Potentially, it could breed new animal and plant diseases, new sources of cancer, novel epidemics.

Professor Dennis Parka of the University of Surrey School of Biological Sciences, a former chief adviser on food safety to Unilever Corporation and British adviser to the United States of America Food and Drug Administration, on safety aspects of biotechnology writes:

In 1983, hundreds of people in Spain died after consuming adulterated rapeseed oil. This adulterated rapeseed oil was not toxic to rats.

Dr Parka warns that current testing procedures for genetically altered foods, including rodent tests, are not proving safe for humans. He has suggested a moratorium on the release of genetically engineered foods. This reminds me of one of the claims made by the Government in debate in this House that the oil from genetically engineered plants does not have the same genome that goes through the oil and, therefore, somehow it is neutral.

I would be interested to know if anyone could enlighten the House as to whether the adulterated rapeseed oil was not picked up with testing and whether a similar situation could occur with genetically engineered rapeseed oil or canola oil. Simon Dr Michael Antonio, a senior lecturer of molecular pathology at Guys Hospital, London, stated:

The generation of genetically engineered plants and animals involves the random integration of artificial combinations of genetic material from unrelated species into the DNA of the host organism. This procedure results in disruption of the genetic blueprint of the organism with totally unpredictable consequences. The unexpected production of toxic substances has now been observed in genetically engineered bacteria, yeast, plants and animals with the problem remaining undetected until a major health hazard has arisen. Moreover, genetically engineered food or enzymatic food processing agents may produce an immediate effect or it could take years for full toxicity to come to light.

Dr Antonio recently warned members of Parliament against believing that there was any safe alternative to a ban on GM foods. He stated:

We should not lull ourselves into a false sense of security: we should not think that by regulating something which is inherently unpredictable and unobtainable it automatically becomes safe!

Is the Minister aware of the views of these and many other scientists? Is he aware of their views on the potential dangers of GE foods, or does he simply not care? Does the Minister have access to some secret research documents from Monsanto and Bayer CropScience that show extensive longitudinal studies have been undertaken to prove that GE foods are safe and that the concerns of all the leading scientists are completely unfounded? Is the Minister certain that the Federal regulator has got it right? Even Monsanto executives have severe doubts. Robert Shapiro, when he was the chief executive of the Monsanto Corporation, stated:

Certainly, humanity's record for using technology wisely, sensitive to its potential effects on society, on people, on environment is, at best, mixed and hardly encouraging.

Phil Angell, when he was director of corporate communications at the Monsanto corporation, stated:

Monsanto should not have to vouch for the safety of biotech food. Our interest is in selling as much of it as possible.

As the highly reputable medical journal the *Lancet* stated:

All policymakers must be vigilant to the possibility of research data being manipulated by corporate bodies and of scientific colleagues being seduced by the material charms of industry. Trust is no defence against an aggressively deceptive corporate sector.

The truth is that Monsanto and Bayer CropScience have one interest, and one interest only—making as much money from their investments as possible in the shortest possible time in the interests of their executives, who are on multimillion-dollar salaries, and their shareholders.

Debate adjourned on motion by Mr Ian Cohen.

TEACHING SERVICES AMENDMENT BILL

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

Motion by the Hon. Ian Macdonald agreed to:

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

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

THREATENED SPECIES LEGISLATION AMENDMENT BILL

In Committee

Clauses 1 to 3 agreed to.

Mr IAN COHEN [8.37 p.m.]: I move Greens amendment No. 1:

No. 1 Page 8, schedule 1. Insert after line 18:

[14] Regulations prescribing criteria under this Part

A regulation that prescribes criteria for the purposes of section 10, 11, 12 or 13 is not to be made unless the Minister certifies in writing that:

- (a) the criteria are based on scientific principles only, and
- (b) any criteria for listing under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth were given due consideration before the regulation was made.

The regulations for listing should be based on scientific principles, taking into consideration the criteria in the regulations for listing in the Commonwealth Environment Protection and Biodiversity Conservation Act. Amendments should ensure that any regulation is based on science and integrated with Commonwealth law, not other matters, and kept within the spirit of the Act, which requires credible data on the state of our species. Such data should not be kept from the public, which subsequently will be able to make decisions about the fate of threatened species. I commend Greens amendment No. 1 to the Committee.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.37 p.m.]: The Government is prepared to support this amendment, which merely codifies what the Government has stated as its policy. The amendment will also ensure consistency with the Commonwealth's threatened species legislation. I add that advising on social and economic considerations will be a core function of the proposed Social and Economic Advisory Council. The members of the council, who will include a wide range of experts, will be in a position to advise the Government on the social and economic consequences of any listing so that those issues can be properly taken into account when the Government decides how best to respond.

The Hon. RICK COLLESS [8.38 p.m.]: The Opposition will not oppose the amendment.

Amendment agreed to.

Mr IAN COHEN [8.40 p.m.]: I move Greens amendment No. 2:

No. 2 Page 9, schedule 1 [26], line 17. Insert "every 12 months" after "nominations".

The Scientific Committee should produce a list of priorities for the listing of species every 12 months, to keep it in touch with current needs as seen by the Government, experts, and the community. Otherwise the list would be produced only once. I commend Greens amendment No. 2 to the Committee.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.40 p.m.]: The Government is prepared to support the amendment. It is reasonable for the Scientific Committee to be required to regularly determine priorities for its consideration of nominations. A review every 12 months is acceptable to the Government.

The Hon. RICK COLLESS [8.40 p.m.]: The Opposition will not oppose the amendment.

Amendment agreed to.

Mr IAN COHEN [8.41 p.m.], by leave: I move Greens amendments Nos 3 and 4 in globo:

No. 3 Page 9, schedule 1 [26], lines 22-23. Omit all words on those lines. Insert instead:

- (b) any advice or recommendations of the Minister or the NRC concerning those priorities, and
- (c) any criteria for determining priorities that is specified in the regulations, and
- (d) any submissions concerning priorities made under subsection (1B).

No. 4 Page 9, schedule 1 [26], line 30. Insert "Any advice given is to be based on reasons of a scientific nature provided in the advice." after "conservation."

Advice given by the Minister or the Natural Resources Commission about listings should be based on scientific grounds consistent with the criteria for listing. This preserves the scientific basis of listings and ensures that non-specific matters are not used to manipulate the listing process. I commend Greens amendments Nos 3 and 4.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.41 p.m.]: The Government opposes the amendments; they are unnecessary in the Government's view and have the potential to make the listing process overly difficult, costly, and cumbersome for the Scientific Committee. We say that the amendments would place the Scientific Committee in an almost impossible position. It would be faced with having to determine the listing of priorities after having received numerous public submissions, each of which may ask it to prioritise things differently. No matter what decision is made on listing priorities, it would end up being criticised by one or other group in the community.

The Hon. RICK COLLESS [8.41 p.m.]: The Opposition will not support the amendments for reasons similar to the Government's. They are superfluous and will add complicating factors to the process.

Amendments negatived.

Mr IAN COHEN [8.42 p.m.]: I move Greens amendment No. 5:

No. 5 Page 9, schedule 1 [26]. Insert after line 30:

- (1B) Any person may make a submission to the Scientific Committee concerning priorities for the consideration of nominations by the Scientific Committee.

The amendment allows the public, not only the Natural Resources Commission or the Government, to provide suggestions on what should be the priorities for listing. The amendment also allows experts outside the Scientific Committee to provide advice to the Scientific Committee. I commend the amendment.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.42 p.m.]: The Government opposes the amendment for reasons similar to those given when opposing Greens amendments Nos 3 and 4.

The Hon. RICK COLLESS [8.42 p.m.]: Similarly, the Opposition will not support the amendment.

Amendment negatived.

The CHAIRMAN: The Committee will now deal concurrently with Greens amendment No. 6 and Coalition amendments Nos 1 and 2, which are in conflict. If Greens amendment No. 6 is successful, Coalition amendments Nos 1 and 2 fail.

Mr IAN COHEN: I move Greens amendment No. 6:

No. 6 Pages 10 and 11, schedule 1 [33], line 24 on page 10 to line 15 on page 11. Omit all words on those lines.

The Minister should not be able to interfere with the listing process. Independence for the process run by the Scientific Committee is essential to its credibility. The amendment removes the ability of the Minister for the Environment to challenge a proposed listing of the Scientific Committee. The Minister already has the means to input into the listing process when the draft determination is placed on public exhibition. The listing process should not be subject to political influence. The amendment prevents the Minister from delaying a listing and stops the Minister questioning the committee's determination. I commend Greens amendment No. 6.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.44 p.m.]: The Government does not support Greens amendments Nos. 6 to 8, although Mr Ian Cohen has not yet moved amendments Nos 7 and 8. Similar comments apply to each amendment. In the Government's view the amendments would undermine a vital part of the bill. One of the key aims of the bill is to make the Scientific Committee more accountable than it now is. Allowing the Minister to refer a proposed final determination back to the Scientific Committee for reasons of a scientific nature is perfectly reasonable.

Mr Ian Cohen should not assume that members of the Scientific Committee will feel pressured by these provisions. To the contrary, I expect that the committee would welcome the opportunity to reassess a proposed listing on the basis of new factual information or science coming to light. As scientists, they want to make the most accurate decisions possible. I stress that the ultimate independence of the committee in the listing process will be preserved.

The Hon. RICK COLLESS [8.45 p.m.]: The Coalition would have preferred to have moved a suite of amendments in globo in relation to this issue. Basically the new section seeks to give the Minister power to reject the final determination. The Coalition sees that power as a key part of its amendments, and certainly the Greens amendment is contrary to that. As a result, the Coalition will not support amendment No. 6. By leave, I move Opposition amendments Nos 1 and 2 in globo:

No. 1 Page 10, schedule 1 [33], line 28. Insert "or reject the proposed final determination" after "further consideration".

