

LEGISLATIVE COUNCIL

Tuesday 16 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.

STATE GOVERNMENT FAMILIARISATION PROGRAM TWENTY-FIRST ANNIVERSARY

The PRESIDENT: It is with pleasure that I inform the House that today Deputy-President the Hon. Amanda Fazio, on behalf of the Presiding Officers, welcomed to the Parliament of New South Wales participants attending the Twenty-first Anniversary of the State Government Familiarisation Program. This program assists corporations and businesses understand and more effectively interact with the Parliament and the system of government operating in New South Wales. The program was developed with the assistance of the Parliamentary Education and Community Relations Section. Funding from the program supports parliamentary education initiatives, particularly those that assist students from non-metropolitan areas visit the Parliament. Over its 21 years, 2,415 private and public senior executives and staff have taken part in the program. I later attended a function at which certificates of appreciation were presented by the Parliament to speakers and departments that have been involved with the program and made it such a success.

GREATER SOUTHERN AREA HEALTH SERVICE ESTABLISHMENT

Motion by the Hon. Patricia Forsythe agreed to:

That, under standing order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution:

- (a) all documents in the possession, custody or control of the Minister for Health or the Department of Health relating to the establishment of the Greater Southern Area Health Service and, in particular, the decision to locate its headquarters at Queanbeyan, and
- (b) any document which records or refers to the production of documents as a result of this order of this House.

STANDING COMMITTEE ON LAW AND JUSTICE

Government Response to Report

The Hon. Henry Tsang tabled the Government's response to report No. 25, entitled "Review of the Exercise of the Functions of the Motor Accidents Authority and the Motor Accidents Council—Fifth Report", tabled 1 April 2004.

Ordered to be printed.

TABLING OF PAPERS

The Hon. Henry Tsang tabled the following papers:

- (1) Annual Reports (Departments) Act 1985—
 - (a) Report of the Department of Mineral Resources for the year ended 30 June 2004.
 - (b) Report of the Ministry for Science and Medical Research for the period 1 December 2003 to 30 June 2004.
- (2) Annual Reports (Statutory Bodies) Act 1984—Reports for the year ended 30 June 2004:
 - Chiropractors Registration Board
 - Coal Compensation Board
 - Dental Technicians Registration Board
 - Institute of Psychiatry

Mine Subsidence Board
Nurses Registration Board
Optical Dispensers Licensing Board
Optometrists Registration Board
Osteopaths Registration Board
Physiotherapists Registration Board
Podiatrists Registration Board
Psychologists Registration Board
Sydney Olympic Park Authority
Vocational Education and Training Accreditation Board

- (3) Cancer Institute (NSW) Act 2003—Report of the Cancer Institute for the year ended 30 June 2004.

Ordered to be printed.

LEGISLATION REVIEW COMMITTEE

Report

The Hon. Peter Primrose tabled a report entitled "Legislation Review Digest No 16 of 2004", dated 16 November 2004.

Ordered to be printed.

DESIGNER OUTLETS CENTRE, LIVERPOOL

Return to Order

The Clerk tabled, pursuant to the resolution of 21 October 2004, additional documents relating to the Orange Grove Designer Outlets Centre, Liverpool, received on 15 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.

BUSINESS OF THE HOUSE

Postponement of Business

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

GENE TECHNOLOGY (GM CROP MORATORIUM) AMENDMENT BILL

Second Reading

Debate resumed from 9 November.

Mr IAN COHEN [2.39 p.m.]: When debate on this bill was adjourned on 9 November I was quoting the *Lancet*, a highly reputable medical journal. It reported:

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 have one interest and one interest only—making as much money from their investments as possible in the shortest time possible in the interests of their executives, who are on multimillion-dollar salaries, and their shareholders. Is the Minister aware of a recent independent scientific report entitled "Genome Scrambling—Myth or Reality? Transformation- Induced Mutations in Transgenic Crop Plants", written by Alison Wilson, Jonathan Latham and Ricarda Steinbrecher? The report is based on peer-reviewed scientific literature and United States of America [USA] Department of Agriculture documents. It examines the consequences of genetic modification events for the integrity of transgenic plant genomes and

alarmingly suggests that significant damage can arise. This is a highly technical issue, but I hope the Minister will listen and comment because these findings raise serious concerns.

The researchers found that unknown genetic changes can occur as a result of genetic modification such as large-scale genetic rearrangements of host DNA at transgene insertion sites, resulting in hundreds of mutations scattered throughout the genome of each new transgenic plant. Since the food safety of edible crops relies crucially on genetic stability and predictability, these findings raise significant concerns about the safety of GM food crops. Mutations in transgenic cultivars are not investigated by regulatory authorities so they would not have a clue that that is happening. The Minister should also be aware of a scientific study entitled "Impacts of Genetically Engineered Crops on Pesticide Use in the United States: the First Eight Years", which was carried out by Dr Charles Benbrook, Executive Director of the Northwest Science and Environment Policy Centre and formerly with the National Academy of Sciences Board on Agriculture. The study was conducted at the request of the Union of Concerned Scientists in November 2000.

The study draws on official USA Department of Agriculture data on pesticide use by crop and State to calculate the difference between the average pounds of pesticide use applied on the 550 million acres planted to GM crops compared to the pounds applied to similar conventional crops. Benbrook looked at levels of pesticides used on GM corn, soya beans and cotton in America. This was the first comprehensive study of the impacts of all commercial GM crops on pesticide use in America. The study found that during the first three years of commercial sales, from 1996 to 1998, GM crops appear to have reduced pesticide use. However, in the last three years, more than 73 million more pounds, or 33,000 tonnes, of pesticides were applied on GM acres. Substantial increases in herbicide use on herbicide-tolerant crops, especially soya beans, accounted for the increase.

The report found that many farmers need to spray incrementally more herbicide on GM acres in order to keep up with shifts in weeds toward tougher-to-control species, coupled with the emergence of genetic resistance in certain weed populations. Criticism has come from various quarters about the narrow focus of the risk assessment process that the Office of the Gene Technology Regulator [OGTR] undertakes on the environmental and health risks associated with GE food crops. The OGTR does not, for instance, assess insect resistance or chemical regimes associated with GM crops. The negative effects of the GE traits to native flora and fauna also are not investigated.

Despite the Minister consistently deferring to the OGTR that all is well with the technology on the health and environmental front, there are serious and unanswered questions about the potential for long-term, irreversible consequences that reputable scientists have raised. In New South Wales there is the potential for gene transference to indigenous flora and contamination of this State's genetic resources both inside and outside national parks. Has the Minister assessed those risks? Proponents of the technology also claim that with new GM varieties they will be able to farm in more marginal areas. This sends shivers down my spine. Previously protected areas of native vegetation, because they were not suitable for agriculture, may now be under threat. It is not a bright idea to push agriculture into more ecologically marginal areas; they are under enough threat as it is.