No. 2 Page 11, schedule 1 [33], line 7. Insert ", or rejected the proposed final determination," after "further consideration".

The Coalition would have preferred to have moved a number of amendments which addressed the power of rejection to the final determination on behalf of the Minister. The key amendment in the group we wanted to move is amendment No. 7, which provides for the Minister to seek advice from the Biological Diversity Advisory Council [BDAC] on the proposed final determinations, and amendment No. 18, which allows for the same provision in the Fisheries Management Act. The thrust of the amendments is to give the Minister the power to refer the findings of the Scientific Committee back to the BDAC for a second opinion and gives the Minister the power to reject that final determination.

This is a quantum change for the bill, as the Scientific Committee will no longer have the unfettered power to list species that it now has. The amendment will not make the decision a purely political process, as has been suggested: the BDAC will need to carefully consider the determination, and the Scientific Committee will be more accountable for any decision it may make.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.47 p.m.]: The comments I now make relate to Opposition amendments Nos 1 to 7, as the Government has a similar view on each amendment. The Government is unable to support Opposition amendments Nos 1 and 2 moved by the Hon. Rick Colless. The Government is committed to retaining the independence of the Scientific Committee to ensure that listing decisions are made on a scientific, factual basis. The amendments would require the Biological Diversity Advisory Council [BDAC] to act as a review body for the Scientific Committee's listing of decisions in cases where it is asked to do so by the Minister. Although the Government appreciates that the Opposition is attempting to create greater accountability for the scientific listing process, we believe that these amendments would do little more than complicate the listing process.

In effect, the amendments would elevate the BDAC so that it duplicates the role of the Scientific Committee. That would mean that two bodies of scientific experts, rather than one, would be involved in listing decisions. Listings of threatened species would be void if the Scientific Committee made small administrative errors; that would lead to a high level of uncertainty about the published threatened species lists. It would not create a level playing field for the public and those reliant on the lists, such as local government and developers. It is foreseeable that if these amendments were passed, the lists of threatened species could change without the normal public exhibition process, and that would undermine the certainty provided by these reforms. A number of changes are already included in the Government's bill that will significantly improve the transparency and accountability of the Scientific Committee.

Mr IAN COHEN [8.49 p.m.]: The Greens are also concerned about Opposition amendments Nos 1 and 2, which will enable the Biological Diversity Advisory Council [BDAC] to offer a second opinion for a proposed listing if the Minister refers such a listing to it. From the time of its appointment it has not been an entirely independent source of advice. The BDAC and the Minister already have an opportunity to provide comments to the Scientific Committee on each preliminary determination. As the Greens are uncomfortable with giving the Minister the capacity to determine a draft listing we do not support Opposition amendments Nos 1 and 2.

Greens amendment No. 6 negatived.

Opposition amendments Nos 1 and 2 negatived.

The Hon. RICK COLLESS [8.51 p.m.]: I seek advice. I understand that our amendments Nos 3, 5, 7, 18, 19, 20, 22 and 24 as circulated will now lapse.

The CHAIRMAN: Order! I am advised that, as Opposition amendments Nos 1 and 2 were not successful, Opposition amendments Nos 3, 5, 7, 18, 19, 20, 22 and 24 lapse as they relate to a power that is not in the bill. As Opposition amendment No. 4 and Greens amendment No. 7 are in conflict, the Committee will deal with them concurrently.

The Hon. RICK COLLESS [8.54 p.m.], by leave: I move Opposition amendments Nos 4 and 6 globos:

No. 4 Page 11, schedule 1 [33], lines 19-22. Omit all words on those lines. Insert instead:

- (6) A final determination that is made by the Scientific Committee without complying with all of the requirements of this section is void.

No. 6 Page 12, schedule 1 [34], lines 15 and 16. Omit all words on those lines. Insert instead:

- (4) A final determination that is made by the Scientific Committee after the period within which it is required to make the determination under this section is void.

Amendment No. 4 refers to proposed section 23 (6). The Coalition is concerned about the subsection as drafted, which reads:

- (6) Failure to make a final determination within the period required by this section or to give notice to the Minister of a proposed final determination within the period required by this section does not affect the validity of the determination.

That means the Minister and the department cannot take any action in relation to the need to make that determination, and the determination is still valid. That will result in the complete mismanagement of the Scientific Committee by the Minister. If that occurs, a final determination can still be made. If the committee and the Minister fail to properly discharge their responsibilities, that determination should not proceed. These two amendments will ensure that such a determination will become void if the Minister and the director-general fail to address the final determination requirements rather than the determination automatically being approved. It will make the whole process far more accountable.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.56 p.m.]: The Government opposes Opposition amendments Nos 4 and 6 for the reasons I gave earlier when dealing with Opposition amendments Nos 1 and 2.

Mr IAN COHEN [8.56 p.m.]: The Greens do not support Opposition amendments Nos 4 and 6 for the reasons given earlier when dealing with Opposition amendments Nos 1 and 2. I move Greens amendment No. 7:

No. 7 Page 11, schedule 1 [33], lines 20-22. Omit "or to give notice to the Minister of a proposed final determination within the period required by this section".

I dealt with the substance of this amendment when I referred earlier to Greens amendment No. 6. I commend Greens amendment No. 7 to the Committee.

The Hon IAN MACDONALD (Minister for Primary Industries) [8.58 p.m.]: The Government opposes Greens amendment No. 7 for the reasons outlined earlier when dealing with Greens amendment No. 6.

The Hon. RICK COLLESS [8.59 p.m.]: The Coalition also opposes this amendment.

Opposition amendment No. 4 negatived.

Greens amendment No. 7 negatived.

Opposition amendment No. 6 negatived.

Mr IAN COHEN [8.59 p.m.]: I move Greens amendment No. 8:

No. 8 Pages 11 and 12, schedule 1 [34], line 23 on page 11 to line 16 on page 12. Omit all words on those lines.

I have already discussed this amendment, and I commend it to the Committee.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.59 p.m.]: The Government opposes Greens amendment No. 8 for the reasons I gave when I spoke to Greens amendment No. 6.

The Hon. RICK COLLESS [8.59 p.m.]: The Opposition also opposes this amendment.

Amendment negatived.

Mr IAN COHEN [8.59 p.m.]: I move Greens amendment No. 9:

No. 9 Page 12, schedule 1. Insert after line 23:

[37] Section 24 (3) (a)

Omit "National Parks and Wildlife Service".

Insert instead "Department".

This amendment tidies up the legislation and deals with an issue that is not particularly critical. I hope the Committee will support this minor amendment.

The Hon. IAN MACDONALD (Minister for Primary Industries) [9.00 p.m.]: The Government supports Greens amendment No. 9.

The Hon. RICK COLLESS [9.00 p.m.]: The Opposition will not oppose this amendment.

Amendment agreed to.

The Hon. RICK COLLESS [9.00 p.m.]: I move Opposition amendment No. 8:

No. 8 Page 12, schedule 1 [37], line 28. Omit "3 months". Insert instead "6 months".

The bill allows for a legal challenge to the validity of a final determination, but only within three months of the publication of the *Government Gazette*. This is a problem because there is no legislative time requirement on the public advertisement of the final determination other than that it be as soon as practicable. Three months is too short a period in which to mount a proper legal challenge—in fact, many rural communities might not even be aware of the final determination until well after the three months have passed. I welcome the inclusion of the new section that provides for a legal challenge to a decision by the Scientific Committee, but the time frame in which the challenge can be mounted should be extended to at least six months.

The Hon. IAN MACDONALD (Minister for Primary Industries) [9.01 p.m.]: The Government will support Opposition amendment No. 8. A six-month period in which to appeal against Scientific Committee determinations is consistent with the Government's intention to provide certainty with regard to threatened species lists.

Mr IAN COHEN [9.02 p.m.]: The Greens do not support Opposition amendment No. 8. The attempt to extend to six months appeal rights regarding the validity of a final determination does not conform with the general approach given to community objectors in the Environmental Planning and Assessment Act.

Amendment agreed to.

Mr IAN COHEN [9.02 p.m.], by leave: I move Greens amendments Nos 10 and 11 in globo:

No. 10 Page 14, schedule 1 [51], lines 22-23. Omit "or critically endangered species, populations and ecological communities".

Insert instead "species, populations and ecological communities, or critically endangered species and ecological communities".

No. 11 Page 14, schedule 1 [52], line 26. Omit all words on that line. Insert instead:

Omit "of endangered populations and ecological communities".

Amendment No. 10 removes the power from the Minister or the Natural Resources Commission [NRC] to give directions to the Scientific Committee about investigations into the status of species. New section 21 allows the Scientific Committee to determine priorities for listings. This mechanism requires the committee to have regard to the advice of the Minister and the NRC. It is unnecessary to have a second process that alters the work priorities of the Scientific Committee.

Greens amendment No. 11 requires the director-general to conduct a statewide investigation of biodiversity, which will have an input in future listings decisions. At present statewide information on all threatened species is poor. The investigation will improve the level of knowledge about threatened species and assist with determining priorities for recovery and threat abatement action—item [64] of the bill—and insert a new part 5A in the Threatened Species Conservation Act. I commend Greens amendments Nos 10 and 11 to the Committee.

The Hon. IAN MACDONALD (Minister for Primary Industries) [9.04 p.m.]: The Government opposes Greens amendment No. 10. It is considered essential that the Government have the ability to require the Scientific Committee to undertake investigations of the type outlined in new section 25A (3). This will not undermine its listing independence. To the contrary, it is a sensible proposal that will allow the Minister to ensure that the work of the Scientific Committee is undertaken more efficiently and effectively.