Michael Meacher, a concerned British member of Parliament, made the point on *Landline* on 7 November 2004 that independent science is not there simply to support claims that GM food crops are safe in the environment and for human consumption. No long-term studies have been done that show without a doubt that GM food crops are safe. Fundamental questions about the safety and need for GE food are simply not being asked by this Government. There is no compelling reason to grow GM food in New South Wales. The community does not want it, consumers reject it, farmers are worried about it, and the touted benefits to farmers have not emerged. Certain markets are responding to what customers really want—clean, green organic food. Food retailers are not opening up new aisles for genetically engineered foods, are they? GM ingredients sneaked in. They are not labelled so they are introduced to the unsuspecting public by stealth.

The Minister said in his second reading speech that almost one-third of the increased area grown to GM crops was in developing countries, where the uptake of GM crops continues to be strong. Has he ever wondered why that is, and does he question whether it is a good thing? Is it because the multinationals meet with poorly resourced resistance there and because they certainly do not have the same regulatory hurdles to jump through? A recent quote by Wangari Athai, the 2004 Nobel Peace Prize winner, sums it up well:

Biotechnology and patenting life forms is the new frontier for conquest, and Africa ought to be wary because a history of colonisation and exploitation is repeating itself.

Many have bought the feed-the-world myth perpetuated by the GM advocates, but a closer examination reveals that it is a lie. One of the key proponents of this myth, and one who has gained global publicity, is Monsanto-trained Kenyan scientist Dr Florence Wambugu. She claimed that GM crops were the key to eradicating poverty and hunger in the Third World. She told the *New Scientist*:

In Africa that GM food could almost literally weed out poverty.

In the *Nature* journal she claimed that GM food could not only solve poverty but also take care of famine and environmental degradation. All of these claims were built on the Monsanto-created GM sweet potato. Wambugu claimed in the world's press that yields of the GE sweet potato, which were trialled in Kenya, were double that of the regular plant, with potatoes bigger and richer in colour. She went even further to claim that the GM sweet potato increased yields from four tonnes per hectare to 10 tonnes. All of this was an outright lie. When the results of the three-year trial were published in January 2004 they showed that, far from dramatically out-yielding the non-GM sweet potatoes, the exact opposite was the case. The report indicated that during the trials non-transgenic crops used as a control yielded much more tuber compared to the transgenic. The GM crop was also found to be susceptible to viral attack—the very thing that it had been created to resist.

The *New Scientist* reported the GM sweet potato's failure under the heading "Monsanto's showcase project in Africa fails" on 7 February 2004. A successful conventional breeding program in Uganda had produced a new high-yielding variety, which was virus resistant and raised yields by roughly 100 per cent. Yet the GM sweet potato was a total flop. How many people still believe the feed-the-world myth? Evidently the Vatican does. Many Catholic bishops and religious leaders in Africa, Asia and Latin America strongly opposed the Vatican's endorsement of GM food crops. Bishop Gutierrez of Marbel in Mindanao campaigned to prevent the planting of BT corn in the Philippines. He felt that Vatican endorsement would strengthen the hands of multinationals, which are browbeating developing countries into accepting GM foods.

Following a massive lobbying exercise by pro-biotech interests to persuade the Vatican to adopt a pro-GM stance, the question of feeding the world with GM food was discussed on 15 October last at the annual general meeting of the Catholic Institute for International Relations. Columbian missionary Father Sean McDonagh pointed out that many countries where poverty is endemic are food exporters. Brazil is the third-largest exporter of food in the world, yet one-fifth of its population—32 million—go to bed hungry every night. He added:

GE crops are patented so the Catholic Church, which presents itself as a pro-life institution, should recoil in horror at the arrogance involved in patenting life. Like slavery in past centuries there is no good patenting regime. It is totally at variance with the Biblical teaching that life is a gift of God to be shared by all. Christians believe that God, and not Monsanto, creates life.

One of the key advocates of the feed-the-world myth is Professor C. S. Prakash, who is Director of the Center for Plant Biotechnology Research at the Tuskegee Institute in Texas, and a roving GM ambassador for the US State Department. He lied to members of the Tanzanian press last summer when he told them that GM "doubles production", while in the Philippines he told a press conference the lie that "most genetically modified crops have longer shelf life". These lies come packaged with manufactured smears. Prakash told a press conference in Manila that Greenpeace could be getting money for opposing GM crops from "some companies that think their business operations will be greatly affected by widespread use of genetically modified crops". According to the *Philippine Star*, "Prakash would not say if pesticide companies are financing the operations of Greenpeace." Professor Prakash poses as a third-world scientist rallying support from fellow academics. He is backed by the Competitive Enterprise Institute, which is a far-right, industry-supported American think tank. One only has to glance at its web site to see how extreme it is. This institute campaigns against environmentalists. It attempts to debunk global warming, opposes controls on smoking, opposes the Kyoto Protocol and believes in complete deregulation of GM crops.

Professor Prakash accuses critics variously of genetic engineering, fascism, communism, imperialism, nihilism, murder, corruption, terrorism, and even genocide—not to mention being worse than Hitler and on a par with the mass murderers who destroyed the World Trade Centre. Professor Prakash has been heavily into dirty tricks campaigns against GM sceptics, but I will not take the time of the House to detail those here. Talking of deception and untrustworthy scientists, just how do Monsanto and Bayer deal with their critics or anyone who speaks out? One alarming example was detailed in an article published by Jeffrey Smith of the Institute for Responsible Technology on 1 November 2004 entitled "Are You Critical of Genetically Engineered Foods? Watch Out." The article reports how, Arpad Pusztai, a top pro-biotech scientist who has 12 books and 300 articles to his credit, discovered that young rats that were fed a genetically engineered potato developed extensive health problems. Some had smaller, less developed brains, livers, and testicles, as well as partial

atrophy of the liver. Some suffered damaged immune systems and organ damage. And there was excessive cell growth in the stomach and intestines.

Arpad accepted an invitation to be interviewed on television and to express his concerns about GM food. For two days he was a hero at his institute. Then, on a Tuesday afternoon, two phone calls from the Prime Minister's office were allegedly forwarded through the institute's receptionist to the director. On Wednesday morning Arpad was fired after 35 years, and was silenced with threats of a lawsuit. The 20-member research team was dismantled and the United Kingdom Government abandoned its plans for long-term safety study requirements for GM foods. In spite of his work being cut off in the middle, his rat study remains the most in-depth animal feeding safety study ever published on GM foods. Tragically, no similar studies have yet been applied to the GM foods on the market and no-one is monitoring to see if the organs, immune system, and cells of humans who eat GM foods are being similarly influenced.