The Government will not support Greens amendment No. 11. The resources needed to undertake the investigations required under new section 25B (1), as proposed by Greens amendment No. 11, are potentially massive. The reality is that if this amendment were to become law, scarce resources would have to be diverted to investigating threatened species rather than being used to implement positive, on-the-ground actions to protect threatened species better.

The Hon. RICK COLLESS [9.05 p.m.]: The Coalition will not support Greens amendments Nos 10 and 11.

Amendments negatived.

The CHAIRMAN: Greens amendment No. 12 and Opposition amendments Nos 9, 10, 11, 12 and 13 are in conflict, and I propose that the Committee consider them together.

Mr IAN COHEN [9.06 p.m.]: I move Greens amendment No. 12:

No. 12 Pages 14-15, schedule 1 [50]-[54], line 13 on page 14 to line 6 on page 15. Omit all words on those lines. Insert instead:

[50] Part 3

Omit the Part. Insert instead:

Part 3 Critical habitat of endangered and critically endangered species, populations and ecological communities

Division 1 Identification and declaration of critical habitat

37 Habitat eligible to be declared to be critical habitat

- (1) The whole or any part or parts of the area or areas of land comprising the habitat of an endangered or critically endangered species, population or ecological community that is critical to the survival of the species, population or ecological community is eligible to be declared under this Part to be the critical habitat of the species, population or ecological community.
- (2) The regulations may provide that a specified habitat, or habitat of a specified kind, may, or may not, be declared to be critical habitat for the purposes of this Part.

38 Scientific Committee responsible for identifying critical habitat

The Scientific Committee is responsible for identifying (where this is possible) the area or areas of land comprising the critical habitat of each endangered or critically endangered species, population and ecological community.

39 Preparation of draft declaration of critical habitat

The Scientific Committee must, if it considers that it is possible to identify the critical habitat of an endangered or critically endangered species, population or ecological community, prepare a draft declaration that declares the area or areas of land comprising the critical habitat of that species, population or ecological community.

40 Publication of recommendation

(1) After preparing a draft declaration, the Scientific Committee must:

- (a) give a copy of it to the Director-General, and
- (b) give notice of the draft declaration to all persons known by the Scientific Committee, following the making of reasonable searches and inquiries, to be affected by the declaration, being:
 - (i) landholders (including public authorities who are landholders), and
 - (ii) other public authorities known to the Scientific Committee to exercise relevant functions in relation to the land, and
 - (iii) if the land is subject to a mortgage, charge or positive covenant—the mortgagee, charge or person entitled to the benefit of the covenant, and
 - (iv) holders of leases and other interests granted by the Crown, and
- (c) publish notice of the draft declaration in a newspaper circulating generally throughout the State and, if the recommendation is likely to affect a particular area or areas (other than the State as a whole), in a newspaper circulating generally in that area or areas, and
- (d) publish notice of the draft declaration in the Gazette.

(2) The notice must:

- (a) state that the draft declaration has been prepared, and
- (b) specify the address of the place at which copies of the draft declaration may be inspected, and
- (c) invite persons to make written submissions to the Scientific Committee about the draft declaration, and
- (d) specify the address of the place to which submissions about the draft declaration may be forwarded and the date by which submissions must be made.

41 Consideration of submissions by Scientific Committee

- (1) The Scientific Committee must consider all written submissions received by the Scientific Committee on or before the date specified in the notice.
- (2) The Scientific Committee may amend the draft declaration to take account of any of those submissions or decide not to proceed with the declaration.

42 Declaration of critical habitat

- (1) If the Scientific Committee decides to proceed with a declaration, the Scientific Committee may, by notification published in the Gazette, declare the area or areas of land identified in the draft declaration (with any appropriate amendment) and described in the notification to be the critical habitat of the endangered or critically endangered species, population or ecological community concerned.
- (2) Section 48 (2) applies to the publication of a map of the critical habitat.

43 Publication of declaration of critical habitat

As soon as practicable after the declaration of critical habitat by the Scientific Committee, the Committee must:

- (a) give notice of the declaration to all persons known by the Scientific Committee, following the making of reasonable searches and inquiries, to be affected by the declaration, being:
 - (I) landholders (including public authorities who are landholders), and
 - (ii) other public authorities known by the Scientific Committee to exercise relevant functions in relation to the land, in particular, the Valuer-General, and
 - (iii) if the land is subject to a mortgage, charge or positive covenant—the mortgagee, charge or person entitled to the benefit of the covenant, and
- (b) publish notice of the declaration in a newspaper circulating generally throughout the State and, if the declaration is likely to affect a particular area or areas (other than the State as a whole), in a newspaper circulating generally in that area or areas, and
- (c) publish notice of the declaration in the Gazette.

44 Amendment or revocation of declaration of critical habitat

- (1) The Scientific Committee may amend or revoke a declaration of critical habitat by a further notification published in the Gazette.
- (2) Before amending or revoking a declaration, the Scientific Committee must give and publish notice of the proposed amendment or revocation as if it were a draft declaration referred to in section 40, and consider all written submissions concerning the proposed amendment or revocation that are received on or before the date specified in the notice.
- (3) If a declaration is amended or revoked by the Scientific Committee, the Committee must:
 - (a) give notice of the amendment or revocation to:
 - (I) those persons who were given notice of the making of the declaration and who retain the requisite interest in the land, and
 - (ii) any other person known by the Scientific Committee, following the making of reasonable searches and inquiries, to have become a landholder, public authority exercising relevant functions in relation to the land, mortgagee, charge or person entitled to the benefit of a positive covenant in the land after notice of the making of the declaration was given, and
 - (b) publish notice of the amendment or revocation in the Gazette.
- (4) A notice under subsection (3) must give the reasons for the amendment or revocation of the declaration.

45 Public authorities to have regard to critical habitat

A public authority must, on and after publication of a declaration of critical habitat, have regard to the existence of critical habitat:

- (a) in relation to use of land that it owns or controls that is within or contains critical habitat, or
- (b) in exercising its functions in relation to land that is within or contains critical habitat.

- 46 Regulations may prohibit certain actions on critical habitat
- The regulations may prohibit or regulate, for the purposes of this Act, the carrying out of specified actions, or actions of a specified class or description, on specified critical habitat.
- 47 Effect of failure to comply with procedural requirements
- A declaration of critical habitat is not open to challenge because of a failure to comply with the procedural requirements of this Division after the declaration has been published in the Gazette.
- Division 2 Maps and register of critical habitat
- 48 Map of critical habitat to be prepared and published
- (1) Before the publication of a declaration, or an amendment of a declaration, of critical habitat, the Scientific Committee must arrange for the preparation of a map that shows the location of the critical habitat proposed to be declared or amended.
- (2) A copy of the map is to be published in the Gazette on the publication of the declaration of the critical habitat.
- 49 Maps of critical habitat to be served
- The Scientific Committee must serve a copy of a map of critical habitat on the following:
- (a) the Director-General,
- (b) the Director-General of the Department of Infrastructure, Planning and Natural Resources,
- (c) each council within whose area the whole or part of the critical habitat is located,
- (d) landholders of land on which critical habitat is located (including public authorities who are landholders),
- (e) holders of leases and other interests granted by the Crown,
- (f) other public authorities known by the Scientific Committee to exercise relevant functions in relation to the land.
- 50 Scientific Committee to keep register of critical habitat
- (1) The Scientific Committee must keep a register containing copies of declarations of critical habitat as in force from time to time, and maps of the critical habitat that are published in the Gazette, and must make that register available to public authorities.
- (2) The register is to be open for public inspection, without charge, during ordinary business hours, and copies of or extracts from the register are to be made available to the public on request, on payment of the fee fixed by the Scientific Committee.

The requirement in the Act for the designation and protection of critical habitat needs to be updated so that it is effective. The existing provisions in the Act are being ignored. The Threatened Species Conservation Act has been operating for nine years but there are only two critical habitat listings: one for a snail on the North Coast and another for penguins at North Head. This situation must be improved, and new part 3, as proposed by the amendment, provides a more effective mechanism of making critical habitat listings. I commend Greens amendment No. 12 to the Committee.

The Hon. RICK COLLESS [9.08 p.m.], by leave: I move Opposition amendments Nos 9 to 14 in globo:

- No. 9 Page 14, schedule 1 [50], lines 15-17. Omit "and critically endangered species, populations and ecological communities".
- Insert instead "species, populations and ecological communities and critically endangered species and ecological communities".
- No. 10 Page 14, schedule 1 [51], lines 22-23. Omit "or critically endangered species, populations and ecological communities".
- Insert instead "species, populations and ecological communities, or critically endangered species and ecological communities".
- No. 11 Page 14, schedule 1 [52], line 26. Omit all words on that line. Insert instead:
- Omit "of endangered populations and ecological communities".

No. 12 Page 15, schedule 1 [53], lines 1-2. Omit all words on those lines. Insert instead:

[53] Sections 37 (1), 40 (1), 41 (1), 43 (a) and 47 (3)

Insert "or critically endangered species or ecological community" after "endangered species, population or ecological community" wherever occurring.

[54] Section 38 Director-General responsible for identifying critical habitat

Insert "or critically endangered species or ecological community" after "ecological community".

No. 13 Page 15, schedule 1 [54], lines 5-6. Omit all words on those lines. Insert instead:

Insert ", for critically endangered species and ecological communities," before "and for vulnerable species" in the Introductory note to Part 4.

No. 14 Page 15, schedule 1 [56], line 11. Omit all words on that line. Insert instead:

Insert "and each critically endangered species and ecological community" after "and ecological community" in section 56 (1).

These amendments address what I believe, from my reading of the bill, must be an oversight. I mentioned this during the second reading debate but unfortunately the Minister did not address it when he replied to that debate. Page 6 of the bill outlines the classifications that determine listing eligibility. Under the listing of species there are the categories of critically endangered species, endangered species and vulnerable species. There is only one category under the populations listing, which is an endangered population. Under the listing of ecological communities we have the categories of critically endangered ecological community, endangered ecological community and vulnerable ecological community.

Amendment No. 9 refers to the heading on page 14 of the bill "Part 3 Critical habitat of endangered and critically endangered species, populations and ecological communities". It is my argument that there is no category of critically endangered populations classified in the bill. That heading really means critically endangered species, critically endangered populations and critically endangered ecological communities. The suite of amendments I have moved in globo seek to address that anomaly by correcting the wording in various clauses in the bill.

The Hon. IAN MACDONALD (Minister for Primary Industries) [9.10 p.m.]: The Government cannot support Greens amendment No. 12. When drafting this bill the Government undertook a detailed and extensive process of consultation. The amendment seeks to insert an entirely new part into the Act that, to the Government's knowledge, has not been the subject of any form of consultation with affected stakeholders. The Government supports Opposition amendments Nos 9 to 14.

Mr IAN COHEN [9.11 p.m.]: The Greens do not support Liberal Party Opposition amendments Nos 9 to 14.

Greens amendment No. 12 negatived.

Opposition amendments Nos 9 to 14 agreed to.

Mr IAN COHEN [9.12 p.m.], by leave: I move Greens amendment Nos 13 and 14 in globo:

No. 13 Page 15, schedule 1 [55], lines 7-9. Omit all words on those lines.

No. 14 Page 15, schedule 1 [57] and [58], lines 12-15. Omit all words on those lines.

While the Greens accept that the removal of the timetable for recovery plans to be produced is a practical move, the amendments ensure that recovery planning is still a mandatory duty as the Government's proposals make it discretionary. I commend Greens amendments Nos 13 and 14 to the Committee.

The Hon. IAN MACDONALD (Minister for Primary Industries) [9.13 p.m.]: The Government opposes Greens amendment Nos 13 and 14. The Government is proposing a new mechanism for prioritising the preparation of recovery plans, the Threatened Species Priorities Action Statement, the content of which is described in new section 90A, which makes it quite clear that each threatened species, population or ecological community, and the strategies proposed to promote recovery of those species, must be addressed in the statement. It is therefore quite wrong to say that the amendments proposed in items [55] and [56] of schedule 1

and in items [30] and [32] of schedule 2 will result in some threatened species not receiving any attention as far as recovery planning is concerned.

The Hon. RICK COLLESS [9.14 p.m.]: The Coalition will support Greens amendments Nos 13 and 14.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 17

Mr Breen	Mr Gallacher	Mr Pearce
Dr Chesterfield-Evans	Miss Gardiner	Ms Rhiannon
Mr Clarke	Mr Gay	Mr Ryan
Mr Colless	Ms Hale	<i>Tellers,</i>
Ms Cusack	Ms Parker	Mr Cohen
Mrs Forsythe	Mrs Pavey	Mr Harwin

Noes, 21

Dr Burgmann	Mr Jenkins	Ms Tebbutt
Ms Burnswoods	Mr Kelly	Mr Tingle
Mr Catanzariti	Mr Macdonald	Mr Tsang
Mr Costa	Reverend Dr Moyes	
Mr Della Bosca	Reverend Nile	<i>Tellers,</i>
Mr Egan	Mr Obeid	Mr Primrose
Ms Griffin	Mr Oldfield	Mr West
Mr Hatzistergos	Mr Roozendaal	

Pair

Mr Lynn

Ms Robertson

Question resolved in the negative.

Amendments negatived.

Mr IAN COHEN [9.23 p.m.]: I move Greens amendment No. 15:

No. 15 Page 15, schedule 1. Insert after line 26:

[62] Section 68A

Insert after section 68:

68A Information database

- (1) The Director-General is to establish a database of information in relation to threatened species, populations and ecological communities.
- (2) The database is to contain the following information in relation to each threatened species, population or ecological community:
 - (a) the reasons for listing,
 - (b) habitat location and requirements,
 - (c) factors threatening survival,
 - (d) desired recovery mechanisms.
- (3) The database is to be kept in such form as the Director-General approves.
- (4) Information on the database is to be made available for public inspection by publication on the internet site of the Department and in such other manner as the Director-General approves.

The department should establish a public database on threatened species populations or ecological communities. Since recovery planning is proposed to become optional, there may never be any basic information on a species that is listed as threatened. The proposed database is not particularly onerous, and includes a simple set of information that should be readily available from experts on the species. This clearly is a transparency and information amendment, and I regard the information database as a very reasonable amendment. I cannot see why the Committee would not accept a measure like this.

The Hon. IAN MACDONALD (Minister for Primary Industries) [9.24 p.m.]: The Government does not support the amendment. It is unclear exactly how extensive the proposed information database is intended to be. Its preparation has the potential to divert scarce resources away from on-the-ground activities that can actually protect threatened species to what is essentially an administrative process. This is undesirable. The information outlined in proposed section 68A (2) (a), (b) and (c) and the equivalent for the Fisheries Management Act already is made available by the Scientific Committee when publishing determinations in written form and on the Internet. Establishing separate databases would merely duplicate this material. With respect to the information outlined in proposed paragraph 68A (2) (d) and 220ZVA (2) (d), this would be addressed as part of the priorities action statement, which also will be made available on the Internet. The amendment is therefore unnecessary and resource intensive.

The Hon. RICK COLLESS [9.25 p.m.]: The Opposition cannot see any reason to oppose the amendment, but nor can it see any reason to support it, given the explanation that the Minister just gave. This information is already stored and already available. However, the Coalition will not oppose the amendment.

Amendment negatived.

Mr IAN COHEN [9.26 p.m.]: I move Greens amendment No. 16:

No. 16 Page 16, schedule 1 [62], lines 1-2. Omit all words on those lines.

The amendment reinstates the requirement for threat abatement plans. Without a mandatory requirement to complete those plans, some species will never have a recovery plan. Is it all right to let threatened species become extinct without doing anything to prevent that? I commend the amendment.

The Hon. IAN MACDONALD (Minister for Primary Industries) [9.26 p.m.]: The Government opposes the amendment for the same reasons explained earlier in relation to a similar amendment made with respect to recovery plans. All key threatening processes will be covered in the priorities action statement, as proposed section 90A makes very clear.

The Hon. RICK COLLESS [9.27 p.m.]: The Opposition will not support the amendment.

Amendment negatived.

Mr IAN COHEN [9.27 p.m.], by leave: I move Green amendments Nos 17 to 23 in globo:

No. 17 Page 16, schedule 1 [64], proposed section 90A, line 26. Omit all words on that line. Insert instead:

and threat abatement strategies and their effectiveness, and

- (d) contains a status report on each threatened species, where information is available, and
- (e) sets out clear timetables for recovery and threat abatement planning and achievement.

No. 18 Page 16, schedule 1 [64], proposed section 90A. Insert after line 26:

- (2) The guidelines and criteria for decision-making regarding a Priorities Action Statement should be publicly available for input.

No. 19 Page 16, schedule 1 [64], proposed section 90B, lines 29-30. Omit "As soon as practicable after the commencement of this section, the". Insert instead "The".

No. 20 Page 16, schedule 1 [64], proposed section 90B. Insert after line 31:

- (2) The Priorities Action Statement must be completed as soon as practicable and no later than 12 months after the date of assent to the *Threatened Species Legislation Amendment Act 2004*.

No. 21 Page 17, schedule 1 [64], proposed section 90B, line 9. Insert "Any advice provided must be made publicly available (with the exception of any information the Director-General considers to be of a commercially sensitive nature)." after "appropriate."

No. 22 Page 17, schedule 1 [64], proposed section 90C, line 30. Insert "(being a date that is not less than 30 days after the date of publication of the notice under subsection (1) (a))" after "made".

No. 23 Page 18, schedule 1 [64], proposed section 90D, lines 1-2. Omit all words on those lines. Insert instead:

- (3) The Director-General must adopt the Priorities Action Statement or amendment (with or without alterations) within 4 months after the end of the period allowed for the making of submissions about the draft statement or amendment.

Recovery planning is to be replaced by a priorities action statement [PAS]. The guidelines and criteria, in addition to the actual PAS, should be subject to public comment. The PAS should occur within 12 months of the Act's commencement and be adopted by the director-general within four months of its completion. To ensure that the PAS and recovery planning start as soon as possible, the PAS should address effectiveness of recovery strategies, provide a status report on each species where information is available, and have clear timetables for recovery planning, threat abatement and achievement. The amendments also require any advice on the PAS to be made publicly available, with the exception of commercially sensitive information. It also requires not less than 30 days for public comment.

The Hon. IAN MACDONALD (Minister for Primary Industries) [9.29 p.m.]: The Government has no intention of delaying the preparation of an initial statement, therefore it is happy to support Greens amendments Nos 17, 19 and 20. The Government also supports Greens amendments Nos 22 and 23, which are of a technical nature. Allowing at least 30 days for public comment on the draft priorities action statement is not unreasonable. Requiring the statement to be adopted within four months after the close of public submissions is also acceptable. However, the Government opposes Greens amendment No.18. The priorities action statement is a statement of the strategies to be taken to achieve recovery and threat abatement. The bill establishes an open process for the public to comment on a statement before it is finalised. The statement should be judged on its merits rather than by reference to a bureaucratic and general set of guidelines and criteria. The Government has carefully considered Greens amendment No. 21 and it is not prepared to support it as part of the bill. The Freedom of Information Act 1989 remains the most appropriate mechanism for accessing this kind of information because it contains relevant provisions concerning consultation with third parties, exemption for Cabinet-related material and the like.