At the 2001 New Zealand's Royal Commission of Inquiry on Genetic Modification epidemiologist Judy Carman testified that the few animal feeding studies on GM foods are too short to adequately test for cancer or for problems in the offspring, and are not evaluating "biochemistry, immunology, tissue pathology, gut function, liver function and kidney function". Carman, who has investigated outbreaks of disease, said that health problems associated with GM foods might be impossible to track in the human population or take decades to discover. Carman is repeatedly attacked for her critical stance. One pro-GM scientist threatened disciplinary action through her vice-chancellor. Geneticist Michael Antoniou, who works on human gene therapy, told the New Zealand commission:

Genetic engineering technology, as it's being applied in agriculture now, is based on the understanding of genetics we had 15 years ago, about genes being isolated little units that work independently of each other.

He explained that genes "work as an integrated whole of families". In 2003, Antoniou represented non-governmental organizations on the UK's supposedly balanced GM science review panel, which was part of the nationwide "GM Nation?" public debate. He was shocked to find scientists there still supporting obsolete theories of gene independence, even claiming that the order of genes in the DNA was entirely relevant. But Antoniou was outnumbered by 11 scientists representing either the biotech industry or appointed by the pro-biotech UK Government. His well-supported arguments fell on deaf ears. Since the debate new studies have further verified Antoniou's position by showing that genes are not randomly located along the DNA but clustered into groups with related functions.

Virologist Terje Traavik testified that GM crops "might be the basis for real ecological and health catastrophes". Three years later, in a February 2004 meeting with delegates to the UN biosafety protocol conference, Traavik presented preliminary evidence from three studies that might fulfil his earlier prediction. Filipinos living next to a GM cornfield developed serious symptoms while corn was pollinating. Promoters' genetic material routinely inserted into GM crops were found to transfer to rat organs after a single transgenic meal, and key safety assumptions about genetically engineered viruses were overturned, calling into question the safety of using these viruses as vaccines. Traavik, naturally, was attacked. Biologist Phil Regal told the commission:

I think the people who boost genetic engineering are going to have to do a mea culpa and ask for forgiveness, like the Pope did on the inquisition; you know, "we made a mistake, let's start over."

Those who express concern at GE food are invariably attacked by vested interests and labelled Luddites—along with many other epithets. They are accused of retarding the growth and progress of the agricultural sector. Imagine if you will the Minister standing in this Chamber 40 years ago strongly defending James Hardie's right to mine asbestos and to build fibro homes all over New South Wales. Imagine him saying that James Hardie was providing much-needed jobs for workers and building cheap and affordable homes for lower-paid people. Imagine him saying further, "Fibro-using asbestos is a breakthrough technology and you greenies are just Luddites in opposing the use of asbestos." The Minister would have accused us of being anti-business and anti-jobs. This Minister says much the same about those of us who express concern about the unknown health and environmental risks associated with GE. It took decades before we discovered the true and horrific cost of asbestos. The same may well become true of GE foods. It may already be too late for many in the United States who have been unknowingly eating GE food, as it is now too late for so many thousands of people in Australia who are developing mesothelioma.

The Government is now trying to force James Hardie to pay compensation to thousands of workers who are dying from its products. James Hardie has moved offshore and is essentially out of reach of the

Government. Monsanto and Bayer are also offshore. If in 30 or 40 years time a subsequent Labor or Liberal government needs to pursue Monsanto or Bayer for millions in compensation will it be able to? Will Monsanto indeed still be there? Monsanto is struggling to stay afloat. After huge losses last year Monsanto last month announced a net loss of \$56 million for the fourth quarter, causing a 3.2 per cent single-day drop in its share price. It is losing two-thirds of its market share of glyphosate to cheaper Chinese generics. It is desperately trying to lock farmers in to using only Roundup formulations with its GE contracts in an attempt to hold on to market share, and it needs the Minister's help to do it.

James Hardie, which is having to pay billions in compensation and whose products are the subject of boycotts all over Australia, has hitherto been regarded as a respectable Australian company. The same cannot be said of either Monsanto or Bayer, both of which have very murky pasts. As honourable members would know, Monsanto is the manufacturer of Agent Orange, the defoliant used to destroy the forests of Vietnam, and which has caused and still is causing untold suffering to millions of Vietnamese and Americans. It is also the producer of DDT, so well documented in Rachel Carson's 1962 groundbreaking book *Silent Spring*. The company manufactured polychlorinated biphenyls, or PCBs, which have caused birth defects all over the globe as well as cancers and multiple other health problems. According to a Japanese study, thanks to Monsanto, PCBs are now found in every fish caught in the Pacific Ocean.

And what of that venerable company Bayer? Go to the Bayer web site and you will find mention of the Fritz ter Meer Foundation, set up by Bayer in 1964. What the company does not tell you is that Fritz ter Meer was gaoled for war crimes for directing IG Farben's horrendous experiments at Auschwitz. He supervised Dr Josef Mengele's scientific drug experiments on Holocaust victims. It does not mention that Fritz ter Meer supplied the Zyklon B gas that killed millions of Jews. These are the companies whose interests you are protecting, Minister. These are the companies for whom you have made this amendment so that those who have legitimate concerns about the risks of GE foods will be silenced.

If you make a mockery of the moratorium by allowing huge so-called coexistence trials, as these companies are demanding, you will be opening the floodgates, and there will be no turning back. Next will be GE grapes, GE pineapples, GE pawpaw, GE sugar and so on. They are all waiting in the wings. Huge chunks of Australian agriculture will be effectively controlled by giant overseas corporations, turning Australian farmers into mere biosefs. The Minister must listen to the farmers. He must ensure that the companies carry the whole cost of liability, and not the farmers. Better still, do not let the genie out of the bottle. He has it in his hands to prevent a James Hardie style disaster. So much depends on his integrity. Do not blow it, Minister. It is interesting to speak in the House and not be listened to at all.

It is high time the Government supported the real revolution in food and farming that meets the needs of local communities and farmers, protects the environment and is what people want: that is, biological farming methods and organic food. There is a fast-growing global market for genuine clean green food that people know is safe. They do not want to be forced to eat GE food against their will. The Minister should not be supporting people who are trying to overturn millions of years of evolution with totally unknown consequences. We know that there are markets for GE-free produce. We should be supporting producers of those foods, not multinational companies with appalling histories. The Greens oppose the Gene Technology (GM Crop Moratorium) Amendment Bill.

The Hon. Dr PETER WONG [3.03 p.m.]: I do not support the Gene Technology (GM Crop Moratorium) Amendment Bill. I do not believe that production and control of the food chain should be driven by corporate interests and, more importantly, controlled by giants of the corporate establishment. Without properly considering the full implications we cannot allow corporate giants to plant the seeds of our future through the commercial release of genetically modified crops as an alternative to non-GM crop food. This is especially the case when the technology and science that underlies it are so new. In fact, one of the biggest environmental impact studies of genetically modified crops undertaken in United Kingdom has shown that genetically modified crops are more harmful than their conventional equivalents to many groups of wildlife. We simply have to look back to the time of the green revolution—the Greens in this place would prefer to call it a toxic revolution, and I agree—and remember the images of scientists pouring DDT and other toxic substances over their heads while assuring the public that the substances were perfectly safe.

I am sure that most members of this place will remember a more recent example of this stupidity when a Minister of the Crown in England gave a beef burger to his four-year-old child while assuring the English people that British beef was clear of bovine spongiform encephalopathy and that they had nothing to fear. I am witnessing around me similar so-called experts, most of whom are reliant upon gene technology for their

livelihoods, once again assuring the public that genetically modified crops are safe. What really disturbs me is that they are using the same arguments to support the need for this technology that they used in the 1960s to support the spraying of incredible quantities of highly toxic chemicals into our biosphere. Once again, to justify the introduction of this crazy technology, they are arguing that the world does not have enough food.

I fear that the process of consultation undertaken on the future use of GM crops is a sham. It has yet to adequately address the previous concerns raised by me and many others in this House. I continue to believe that the short-term benefits cannot compensate for the unknown long-term consequences that may emerge. It is unrealistic and irresponsible for honourable members of this House and those in the other place to believe that there would be no contamination of non-GM crops with GM produce. Contamination will occur no matter how many precautions have been taken. Even if we could humanly avoid cross-contamination, we cannot control nature and its natural occurrences.

There is no guarantee that chemical production giants such as Monsanto and Bayer, as owners of a patent seed, will not use this exclusive position to monopolise the entire market. Many States, as is the case in Australia, continue to spend billions and billions of dollars building up their defensive systems in order to protect our citizens, our economy and our way of life. Yet we are not prepared to say no to corporate giants and their minute seeds whose introduction will endanger our commercial interests, the livelihood of our farmers, our environment and, most importantly, our national interests by relinquishing control of our own food and production line. No responsible government would allow this.

I ask honourable members of this House: Who are our real enemies? Are they all those invading armies that we expect to come and prepare for, or is it those secret corporate interests, supported by some in this House, who seek to plant the seeds of our future? Given that cross-contamination will inevitably occur, how will non-GM crop farmers be compensated for their losses? Who are the insurers who will underwrite future liabilities from cross-contamination occurring from GM crops? Is the Government willing to provide assurances and other appropriate guarantees to provide compensation for affected non-GM crop growers, or are genetically modified manufacturers such as Monsanto and Bayer willing to set up a compensation fund so as to stop another James Hardie type situation?

Can we expect these manufacturers of genetically modified crops to close and sell their facilities once they begin haemorrhaging money, as is the case throughout Europe, leaving behind a large area of contaminated land? If the Government attempts to push through genetically modified crops it will be doing so against the overwhelming wishes of the people of New South Wales. I ask honourable members in this House to once again consider the ramifications should they support the bill. I will not stand here and pretend to hold the high moral ground on an issue of national importance to this country, nor will I stand here and explain how the economic recovery of Argentina and other countries throughout the Third World are being devastated by the introduction of genetically modified crops.

It is not only the Third World that has begun rejecting this new technology; Europe en mass is saying no to GM crops. I ask honourable members to reject the bill on the following grounds: For economic and commercial reasons the introduction of GM crops would damage our reputation as a GM-free market. Given that cross-contamination would inevitably occur, we cannot claim in the future to be a GM-free market.

The cost savings anticipated by advocates of GM crops are nothing more than presumptions. The cost to farmers will increase and those increases will be passed on to consumers. Farmers will need to relinquish their right to replant their own crop without paying a user fee for the technology, and there are no guarantees that the new technology will provide a high return to them. On the other hand, the cost to non-GM-crop farmers will send many towards bankruptcy if they have to continue to show that their crop is GM free and has not been cross-contaminated by GM producers. In fact, I believe that such a scenario is exactly what GM-seed manufacturers anticipate. They will force non-GM-crop growers into the GM market by destroying their capacity to produce healthy and GM-free produce. Faced with the prospect of bankruptcy, non-GM-crop farmers will be left no other option and will eventually succumb to the corporate sharks. The other benefit will, of course, be to lawyers, who are already contemplating strategies for hefty and protracted law suits.

By having a dual system of GM producers and non-GM producers we will duplicate the entire process of seeding, production, harvesting, packaging and distribution. That cannot be seen as cost effective. Who will wear the cost of labelling produce that should clearly distinguish between GM and non-GM products? Can supermarkets guarantee that GM produce is not deliberately or mistakenly sold as non-GM product? How can one give such a guarantee when people do a vegetable shopping mix or see other people mixing vegetables

around a produce stand? These are some of the many questions that need to be carefully considered when debating such legislation. How are honourable members expected to vote appropriately on this legislation when the true facts and figures about a new and controversial technology are always withheld or distorted in some way or another?

Can we assure ourselves that this new technology is environmentally safe, or will we wait until we see for ourselves the damage to vast areas of our arable land and many groups of wildlife that this new technology may bring? Can we assure ourselves that producers of GM seeds will not monopolise the market? By taking control of the production and supply of certain foods, how do we expect to protect our national interests in the long term? Can we allow corporate gains by conglomerates such as Monsanto and Bayer to dictate our national interests, forsaking our responsibilities as representatives of the people? The Government is introducing this bill and allowing for GM crops in opposition to the wishes of an overwhelming number of people in New South Wales. Therefore, I will not support this bill.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.12 p.m.]: It appears that when this Government is not sure what to do, it simply gives more power to its Ministers. This bill is an illustration of that strategy. It introduces changes to section 8 of the Act specifying conditions that can be included in an exemption order. The amendment stipulates that the Minister responsible can impose conditions that relate to handling, storage, transport or other use of any genetically modified [GM] product from a trial. According to the bill, the Minister can also impose conditions in an exemption order relating to the post-harvest use of a site on which a trial has been conducted.

It specifies conditions relating to post-harvest handling of GM product from a trial or post-harvest use of the trial site, but regulating the use or transport of GM that is grown interstate or overseas is beyond the Minister's jurisdiction. Penalties for breaching post-harvest protocols will remain at \$137,500 for corporations and \$55,000 for an individual. In addition, an individual can face a prison term of up to two years. While the Minister's power is strengthened, of course, the advisory committee's power is lessened. The worry is that the advice the Minister will be getting will not be as influential as it might otherwise have been. The excellent ABC rural current affairs program *Landline* did a comprehensive feature on GM crops in the United States of America. Apparently ABC management wanted to cut the program to half an hour instead of the usual one-hour format, which is very short for something as important as this issue. The United States grows 63 per cent of the world's GM crops.