The Hon. RICK COLLESS [9.31 p.m.]: The Opposition does not oppose Greens amendments Nos 17, 18, 19, 20, 22 and 23. However, we oppose Greens amendment No. 21.

Amendment No. 17 agreed to.

Amendment No. 18 negatived.

Amendments Nos 19 and 20 agreed to.

Amendment No. 21 negatived.

Amendments Nos 22 and 23 agreed to.

Mr IAN COHEN [9.32 p.m.]: I move Greens amendment No. 24:

No. 24 Page 18, schedule 1 [65], proposed section 113A. Insert after line 25:

- (3) A regulation that provides that development or an activity of a specified type does not constitute development that is likely to significantly affect threatened species, populations or ecological communities, or their habitats, is not to be made unless the Minister has certified in writing that the development or activity is of minimal environmental impact on threatened species, populations and ecological communities, and their habitats.

The Government is introducing a class of development exempted from the consent process of the Act. This should reflect what already occurs for such development in the Environmental Planning and Assessment Act. The regulations may provide for development, or an activity of a specified type that constitutes development, that is of minimal environmental impact on threatened species, populations or ecological communities, or their habitats. I commend Greens amendment No. 24 to the Committee.

The Hon. IAN MACDONALD (Minister for Primary Industries) [9.33 p.m.]: The Government supports the amendment, which merely codifies the Government's intention, consistent with what was referred to in the second reading speech. The amendment would ensure consistency was achieved with a similar provision in the Environmental Planning and Assessment Act 1979. The bill allows the regulations to identify minor developments that will not have a significant effect on threatened species, thereby avoiding trivial and costly assessment licensing processes. They will cover the majority of applications. This amendment would require the Minister to certify that developments or activities prescribed under this section will have minimal impact.

The Hon. RICK COLLESS [9.34 p.m.]: The Opposition will not oppose this amendment.

Amendment agreed to.

The CHAIRMAN: As Government amendment No. 1 and Opposition amendment No. 15 conflict, they will be considered concurrently.

The Hon. IAN MACDONALD (Minister for Primary Industries) [9.34 p.m.]: I move Government amendment No. 1:

No. 1 Page 18, schedule 1 [66], lines 28-32. Omit all words on those lines. Insert instead:

- (a1) clearing of native vegetation as authorised by a property vegetation plan approved under the *Native Vegetation Act 2003*, being clearing that had the benefit of biodiversity certification of the native vegetation reform package under Division 4 of Part 7 when the plan was approved, or

The remarks I make now apply to Government amendments Nos 1 to 9 inclusive, Nos 12 to 20 inclusive and No. 23. The New South Wales Farmers Association questioned whether certification of the native vegetation reform package as presently provided for in the bill would enable catchment management authorities [CMA] to issue the single integrated property vegetation plans [PVP] at the time the Native Vegetation Act commences, which is currently projected for February 2005. The bill as it is presently drafted requires the Minister for the Environment and the Minister for Primary Industries to certify the package as a whole as defined in new section 126B, as proposed by item [67] of schedule 1, and new section 221ZF, as proposed in item [42] of schedule 2.

As all the components of the package defined in paragraphs (b), (c) and (d) of these new sections may not be finalised before 1 February 2005 the Ministers would not be in a position to certify the package to allow CMAs to begin issuing PVPs that would be exempt from the regulatory provisions of the Threatened Species Conservation Act and the Fisheries Management Act. Following discussions involving the association, these amendments were drafted to enable the Ministers to certify the package even if all components of the package defined in paragraphs (b), (c) and (d) of those new sections are not finalised at the time of certification.

This will achieve the desired degree of flexibility and enable the Ministers to certify the package no later than the end of January 2005 or at any other appropriate time ahead of the commencement of the Native Vegetation Act based on paragraph (a) of proposed new sections 126B and 221ZF, and any protocols and guidelines provided for in paragraph (d) that may be in existence at the time, or exclude from certification any specified activity. It will allow the Ministers to confer certification even if the protocols and guidelines relating to specific activities are not finalised. The amendment also provides for the Ministers to suspend certification of the package if subsequent changes are made to the package that have not been approved by the Ministers. This amendment effectively ensures that the Ministers must certify components of the package as defined in paragraphs (b), (c) and (d) in proposed new sections 126B and 221ZF as they are finalised or changed.

The Hon. RICK COLLESS [9.37 p.m.]: I move Opposition amendment No. 15:

No. 15 Page 18, schedule 1 [66], lines 28-32. Omit all words on those lines. Insert instead:

- (a1) clearing of native vegetation as authorised by a property vegetation plan approved under the *Native Vegetation Act 2003*, or

I wonder why the Government bothered to move this amendment; it makes very little difference to the original clause. The amendment exempts the director-general from making a stop work order for a clearing program, so long as the clearing is authorised by an approved property vegetation plan. But it is conditional on approval being granted while the biodiversity certification is in force. Both the original clause and the proposed amendment put a condition on the property vegetation plan as the pinnacle of the approval process for clearing.

It is my view that once a property plan has been given approval the only case for revocation of the plan is when a farmer does not abide by conditions of the plan. The only amendment to this clause should be that proposed by the Coalition, to delete all words after "2003". The Coalition opposes Government amendment No. 1.

Opposition amendment No. 15 relates to conditional approval, which is a matter of concern to the rural community. The approval of the property vegetation plan under the Native Vegetation Act should be the pinnacle of the approval process for farmers who are attempting to get on with their business—the production of agricultural products from the land. Schedule 1 [66] should be amended to remove the condition that applies to biodiversity certification.

The Hon. IAN MACDONALD (Minister for Primary Industries) [9.39 p.m.]: The Government cannot support Opposition amendment No. 15. The amendment will undermine the bill's provisions relating to biodiversity certification of the native vegetation reform package. The fundamental intention of the bill is that biodiversity certification is conferred on the package when Ministers are satisfied that there will be adequate protection for threatened species. Under the Opposition's proposal, there will be no such check: threatened species may be protected, or they may not be. The Opposition's amendment would water down threatened species protection.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [9.39 p.m.]: The Minister's comments are absolute rubbish.

The Hon. Michael Egan: They impressed me.

The Hon. DUNCAN GAY: The Treasurer is easily impressed. Everyone has known that for a long time! If the Government's rhetoric is to be believed, this bill is all about bringing finetuning and commonsense to threatened species legislation by putting in place a proper plan to safeguard procedures. The bill places a property vegetation plan at the pinnacle of the protection process, with checks and balances inherent in it to warrant its approval. As my colleague suggested, provided a farmer does not go outside the guidelines of the property vegetation plan, why must he or she be second-guessed? I thought that was the whole point that the New South Wales Farmers Association and the Government were on about. The Opposition's amendment is a simple process that will effect improvement in the current legislation and keep all the stakeholders happy. The Greens should be happy with the amendment. Farmers are certainly happy with it.

Mr Ian Cohen: Do not tell us what we are happy with!

The Hon. DUNCAN GAY: I am telling the Greens what they should do, but what they will not do is probably obvious. The Opposition's amendment gives farmers certainty. I cannot believe that this Government, which is trying to tell us that it is putting a better process in place, will not support the amendment that has been moved by the Hon. Rick Colless, and supported by the honourable member for The Hills, Mr Richardson.

The Hon. IAN MACDONALD (Minister for Primary Industries) [9.42 p.m.]: In response to the comments made by the Deputy Leader of the Opposition, who has joined this debate in a most colourful way, I point out that the New South Wales Farmers Association is very clear about the purpose of Government amendments Nos. 1 to 9 and beyond.

The Hon. Duncan Gay: Does the Minister have a letter supporting his amendments and not ours?

The Hon. IAN MACDONALD: I am about to read a letter from the New South Wales Farmers Association, of which I am a member, addressed to the Hon. Robert Debus, MP. I will read the relevant parts of the letter, which state:

There are some outstanding issues that we intend to work through in the Upper House, however, we support the amendments that address our major issues. As such, we urge the Legislative Council to pass the amendments and not delay the passage of the bill, so that the... [Threatened Species Conservation] Act can be switched off for farmers carrying out routine farming or management activities or developing a Property Vegetation Plan.

The Hon. RICK COLLESS [9.43 p.m.]: The Minister is misleading the Committee to some degree because that is a conditional switching off. The Opposition's amendment is worded so that a procedure is still in place to provide for temporary suspension of a property vegetation plan, provided that the farmer otherwise abides by the stipulations of the property vegetation plan [PVP]. The Minister knows as well as the Deputy Leader of the Opposition and I that the starting point for New South Wales farmers was to ensure that a property

vegetation plan could not be overridden by any instrument or mechanism unless the conditions of the property vegetation plan were not adhered to. New South Wales farmers, including members of the New South Wales Farmers Association, were adamant about ensuring that the PVP was the pinnacle of the approval process and could not be challenged. That preservation may be achieved by changing provisions in the Native Vegetation Act. At a later stage, the Opposition will move amendments to ensure that the threatened species provisions can be signed off at the PVP level and not be subject to challenge after the PVP has been approved.

Mr IAN COHEN [9.44 p.m.]: The Greens support Government amendment No. 1, which I believe clarifies the security of property vegetation plans [PVPs]. However, Opposition amendment No. 15 seems to suggest concern that PVPs will lose the protections of biodiversity certification, if certification of the native vegetation reform package is revoked or suspended. The Greens do not understand that to be the case, as the removal of certification would not retrospectively invalidate a PVP. The Greens do not support Opposition amendment No. 15.

The CHAIRMAN: Order! There are two amendments before the Committee: Government amendment No. 1 on sheet C-007A and Liberal Party amendment No. 15 on sheet C-006G. As the amendments conflict, the Liberal Party's amendment No. 15 will lapse if the Government's amendment No. 1 is passed.

Question—That Government amendment No. 1 be agreed to—put.

The Committee divided.

Ayes, 27

Mr Breen	Ms Hale	Mr Roozendaal
Dr Burgmann	Mr Hatzistergos	Ms Tebbutt
Ms Burnswoods	Mr Jenkins	Mr Tingle
Mr Catanzariti	Mr Kelly	Mr Tsang
Dr Chesterfield-Evans	Mr Macdonald	Dr Wong
Mr Cohen	Reverend Dr Moyes	
Mr Costa	Reverend Nile	
Mr Della Bosca	Mr Obeid	<i>Tellers,</i>
Mr Egan	Mr Oldfield	Mr Primrose
Ms Griffin	Ms Rhiannon	Mr West

Noes, 12

Mr Clarke	Mr Gay	
Ms Cusack	Ms Parker	
Mrs Forsythe	Mrs Pavey	<i>Tellers,</i>
Mr Gallacher	Mr Pearce	Mr Colless
Miss Gardiner	Mr Ryan	Mr Harwin

Pair

Ms Robertson

Mr Lynn

Question resolved in the affirmative.

Government amendment No. 1 agreed to.

The CHAIRMAN: As Government amendment No. 1 has been carried, Opposition amendment No. 15 lapses.

The Hon. IAN MACDONALD (Minister for Primary Industries) [9.53 p.m.], by leave: I move Government amendments Nos 2, 3 and 4 in globo:

No. 2 Page 19, schedule 1 [67] (proposed section 126C). Insert after line 24:

- (2) The Minister may confer biodiversity certification even if the native vegetation reform package does not comprise all the elements of the package.

- (3) The Minister may, by order published in the Gazette, suspend biodiversity certification of the native vegetation reform package if the composition of the package changes after its certification (for instance by any amendment of the *Native Vegetation Act 2003* or regulations under that Act, or by the approval or amendment of a State-wide standard or target or of a catchment action plan). The Minister may by order published in the Gazette lift any suspension under this subsection.
- (4) The Minister may, in an order conferring biodiversity certification or in another order published in the Gazette, exclude from the certification of the native vegetation reform package any specified class of activity.
- (5) In deciding on any action under this section, the Minister is to have regard to the likely impact of the native vegetation reform package (or any relevant aspect of its operation) on the achievement of the objects of this Act.

No. 3 Pages 19 and 20, schedule 1 [67], line 25 on page 19 to line 5 on page 20. Omit all words on those lines. Insert instead:

126D Effect of biodiversity certification

While biodiversity certification of the native vegetation reform package is in force, any activity on land within the area of operations of each catchment management authority has the benefit of that biodiversity certification (except any activity excluded from certification under section 126C (4)).

Note. Biodiversity certification has the following effects:

- (a) the clearing of native vegetation as authorised by a property vegetation plan that is approved while the clearing has the benefit of biodiversity certification is a defence to a prosecution for certain offences under Part 8A of the NPW Act, and
- (b) development consent to clearing of native vegetation that has the benefit of biodiversity certification does not require the preparation of a species impact statement or consultation between Ministers. (See section 14 (4) of the *Native Vegetation Act 2003*.)

No. 4 Page 20, schedule 1 [67], line 6. Omit all words on that line. Insert instead:

126E Suspension of certification in connection with implementation of package

These amendments relate to the dissertation I have given in relation to Government amendments Nos 1 to 9 and 12 to 20. I will not delay the Committee by repeating the reasons for the amendments.

Mr IAN COHEN [9.54 p.m.]: I ask the Committee to deal with the amendments seriatim. The Greens generally support Government amendment No. 2. However, I move:

That Government amendment No. 2 be amended by inserting after the word "activity" at the end of paragraph (4) the words "and a regulation or an amendment to a regulation".

It is quite likely that a particular regulation or amendment may not be acceptable for biodiversity certification, and could not receive certification without doing damage to the whole package. It would be draconian if the Minister were put in the position of having to decertify the whole package because in the future a small part was not acceptable. My amendment to the Government's amendment offers the opportunity to use a small stick instead of a giant stick. My amendment to Government amendment No. 2 is a very reasonable and small measure to allow greater flexibility.

The Hon. IAN MACDONALD (Minister for Primary Industries) [9.56 p.m.]: The Government will not support the amendment moved by Mr Ian Cohen. The circumstances covered by the proposed change are more than adequately covered already. Proposed subsections (3) and (4) provide the Minister with sufficient power to respond to changes in the regulations.

Mr IAN COHEN [9.57 p.m.]: I do not quite understand the Minister's thinking on this matter. Nevertheless, if the Minister chooses the big stick, the Greens will go with that. I place on the record that we were attempting to be reasonable in this matter. To show that we are not churlish, the Greens will support Government amendment No. 3 as a tidying up measure. That is quite acceptable. The Greens will support Government amendment No. 4, which is a mechanical amendment.

The Hon. RICK COLLESS [9.58 p.m.]: My comments in relation to Government amendment No. 2 apply also to Government amendment No. 12. As I said in the second reading debate, division 4 is a convoluted, bureaucratic nightmare and I believe that it should be withdrawn. The proposed amendments to the bill place conditions on biodiversity certification, allowing Ministers to suspend certification if the composition changes after certification has been undertaken. The reality with biological science is that we are dealing with dynamic systems, not a static situation.

The composition of nature changes with monotonous regularity. In fact, it is often said that the only thing constant in nature is that it changes every day. Government amendment No. 2 also gives the Minister the power to exclude any specified class of activity from certification—again, more uncertainty for the farmer. The amendment would give the Minister unfettered power to stop in its tracks an operation such as a private native forestry, over and above the decision-making process of the catchment management authority. In doing so the Minister has no obligation to consider the social and economic impact of the individual farmer or forester, or of the community in which they live and work.

To give the Minister this power would clearly result in an unmitigated disaster for many rural and regional communities across New South Wales. I indicated earlier that division 4 should be withdrawn. The Native Vegetation Act 2003 should be enhanced to ensure that statewide targets and standards as required by the Natural Resources Commission Act, the catchment management plans as required by the Catchment Management Authorities Act and their protocols and guidelines, and the provisions in the Threatened Species Conservation Act are addressed at the property vegetation planning phase. The Minister for the Environment should sign off on that process—which can be implemented by property-based plan developer software—not impose any other conditions on the final property vegetation plan and let New South Wales farmers get on with the job of producing the food, fibre and building materials that this State needs to survive. The Coalition opposes these amendments.

Amendment to Government amendment No. 2 negatived.

Amendment No. 2 agreed to.

Amendment No. 3 agreed to.

Amendment No. 4 agreed to.

Progress reported and leave granted to sit again.

ADJOURNMENT

The Hon. IAN MACDONALD (Minister for Primary Industries) [10.02 p.m.]: I move:

That this House do now adjourn.

ITALIAN FAMILY HISTORY GROUP

The Hon. AMANDA FAZIO [10.02 p.m.]: On Wednesday 27 October 2004 I had the pleasure of attending a special meeting of the Italian Family History Group, which was held at Casa d'Italia in Leichhardt. About two years ago the Italian Family History Group approached me seeking assistance in obtaining support from the New South Wales Government for a project on which it was working. On 10 December 2002 I was informed that the New South Wales State Government was providing assistance to the Italian Family History Group to help with the purchase of records. That funding was to assist the Italian Family History Group to obtain copies of records of births, deaths and marriages from the Aeolian Islands.

The Migration Heritage Centre provided a grant of \$2,000 to assist with the purchase of those records. The information contained in those records will be of great value to descendants of migrants from the Aeolian Islands, many of whom reside in Sydney's inner western suburbs. The extent of migration from the Aeolian Islands to Australia is considerable and forms a vital part of the strong connection between Italy and Australia. That grant covered two-thirds of the cost of purchasing those records, which have been copied onto microfilm and are owned by the Church of Jesus Christ of Latter Day Saints. The Associazione Isole Eolie in Sydney donated an additional amount of \$1,000.

My great-grandfather migrated from Lipari to Australia in the 1880s. I am aware of how difficult it has been to date to obtain genealogical information from municipal records in Lipari. The descendants of migrants from the Aeolian Islands are grateful indeed. About 150 Italian-Australians from the Aeolian Islands were present at the Italian Family History Group meeting to which I referred earlier. At that meeting a special announcement was made that it had achieved its goal of obtaining the complete set of microfilm reels of the Aeolian Islands. In some ways, getting the money together was the easy part. The real difficulties were encountered in getting the permission of municipal officials on the islands to agree to release the records to the Italian Family History Group.

Eventually, after becoming very frustrated with the delays, Dominic Arrivolo, Chairman of the Italian Family History Group, travelled to the Aeolian Islands, visited relevant officials and did not leave until the approvals were signed off. The guest speaker at the meeting was Sonia D'Ambra, Vice-President of the Associazione Eoliani nel Mondo. Sonia spoke in particular about the many children and grandchildren of Aeolian migrants from the United States of America, Australia and New Zealand who had come to see her in Lipari to seek her help to unravel their family history research via local communi. She also talked about her unique Italian perspective from the other side of the world and stressed the importance of genealogical collaboration between Italy and Australia.