The Hon. Duncan Gay: That program screened for a full hour.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes. However, as I said, an hour was not enough to cover the issue given its importance. An estimated 81 million acres of GM crops have been planted across 48 States of the United States. That is almost three times the Australian wheat crop. About 75 million acres of soy beans have been planted and almost 9 out of 10 of those acres were genetically modified to withstand the use of the herbicide Roundup. Jeffrey Smith, the Director of the Environmental Defenders Office and a long-time critic of GM crops, claims that previously unpublished data from the United States Department of Agriculture indicates that GM crops brought with them a 70-million-pound increase in the use of herbicides but a decrease in the use of pesticides. He states:

In November of 2003 a study was published that showed there was an actual increase dramatically now of herbicides and pesticides... Over seven years there was an overall increase in chemicals by 50 million pounds.

Reporter Prue Adams asked who did the study, and Mr Smith replied that it was undertaken by Charles Benbrook, the former chairman of the agriculture committee for the National Academy of Science. Bruce Chassy, of the University of Illinois, stated:

There are a lot of people who will play games with statistics and cherry pick numbers and I imagine both sides of this controversy could do this if they wanted. ...There is one paper published by scientists in the peer reviewed literature, which I think has some pretty good data from the year 2000 in the US; and this paper by Phipps and Park basically shows that in five crops we have had a reduction of 22.4 million kilograms of pesticide application in one year, the number is bigger now because we are planting a lot more of these crops. I think this is pretty objective—our chemical sales as input to agriculture are down, they are down about 20 per cent or more.

Pesticide use would be reduced with GM crops because GM corn and cotton with the BT gene means the crops do not have to be sprayed for insects. However, the discrepancy relates to the use of herbicide. About 80 per cent of Monsanto's business involves biotechnology and seeds. Monsanto insists farmers sign a technology agreement when they purchase their GM seeds, which prohibits saving their seed for planting and prevents them

supplying seed produced from this seed to anyone for planting. This so-called technology transfer will have a serious impact on world agriculture and will be in the interests only of the agriculture industry monopolies.

I am not convinced that GM food will be harmful to health, but the economic consequences and the centralisation of economic power in the seed markets is a greater danger. This issue is being debated today, and is being taken much more seriously than it was initially, because people realise that consumers have the right to know what is happening. A seismic shift has recently occurred against GM crops. Western Australia has banned GM crops, as was reported on the ABC on 23 March; Victoria has a moratorium, as was reported by the Australian Associated Press on 25 March; and Bayer has pulled out of the GM trials in the United Kingdom, as reported on the BBC on 31 March. These are not small events; they are big seismic shifts.

The Minister for Primary Industries must think seriously about what he is doing if he wants to put New South Wales at the forefront of GM trials. The problem is that if something goes wrong with the trial, in effect, it will be like the introduction of rabbits and cane toads—there may be spill-over effects for a long time to come. Interestingly and sadly, government research has diminished. Research tends to happen in areas in which there is a profit for the successful researcher. Areas in which research will not produce returns immediately for the researcher have tended to remain in the realms of government. Because government work is increasingly in joint partnerships with commercial operators, the pure research that might have uncovered adverse effects will not be done. GM research is a huge field. It would take many thousands of person years to even begin to understand this, but the research is simply not being done because there is no money in it. So, in a sense, the precautionary principle becomes even more necessary. There are possible health effects, although one could argue that if the same building blocks or amino acids in DNA are being used, it is likely that they will be digested like any others and that there probably will not be any health effects. Of course, this is a probability, not a certainty. All these things have an element of risk.

There is a concern that the advisory committee is not getting full input. Support for the advisory committee is dependent on some of the amendments. I do not believe that the Minister's confidence is well based. If markets want non-GM foods, it is unwise for Australia to produce more and more GM crops which we may not be able to sell. The economics of ownership of world agribusiness are extremely important. A book by Susan George entitled *How the Other Half Dies*, which I have spoken about previously in this House, makes the point that crops grown by developing countries are grown for world markets. The facilitation of the growing of those crops and decisions as to which crops are grown are very much influenced by agribusiness, often against the interests of people who would have otherwise engaged in subsistence agriculture—growing their own food—rather than exporting their crops.

A cash crop has opportunity costs that a subsistence crop does not have, and the economy shows a better result: it produces a crop for export and receives money for it, as opposed to producing a subsistence crop, which, of course, does not show on the balance sheet. As a consequence, when world prices die or less labour is used producing that crop there is a landless peasantry who suffer a great deal of detriment—hence the title of the book *How the Other Half Dies*. I do not think there is a danger of that happening in Australia. But it is difficult not to believe that it would be in the interests of the agribusinesses that are producing crops in the United States of America if a major supplier of non-GM crops could be eliminated.

The Americans would not have to wait until the market first took up non-GM produce from Australia and then became price takers at the end of a chain. If Australian crops were to become contaminated it might be extremely convenient to suggest that the Australian market was not GM free, that Australian crops were just like the United States crops, and that they were competing on an equal basis. That would mean, effectively, if the non-GM crops took up the market and less was supplied to that market, the price of the GM crop may well increase when it is exported to markets that would have preferred to be non-GM markets. It would strengthen the hand of the United States in trade negotiations, which would be acting in favour of GM crops.

Let us not be totally naive about this. It is not a matter of simply looking at the science, at whether the crops can be grown, or at who would pay for the farm machinery to be vacuumed out or cleaned between harvests. These are very real issues, and Australia's credibility as a non-GM producer is in danger. Given the likelihood that Australia will progressively be contaminated, and that there are huge vested interests that will try to maximise, by propaganda and politically, our contamination in order to destroy our status as a non-GM producer, we could suffer a huge detriment. It is extremely naive to think of it only in terms of yields per hectare, about which some extravagant claims have been made. Pharmaceutical companies often make extravagant claims about drugs, supposedly based on research. Those drugs are often subsidised by the pharmaceutical benefits scheme [PBS] and are later found to be no better than those we are using, and far more expensive. But that does not matter to the pharmaceutical companies who have made a lot of money in the interim.

Under this legislation if GM crops escape, the company is able to sue individuals. If individuals sue the company they do not get anywhere because, effectively, this legislation gives the company immunity. The Hon. Ian Cohen's amendments seek to address that, and I believe it is only fair. The idea of toxic products escaping from a neighbouring farm is one that in tort law has a long history. It is understood that if a contaminant, or a sheep, escapes and does damage to a neighbour's property it has always been cause for an action in tort. There is no reason why this principle should not apply here.

When it comes to research, the idea of commercial in confidence is very convenient. We take the risk, and if it is not successful no-one will know, because the information is commercial in confidence, and those who carry out the research can claim that it is successful. Given the outrageous claims that drug companies make for some of their products, I think the standard of ethics in the pharmaceutical industry is about the same as that in the tobacco industry. I do not know about the standard of the biotechnology industry, but the statements quoted by the Hon. Ian Cohen about the huge increase in yields are dubious because changes following genetic manipulation are incremental rather than huge. Therefore huge increases are unlikely.