The need to improve those ties was recognised on 20 August 2003 when the Italian Ambassador to Australia, Dr Dino Volpicelli, attended the inauguration ceremony in Lipari of the Association of Aeolians Worldwide. That ceremony was the beginning of the meeting and the reference point for all Aeolians throughout the world. It was a starting point for the establishment of guidelines for the future project of keeping Aeolians, their children, their grandchildren and their friends throughout the world in contact with the events and the people of the Aeolian Islands. It is important to note that these people initially do not refer to themselves either as Italian or Sicilian; they refer to themselves as Aeolian.

For those honourable members who have not had an opportunity to visit the Aeolian Islands I will give them some background. The Aeolian archipelago consists of seven islands spread over a 90-kilometre sea arch off the north-west coast of Sicily. The Aeolian Islands are all of volcanic origin, signs of this activity being the underwater hot springs and the therapeutic spa mud. The oldest islands are Filiculdi and Aliculdi, which are approximately one million years old. The most recent, so far as geological formation is concerned, are Vulcano and Stromboli, which still have volcanic activity. Today the population of the seven islands is about 13,000.

In Homer's *Odyssey of Ulysses* the islands were known as the islands of wind and fire. There are more Australians of Aeolian origin living in Australia than there are Aeolians in the seven-island archipelago. There are records showing migration from the Aeolian Islands to Australia dating from the 1890s when 2,000 Aeolians migrated to Australia, 650 of them from Lipari. That confirms the family stories that my great-grandfather was a pioneer in migrating from Lipari to Australia in the preceding decade. From time immemorial Aeolians have been used to migration because of their notable activity as mariners and owners of merchant fleets for the commerce of wine, malvasia, pumice and capers.

The launch of the microfilm records and the address by Sonia D'Ambra were both well received. At the end of night there was much enthusiasm to build on the ideas raised to ensure that Aeolian Australians can find out more about their heritage and to ensure that the unique culture of the Aeolian Islands is better understood. I commend Domenic Arrivolo and the Italian Family History Group for their initiative and for ensuring that it will be easy in the future to look up records of our families in the Aeolian Islands.

SCHOOL AIRCONDITIONING

The Hon. ROBYN PARKER [10. 07 p.m.]: We often see advertisements on television and elsewhere from the RSPCA, animal welfare leagues and the like warning us not to leave children or dogs in hot cars. Those campaigns continue throughout the summer months, and quite legitimately so. It is a fact of life that terrible accidents can occur if children are exposed to high heat. The Department of Meteorology has determined that heat has a significant effect on people's ability to concentrate. Despite the fact that experts cite heat stress as a major risk factor, throughout the summer months children are exposed to temperatures above 40 degrees Celsius in their classrooms, which is not a suitable learning environment. Our children deserve better.

Current Government policy is to ensure that airconditioning is provided in demountable classrooms or elsewhere if temperatures rise to a certain level in a mean period, for example, in January. Parents in the Hunter and Port Stephens areas continue to express concern about these problems and they contact me constantly about non-airconditioned classrooms and soaring temperatures. Last month the shadow Minister for Education and Training, Jillian Skinner, and I visited a school in Maitland in the Hunter Valley where temperatures regularly reach 38 degrees Celsius.

We went to Rutherford Public School and talked to parents. Although we had ministerial approval for our visit, when we arrived at the administration block—which is airconditioned—we found that the teachers were not keen on our seeing classrooms that were not airconditioned. We ended up meeting parents outside the school grounds with whom we talked about classroom conditions. Many classrooms face west and have poor ventilation and no airconditioning, and children are suffering heat exhaustion.

I have received correspondence from a number of Hunter parents. A child of one of those parents was diagnosed with heat exhaustion after sitting in classrooms where temperatures reached more than 35 degrees Celsius. High temperatures take their toll on normal, healthy children and the effects of heat are worse if children have medical problems. In their letter the parents told how their son suffers from low muscle tone and has to exert twice as much effort as other children to complete a task. The child's doctor has supplied the school with a report stating that when the temperature reaches 34 degrees Celsius the child must be sent to the office and the parents notified. I join those parents in asking how much school and learning time this child must miss because the Government is inflexible and unable to accommodate parents' concerns about airconditioning?

I have aired these concerns before and we have established a program to address this problem. Unfortunately, in much of my correspondence with him the Minister has refused to reassess the mean maximum temperature and has said that he will review the situation every 10 years. The problem is that temperatures are taken nowhere near classrooms but inland and sometimes over water, which affects the readings. We are asking schools that are particularly adversely affected by heat to take temperature readings over a specified period and calculate an average to ascertain whether something should be done about high classroom temperatures.

Some schools in the Port Stephens area are situated under the flight path of Williamtown Royal Australian Air Force base. Teachers must often close doors and windows because of the noise, which increases the temperature. Many classrooms are aged and inappropriately designed. The Classroom Hot Watch project will monitor classroom temperatures. If the temperatures are not as high as parents and children claim, so be it. But at least it will give an indication of average classroom temperatures and will perhaps prove that a review should be conducted more frequently than every 10 years, particularly given changes to global meteorological conditions.

WAR ON TERROR

The Hon. Dr PETER WONG [10.12 p.m.]: It is not surprising that the forces that shape public debate and political discourse in this country remain silent at critical times and on issues of immense importance. It is 18 months since President Bush declared victory in Iraq yet the daily carnage in Iraq and elsewhere continues to grow. Tens of thousands of innocent Iraqis have been killed. More than 1,130 soldiers from the United States of America have died in Iraq, with a further 8,200 wounded—the majority of whom have been permanently maimed and cannot return to active military duty. Not only have the objectives of the "war on terror" changed from hunting down terrorists to regime change but the world continues to be more disorderly, discomfiting, dismaying and burdened with anxieties than it was before September 11.

We, as a society, should not remain silent during times of crisis or adversity in fear of being branded unpatriotic. After all, what began as a "war on terror" in Afghanistan in the aftermath of September 11—led by America and overwhelmingly supported by the United Nations and Australia—has since been derailed, and support for military action in times of future and imminent danger has been severely compromised. At the same time as the United States of America seeks rapprochement with its European allies and support from the United Nations it continues to define itself according to its own values and is prepared to use its unchecked power to shape the world accordingly. Contrary to the belief that foreign policy realism is alien to the United States of America, its recent militaristic adventures, based on protecting its national interests, power and balance, prove otherwise. If one were to ask the Mexicans—who lost Texas and California to America—they would argue that realism is bred into Americans' bones.

Today America has a President who has surrounded himself with neo-conservatives with longstanding ties to top hawks in the administration and who are prepared to pursue an aggressive foreign policy. One should remain very cautious when offering a blank cheque of total support, as was the case with Australia. It is one thing to offer a blank cheque of support on the basis of what decision makers say but quite another on the basis of what they do. While many people were convinced that the world changed on September 11, many governments throughout the world took a very cautious approach. By publicly reaffirming our close diplomatic and strategic alignment with the United States of America after September 11, we assured America of Australian support in the event of American military intervention in other countries. Although I opposed the war in Iraq without an explicit United Nations mandate, I do not seek to pretend to hold the high moral ground on an issue as divisive as this "war on terror" has proved to be. However, I alert my colleagues to the dangers of allowing others to pursue a foreign policy that may prove detrimental to Australia's national interests and future relationships with its region.

It is only a matter of time before the neo-conservative hawks in the White House administration demand of their President and his subordinates appropriate strategies to deal with the political, military and

economic threats posed by a host of other countries, including China, Russia, Iran, North Korea and a number of aggressively anti-American regimes in Latin America and elsewhere in the world. Here in Australia we see ourselves as having middle-power status in global politics—although many would argue that this presumption is both misplaced and misleading. At times we are even seen to be punching above our weight. While one does not question the centrality of Australia's close alliance with the United States of America, we should not antagonise other countries by lecturing and representing American interests in our region.

More importantly, while Australia's present interests might be compatible with those of the United States of America, the two can never be identical. With China destined soon to replace Japan as the second largest economy in the world, today Australia finds itself in a very delicate and uncomfortable position, caught between two giants. While Australia remains reliant on the United States of America for technology, intelligence and its extended deterrence, its economic relations with China are equally important—if not more so—to our future. Australia is one of the most trusted allies of the United States of America and any deterioration in Sino-American relations would inevitably prove to be Australia's worst foreign policy nightmare.

Our involvement in Iraq, though symbolic in terms of numbers, remains vocal and continues to antagonise a number of countries, some of whom are vital to our future national interests. With or without continued involvement in Iraq, our close alliance with the United States of America will survive. Like Canada and other close allies of America, Australia could provide the symbolic support needed without becoming deeply embroiled in future military adventures and further antagonising others by acting as America's chief deputy in the region. We cannot allow ourselves to be coerced into taking facts at face value—even if it is claimed that action is required in line with our national interest. It is time to allow far greater public debate and political discourse on issues that may have far-reaching consequences. It is not unpatriotic to question motives but it is irresponsible and dangerous to remain silent during times of crisis and adversity.

YOUNG NORTH PUBLIC SCHOOL

The Hon. TONY CATANZARITI [10.17 p.m.]: I was recently privileged to attend an event at Young North Public School, in the town of Young. There is a strong community spirit in this part of the world and that spirit and commitment to meeting community needs and the aspirations of our children are reflected in the positive teaching and learning environments at Young North Public School. A strong, caring, warm ethos is evident at Young North Public School. It is apparent in the efforts of the students, as they pursue their many endeavours.