As I say, this whole thing must be handled with great care. I am concerned about the Minister's cavalier approach. It is very important that the advisory committee has its say, and that the precautionary principle—above all, do no harm—should be preserved. When the Gene Technology (New South Wales) Bill 2003 was passed last year I was concerned about the composition of the advisory committee, and I note that this bill does not improve the situation; it in fact weakens the position of the advisory council. I am worried that the Minister will become more decisive and less influenced by the concerns of people who are looking at the precautionary principle, the science, or even the markets. The Opposition has historically supported farm interests. This is a very serious issue. I will certainly support the Green amendments, which really only bring the historical position of tort law back into this bill, where it belongs.

The Hon. RICK COLLESS [3.28 p.m.]: I am pleased to contribute to this debate again on the Gene Technology (GM Crop Moratorium) Amendment Bill. and to reinforce some of my previous arguments, which are still topical since we last debated this issue back in April. The same concerns are still being expressed by various groups in Australia in relation to the loss of export markets. As we all know, export markets are most important for New South Wales produce. Japan and Europe are demanding non-genetically engineered material, especially wheat, soya beans and canola. New South Wales farmers must continue to uphold their clean, green and genetically engineered free status.

It has been suggested to me that the expression "clean, green and GE free" is a suitable credo that could be used to describe Australian food crops. There is also widespread consumer and market opposition to genetically engineered produce. Consumers around the world are saying no to it. There is a premium for GE-free and certified organic produce around the world, and Australian consumer awareness and producer awareness of that premium is increasing.

Concern is growing in the community about genetically engineered crops and many New South Wales councils have responded to this concern, including the shires of Barraba, Cabonne, Conargo, Coolah, Cowra, Hawkesbury, Inverell, Lithgow, Mulwaree, Parkes, Quirindi, and the list goes on. Indeed, many councils around the State have objected to genetically engineered crops being grown in their areas. There is no confirmed production advantage from genetically engineered crops, despite research I have seen that compares genetically engineered canola with an older canola variety, with later hybrid varieties such as the Hyola lines having a similar yield advantage over the older, open-pollinated varieties to the claimed yield increases promulgated by the multinationals promoting the genetically engineered lines.

I am concerned that genetically engineered crops will be raised as a panacea for concerns about improved productivity. As I have said in this House before, and I say again, there is a lot more to improving the productivity of crops than simply conducting small trials or undertaking a little research to put different DNA into crops. I have said many times that I am not opposed to the science behind it, but I believe also that it should not be an easy way out—a technological quick fix to overcome the agricultural problems generated by declining soil health and nutrition. Genetically engineered material is unnecessary at this stage if farmers look after their land properly and get the nutrition of the crop and the soil balance right.

Weed control, pest control and increased yield have been given as the primary reasons for developing genetically engineered crops. Correcting nutrient imbalances and deficiencies in the soil, increasing soil organic matter and encouraging the soil microbiota will improve the ability of crops to resist diseases and make it more competitive against invasive weed species, thereby reducing the input of toxic chemicals applied as insecticides

and weedicides. It will also improve the yield potential and quality of the product, such as the oil content of canola and other oilseed crops, or protein content of wheat and other cereal crops, which, in turn, improve the return to the farmer. Therefore, if farmers look after their crops and land properly, they may not need genetically modified material. They do not need to use large amounts of pesticides and herbicides because the land will look after itself, if they give it a chance to do so.

Crops around the world that have been genetically modified include corn, canola and soy beans. There is a great deal of concern worldwide about some of those crops. In his second reading speech the Minister referred to the growing acceptance of GM crops in the European Union. In particular, he referred to maize, but 10 per cent of the Australian canola crop is marketed into Europe and the European Union will not accept GM canola and is unlikely to change that policy in the foreseeable future.

An article in the *Sydney Morning Herald* a couple of years ago referred to maize. As honourable members would know, maize is a particular variety of corn that is native to Mexico. Concern has been expressed that genetically engineered material has been found in the native fields of this naturally occurring corn in Mexico, and it is of real concern if that GM material is found in the wild and native populations throughout the world. The closest genetically engineered crops to that community were planted 95 kilometres away. Many scientists now speculate that this material originated from genetically modified maize brought in from America as food aid for an impoverished region in central Mexico and that it has since escaped and multiplied. The potential for that to occur should also be considered if we are to go down the path of growing genetically modified crops in Australia.

Cross-pollination frequencies recorded between winter oilseed plots in cross-pollination experiments varied according to variety, size of pollinator plots, spatial arrangement and environmental conditions. They were measured at distances of up to 400 metres from a large-scale release of herbicide-tolerant canola. The incidence and persistence of herbicide-tolerant canola volunteers were not greater though than that of non-tolerant varieties. The point is that pollen will travel, and that is of concern to those who are attempting to grow non-GE canola as their land will be contaminated by this material floating free on the breezes across roads and fences and into their paddocks.

In terms of liability, landowners will not be able to get rid of the contamination, and they will have to wear the cost of that. As the Hon. Duncan Gay said, we want the issue of liability firmed up. For example, if wheat is planted after a canola crop and some GE contaminated canola volunteers are in the wheat crop, the small amount of GE contaminated canola in that wheat crop will be sufficient to cause the wheat crop to be rejected as GE-free. If this were to occur, the company promoting the technology must be liable for any losses incurred by the farmer who wished to grow non-GE crops.

I draw the same analogy that I drew in previous debate on this issue: If my bull were to get into a paddock owned by the Minister and his heifers were infected with my bull's DNA, I could charge the Minister for having the genetics of my bull in his cattle. That is exactly what happened to Percy Schmeiser in Canada following discovery of some GM contaminated canola on his property. The Network of Concerned Farmers recently published an information brochure emphasising the importance of fair-risk management. It stated:

To prevent adverse impact on others, we believe the GM industry must be liable for GM containment and all associated risks with GM release. It should not be up to those not wanting to grow GM crops to avoid inevitable contamination. Non-GM farmers should not be expected to compensate the GM industry.

Open and transparent debate needs to be encouraged.

Backdoor commercial release is proposed in the form of large-scale co-existence trials—risks must be managed fairly prior to acceptance. To be true trials, farmers must be able to return to GM-free status.

Provision must be made for a representative of the Grain Harvesters Association to be on the advisory council. Indeed, The Nationals canvassed this issue vigorously the last time the matter was debated and we again emphasise the importance of an expert in header cleanliness participating in the discussions. It is worth pointing out that the canola seed is extremely small; about 300,000 seeds weigh just one kilogram. Therefore, if only a few grams of the seed are left in a header after it leaves a property, the risk of the production of significant volunteer regrowth elsewhere is high. Post-farm gate regulations and protocols must be improved, particularly in relation to cleanliness of transport facilities. Canola seed is so small that a minute amount of spillage out of the truck can cause significant infestation along a road or in another farmer's paddock.