Since the school was opened in 1953 it has been supported by an exceptionally positive and enthusiastic parent community. The ultimate outcome of this excellent school and parent community partnership was achieved when the school and parents and citizens association raised the necessary funds, prepared the design specifications and oversaw the completion of a new school hall. It was an outstanding effort. A \$300,000 dollar-for-dollar grant from the State Government enabled the parents and citizens association to commence the construction of this facility for the students of Young North Public School and the wider community of Young. The parents and citizens' contribution was \$460,000—a mighty effort. The Young North Public School Parents and Citizens Association's fundraising efforts over many years to support their school, and more recently to build this hall, are to be highly commended.

I acknowledge some of the guests who attended this fantastic event. I was pleased to welcome Mr Colin Parker, Regional Director, Riverina Region; Mr Wayne Parkins, School Education Director, Wagga Wagga; Mrs Marie O'Halloran, President, New South Wales Teachers Federation; Mr Gerry Bailey, Mayor, Young Shire Council; Mrs Maree Delamont, President, Young North Parents and Citizens Association; Mr Peter Dinnerville, Principal, Young North Public School; Mrs Alison Pippard, relieving Principal, Young North Public School; and Mr Graham Fathers, Assistant Principal, Young North Public School.

I have been told that over the past 25 years the Parents and Citizens Association has undertaken many other major resource projects to assist the school to enhance students' learning and the school environment. Some of the major projects have included a contribution each term to the library to provide textbooks and other library resources for the students and family use; annual funding to provide in-class and home reading texts; annual funding to provide support resources for other key learning areas; the provision of airconditioning in every schoolroom; an expansive 4.2 hectare oval and playground area with football field, soccer field and cricket pitch; the building of fixed playground equipment; a spacious, natural garden environment, play and learning areas; underground watering system throughout the grounds; provision of a new hall car park; provision

of new grounds fencing; and providing internal fittings for this hall that includes airconditioning, gas heating, stage curtains, sound system, lighting system, canteen with hot water system, entrance veranda, toilets, stage storage, external security lighting, landscaping and concrete pathways.

I understand that the Parents and Citizens Association and its auxiliary, canteen committee, fete committee, and the special hall building and design committee have worked tirelessly over many years with Mr Dinnerville and his staff to provide resources and facilities to enhance the learning environment for all students at Young North Public School. This excellent school and parents and citizens community partnership has ensured quality resources and facilities for the students. The outstanding school and parents and citizens partnership has resulted in the Parents and Citizens Association requesting that the new hall/gymnasium be named after the principal, Mr Peter Dinnerville, in recognition of his 24 years as principal at Young North Public School and for his significant commitment to the hall project and the school community.

Without Mr Dinnerville's vision, drive and enthusiasm this wonderful facility may not have become a reality. He has worked tirelessly over many years, spending countless hours on this project. From inception to completion he has remained steadfast in his belief that the efforts of all those involved were worthwhile. The naming of the hall in Mr Dinnerville's honour recognises his vision and commitment as fundamental to the project's completion. It is fitting that the hall carry the name of the person whose efforts were so important to its establishment, and I am sure the Peter Dinnerville Hall will service Young North Public School and the Young community for many years to come. *[Time expired.]*

SIR DAVID SMITH AND WHITLAM GOVERNMENT DISMISSAL

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [10.22 p.m.]: I want to detail my support for Sir David Smith, the man who stood on the steps of Old Parliament House and read the proclamation to dissolve Parliament after the dismissal of the Whitlam Government 29 years ago this week. As Sir David told a lecture in Canberra last Sunday 7 November, "It's time for Gough Whitlam to say sorry." And the former Labor Prime Minister no longer should be allowed to "strut the national stage as the wronged legendary hero of Australian politics" but apologise to all those he failed. Those are the words of the official secretary to the former Governor-General, Sir John Kerr, who sacked Gough Whitlam as Prime Minister on 11 November 1975. Mr Smith said:

It's time he said sorry to his party for being such a failure as leader. It's time he said sorry to the Australian people for being such a failure as Prime Minister and for giving us the most incompetent government we have ever had, and it's time that he told the truth about the events of 1975.

The Hon. Michael Egan: Point of order: Everyone knows that David Smith is a toady and a lickspittle. The Deputy Leader of the Opposition would not acknowledge my interjection so I had to take a point of order.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! There is no point of order.

The Hon. DUNCAN GAY: Mr Smith continued:

Next year will be the 30th anniversary of the dismissal of the Whitlam Government and, no doubt, many a journalist will go to their files and regurgitate what they find there.

The Hon. Michael Egan: Yes, I saw Smith on that day.

The Hon. DUNCAN GAY: It would probably sound something like what the Leader of the House said. Mr Smith added:

I suggest that, instead of doing that, they should invite Whitlam down from the pedestal on which they have placed him and call on him to explain the litany of lies which he and his acolytes have spun about his dismissal.

Sir David Smith said it was not true that the car of the Liberal Leader, Malcolm Fraser had been hidden at the back of Government House so Mr Whitlam would not know he was there. Nor was Mr Fraser closeted away in a back room. Mr Smith went on to dispel another myth surrounding Whitlam's 1975 dismissal by the Governor-General: Sir John Kerr had not received legal opinion from Attorney General Kep Enderby and Solicitor-General Maurice Byers outlining the options available to him, only a draft of an opinion and a promise from Mr Enderby that a formal, signed document would follow. Sir David Smith indicated that this did not occur. Sir David, who was secretary to five Governors-General, said this of Whitlam on 11 November 1975:

He described me as an emissary from the Governor-General and then, in what sounded very much like an incitement to riot, given the way he had stirred them up, told the mob that I would appear shortly and asked them to give me the reception I deserved.

Mr Smith said:

Then, having just been told that I had arrived at the front of the building, he announced that the official secretary normally arrived at the front of the building, but that on this occasion I had come through the kitchens and, as he so elegantly put it, up the back passage.

I could see and hear what was happening from my position in the clerk's office and, although I was alone, I was so affronted by Whitlam's deliberate lie that I shouted out at the top of my voice "You bloody liar".

No-one could hear me but it made me feel better.

Whitlam's subterfuge of Sir David Smith on 11 November 1975 was appalling, and to think that any Australian Prime Minister would engage in such behaviour is unbelievable. Whitlam was not a brilliant Prime Minister whose career was cruelly cut short, as proponents of the "great Gough Whitlam" legend, and especially Whitlam himself, would have us believe. Whitlam lied to the Australian people concerning his dismissal in 1975, and was incapable of leading a party or a country and managing an economy. I am pleased that voters at the last Federal election who lived through the Whitlam era were savvy enough to recognise that if Gough's protégé, Mark Latham, were elected, we would be facing exactly the same problems that plagued Australia under the Whitlam Government. [*Time expired.*]

IRAQ WAR

Ms SYLVIA HALE [10.27 p.m.]: At this very moment the invading armies of the United States of America are bombing the Iraqi city of Fallujah into annihilation, and hundreds, if not thousands, of innocent Iraqis are being killed. The Greens once again reaffirm our enduring opposition to this barbaric and illegal war, a bloodbath in which the Australian Government is complicit. The invasion is once more being justified by the lies and deceptions pedalled by George Bush and his administration and perpetuated by the Howard Government. The mainstream media continues to glorify and sanitise the carnage taking place in Iraq and to deny the Australian people knowledge of the true scale and nature of the injustice. By turning war into entertainment, they too are complicit. Today's Reuters report refers to the main hospital in Fallujah being captured. The reason for its capture, basically, is to prevent the television cameras returning footage of casualties that are being experienced in Fallujah. The Reuters report goes on to tell us what is happening:

Residents in the city said a US air strike had destroyed a clinic that had been receiving casualties after US and Iraqi forces seized the main hospital on Monday night. Some medical staff and patients had been killed at the one-storey Popular Clinic in a central district, they added.

Sami al-Jumaili, a doctor at the main Fallujah hospital who escaped arrest when it was taken, said the city was running out of medical supplies and only a few clinics remained open.

"There is not a single surgeon in Fallujah. We had one ambulance hit by US fire and a doctor wounded. There are scores of injured civilians in their homes whom we can't move.

"A 13-year-old child just died in my hands," he said by telephone from a house where he had gone to help the wounded.

It is incumbent upon all honourable members to show support and solidarity tonight for the people of Iraq and for all peace-loving Arabic and Muslim people in Australia and around the world. The question has been asked: Would we support Saddam Hussein staying in power? I point to a report in today's *Boston Globe*, which says in part:

A major Sunni political party has quit the interim Iraqi government and revoked its single minister from the Cabinet in protest over the U.S. assault on the insurgent stronghold of Fallujah ...

This was the Iraqi Islamic Party. The article goes on to say:

The Iraqi Islamic Party is the Iraqi branch of the Muslim Brotherhood, a moderate Sunni Islamic party well established in the Middle East.

A prolific author on the Koran, Abdel-Hamid was detained under the regime of Saddam Hussein. The party was suppressed under the former dictator and many of its members were forced to flee abroad.

The Iraqi Islamic Party returned to public life after U.S.-led coalition forces toppled Saddam and established the country's interim authorities.

What is that party saying? The report continues:

We are protesting the attack on Fallujah and the injustice that is inflicted on the innocent people of the city," said Mohsen Abdel-Hamid, head of the Iraqi Islamic Party.

That is what the war is doing. It is certainly not winning friends. It is only making enemies—enemies within the puppet Allawi interim government. It is certainly making enemies throughout the Middle East. There is no justification for the deaths of innocent civilians. There is no justification for the massive force of the United States of America being ranged against one city in this way, especially when that is a force whose only objective is to annihilate the people of that city.

[Time for debate expired.]

Motion agreed to.

**The House adjourned at 10.32 p.m. until
Wednesday 10 November 2004 at 11.00 a.m.**