The locations of trial sites must be made public; as the Hon. Duncan Gay said, much more information must be readily available. The beekeepers of this State need to have confidence in what their bees are feeding

on. For example, Capilano markets its honey as GE-free, and for it to continue to do that the company must know where GE crops are grown to ensure that its bees remain away from such areas. Seed companies that produce non-genetically modified canola, such as Pacific Seeds and its Hyola lines, need to know the location of these crop trials to ensure that their crops are well away from GE crops.

If this technology is so good and in such demand as the Minister would have us believe, why is there a perceived need to shroud these sites in secrecy? If the news were all good, there would be no need for secret trials. The Minister has said that the information is available on the Internet, but for those of us who are not computer literate, the issue is, effectively, shrouded in secrecy. I question why the discussions of the advisory council have been held in camera. Is there something that should not be released to the general public? I challenge the Minister to make all the discussions of the advisory council available to the public.

Of concern also is the term "either or both" in new section 8(2). This effectively means that a company seeking exemption from the moratorium does not have to submit an application in writing to the Minister or the advisory council. That is nonsense, particularly when one considers that members of this Parliament who seek an audience with the Minister must first put their request in writing before any meeting is arranged. Yet if a seed company such as Bayer or Monsanto, wants an exemption from the trial, it does not need to put that request in writing. It can simply ring the Minister, and he can virtually pass it on to the advisory council.

The explanation given for this nonsense is that it is not compulsory for the company seeking the exemption order to make an application to the Minister, whether or not it is in writing. So that matter needs to be addressed. The Nationals have some very sensible amendments which I look forward to supporting in Committee. The Opposition will not oppose the bill, but we look forward to vigorous debate on our amendments, which, we hope, will improve the legislation further.

The Hon. IAN MACDONALD (Minister for Primary Industries) [3.40 p.m.], in reply: I thank honourable members for their contributions to this debate. The Hon. Rick Colless and the Deputy Leader of the Opposition referred to the supposed secrecy of the trials. Nothing could be further from the truth. Indeed, the special supplement to *Government Gazette* No. 89, of Tuesday 25 May 2004, contains a list—

The Hon. Duncan Gay: And that is readily accessible to a farmer at The Rock, is it?

The Hon. IAN MACDONALD: Hang on a second! Both the Hon. Rick Colless and the Deputy Leader of the Opposition have opened their mouths—

The Hon. Duncan Gay: You haven't shut yours.

The Hon. IAN MACDONALD: When the Deputy Leader of the Opposition and the Hon. Rick Colless speak I expect them at least to be factual.

[Interruption]

Mr Ian Cohen will say anything that comes into his head. However, in relation to the Deputy Leader of the Opposition and the Hon. Rick Colless—

Mr Ian Cohen: How would you know, you weren't listening to anything I said.

The Hon. IAN MACDONALD: I listened to everything Mr Ian Cohen said and I know all of it.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! Members are reminded that interjections are disorderly at all times. And the Minister should not respond to them.

The Hon. IAN MACDONALD: The special supplement to the *Government Gazette*. I know the Greens hate this sort of factual evidence.

The Hon. Duncan Gay: Was it published in the *Land* or the *Daily Advertiser* in Wagga Wagga? Farmers simply don't read the *Government Gazette*.

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition should not keep making statements until he hears me out, and then I think he might be assured. When I met the former British

environment Minister, Mr Meacher, a few months ago he said, "The terrible thing about these GM trials is the great deal of secrecy that surrounds them. No-one knows where these trials are." At the time I happened to have with me a copy of the OGTR report on the trials; I opened the report and found a list of the global positioning satellite [GPS] co-ordinates for every trial. I said, "In fact, you could set your GPS to it. You could do wheelies around the crop using just the information contained in the report." He said, "I didn't know that."

To reassure honourable members on the issue of secrecy, on 25 May 2004 the *Government Gazette* published the co-ordinates of each of the trial sites proposed by Bayer CropScience. The co-ordinates for North Eastern, South Eastern, et cetera are provided for everyone. So this information was not only put on the Department of Primary Industries web site. Under the arrangements we had in place, if the proposal had gone ahead, there would have been advertisements in the local area. It has been suggested that we are conducting the trials in secret and that people need full information. Well, I do not know what more we can do to get the information out to people, particularly as there are many people in the Greens and in other parties who regularly read the *Government Gazette* and know precisely what is in it.

As for the other issues raised in the debate, I ask honourable members to look carefully at the exemption order. It is almost a regulation. It contains all the details about what must occur in terms of the trial: the conduct of the trial, the reporting systems required, the way crops are planted, the clean up, the harvest, and the conditions relating to subsequent use of the site. All these points were raised quite well by the Deputy Leader of the Opposition in his speech, but they had already been listed in the *Government Gazette*. As to liability, the report states:

Liability:

41. The exempt person must hold and maintain, and must ensure that all subcontractors are beneficiaries under or otherwise hold and maintain, for the period of the trial and the post-harvest monitoring period, a public liability insurance policy that provides coverage as a minimum:

- 41.1 in respect of each occurrence, for at least the Australian dollar equivalent of 10 million Euros—

I understand that that is in the order of \$A20 million—

And

- 41.2 for any losses it may incur in connection with the cultivation of GM canola in research trials conducted in accordance with any exemption order made in accordance with the *Gene Technology (Crop Moratorium) Act 2003*.

The report provides a list of what one must do at the site, and it includes a definition of "destroy". All of this is contained in the exemption order.

The Hon. Rick Colless: You're supporting our amendments.

The Hon. IAN MACDONALD: No. If members opposite were being honest, they would at least look this up and refer to it. The list includes stalk pulling, light tillage, burning, treatment with a herbicide, slashing, mowing, and hand weeding. Every other point is here. One must notify one's neighbour, et cetera. If honourable members had been honest in this debate, they would have referred to the exemption order, instead of making statements about secrecy and lack of controls. Indeed, the Hon. Dr Arthur Chesterfield-Evans said that I am cavalier, forgetting that I have accepted every recommendation made by the gene technology advisory committee bar one. And the only recommendation I did not accept related to the segregation trial.

Let us deal with some of the further issues. Contrary to what some members have claimed, these amendments do not reduce the advisory council to a rubber stamp. The amendments expressly require that before issuing an exemption the Minister responsible must refer either the exemption application or written details of the proposed exemption to the advisory council and ask for its written recommendations as to whether the exemption should be granted. The Minister must seek this written recommendation before each and every exemption order is made. If he does not do so, that exemption will be legally invalid. So I must seek the recommendations of the advisory council. Furthermore, if the advisory council recommends that an exemption should not be made but the Minister grants an exemption, the Minister must still write to the council giving his reasons for not adhering to the council's recommendation.

The Minister must also make public his reasons for ignoring the council's recommendation. These requirements have not changed at all, thus reinforcing the important role of the advisory council. These amendments are simply intended to reduce unproductive and unnecessary red tape. The bill requires the

Minister to give the advisory council a copy of either or both the application made to the Minister by the person seeking the exemption order and written details of the proposal to make the exemption order. The requirement of "either or both" is simply because the Act does not prescribe the manner in which an exemption order is sought. In the absence of a written application, and only in that instance, I will instead refer written details to the advisory council. Currently, the Act does not permit that.

Additionally, the Minister may wish to provide the advisory council with further information that is not contained in the application. The words "either or both" make it clear that this can be done. So rather than this reflecting the desire to provide less, it actually allows the Government to provide the advisory council with more information. The amendments are drafted in this way because of a legal interpretation that every time even a minor change was made to a draft exemption order following a recommendation from the advisory council it was considered to be a new exemption order and therefore had to be presented to the advisory council again. That was the problem I outlined in the second reading speech with regard to the current wording in the bill. So even if there were a minor change, it would have to be resubmitted to the advisory council.

As I have noted previously, none of the current safeguards will be lost in making these changes and they are not intended to diminish the role of the advisory council. The advisory council has played and continues to play a vital role in the making of any exemption order. This bill recognises that role. But to add strength to this point, I assure the House that any proposal put to me will be provided in full to the advisory council. I cannot be any more definitive than that. The bill also makes it clear to all that the post-harvest conditions can be included in an exemption order to ensure there is no doubt on this important aspect. As I noted, this amendment will overcome the view raised by some that post-harvest conditions cannot be included in an exemption order. Also, to match this amendment, the penalty provisions for breaching post-harvest conditions are being amended.

I think it is most important that I address the allegations of secrecy that I have heard from a number of members. There seems to be a misconception that the location of sites will be kept secret. As I have said, the exemption order, published in the *Government Gazette*, and on the Government's web site, makes very clear the locations of those sites. I hope in the future when honourable members talk about secrecy, they will have referred to the web site of the department and perhaps even read the *Government Gazette*.

Contrary to what has been insinuated in this House, all the documentation that has been forwarded to me by the proponents—and by that I mean Bayer, Monsanto and Australian All Seeds Federation—I have made available to the advisory council, and I shall continue to do so if there is a council in the future. As a general rule, I prefer to refer such documents to the council for its consideration prior to considering them myself. I do this specifically so there can be no insinuation of interference or filtering. What seems to have escaped honourable members in this debate is that the Act already compels me to publish all exemption orders in their entirety in the *Government Gazette*—which is publicly available. The Act also requires me to cause notice of each exemption order to be published in the papers and on the department's web site. Of course, this is done.

The advertisements refer to the entire exemption order being available on the web site, from the *Government Gazette* or from the departmental contact officer. The location of all genetically modified canola trials are specified in the exemption orders. As I have already stated, these orders are widely available to the public. That being so, these proposed amendments are simply not needed. The Government has made a clear commitment to best regulatory practice, and that requires that legislation only intervene when it is necessary to modify certain behaviour. Legislative schemes in many agricultural Acts follow this model. For example, the Stock Diseases Act was amended in 1999 to remove the stock identification provisions so they could be implemented in the regulations and by order. This was to ensure flexibility and ease of reference for those who have to comply with the legislation.

Currently, the Gene Technology (GM Crop Moratorium) Act allows for exemption orders to impose any conditions that are appropriate in the circumstances of each application to cultivate a GM crop. While the conditions that the Deputy Leader of the Opposition wants to impose in every exemption order by his amendment may be appropriate for the regulation of GM crop trials, there is no need to prescribe them. Honourable members will be aware that exemption orders 4, 5, and 6, gazetted on 25 May, contain such conditions. To illustrate this, I refer honourable members to the exemption orders.

Paragraph (a) as proposed by Opposition's amendment No. 4 refers to insurance. Clauses 41 and 42 of the exemption order expressly cover this issue, as I have already said. Proposed paragraph (b) requests the precise location of the trial sites. The schedule of the exemption order gives the exact GPS co-ordinates. One cannot be more accurate than that. Proposed paragraphs (c) and (d) deal with the cooling down procedures. This

is covered by clauses 20, 21, 22 27 and 28 of the exemption order. Proposed paragraph (e) deals with the subsequent land use, but this is already covered by clauses 29 to 37. Section 13 of the Act provides expressly that the advisory council must furnish advice to me in relation to the proposed GM research trials. The advisory council has been instrumental in recommending suitable conditions for research trials approved under an exemption order, and I have acted on its advice in every instance.

The members of the advisory council are experts. This House formulated the constitution of the council. Does the Deputy Leader of the Opposition have no faith in the ability of the advisory council to provide appropriate advice? The point I make is that exemption orders need to be tailored to the specific circumstances of each application. Those specific conditions should be incorporated into individual exemption orders.

I now address the proposed inclusion of a representative of the Australian Grain Harvesters Association on the advisory council. The Opposition moved a similar amendment when the Act was first considered some time ago, and at that time the House decided that the association should not have a seat on the council. The reasons are very simple. In the process of regulating GM crops pre-farm, on-farm and post-farm, the Australian Grain Harvesters Association has only a limited, albeit important, contribution to make—that of harvester hygiene. However, I believe it is most important that its views on these issues are canvassed and included in the broader debate.

Earlier this year the concerns of the Australian Grain Harvesters Association were made known to the advisory council when it delivered a presentation on harvester issues. The council has made recommendations regarding harvester hygiene that I believe are based on information supplied by the Australian Grain Harvesters Association. That notwithstanding, I listened with interest to the contribution of Reverend the Hon. Dr Gordon Moyes on this matter and I assure the Committee that I will ensure that the Australian Grain Harvesters Association is actively consulted on issues that directly impact on its business. This will ensure its expertise is put to greater use.

Mr Ian Cohen suggested that I did not want an independent assessment of the trials. This was just one of his most bizarre comments. He suggested also that I might be scared of what the advisory council would recommend. This is nothing more than a flight of fancy. Interestingly, it was the Greens who sought to challenge the authority of the advisory council when they did not agree with the council. It is very clear from my previous statements that I have absolute confidence in the advisory council, and, as a general rural, I have accepted all of its advice. The only time I did not accept its advice was when I decided not to allow a co-existence trial to proceed. So that is hardly pandering to the multinationals—which was the major theme of Mr Ian Cohen's contribution today. I emphasise that point: the only recommendation of the council that I did not proceed with, did not approve, was the co-existence trial. Despite the claims of some honourable members, the co-existence trial was not my idea; it was the idea of the New South Wales Farmers Association.

Both Mr Ian Cohen and the Deputy Leader of the Opposition have said I have done nothing to address liability. This could not be further from the truth. Earlier this year I made a commitment to address liability in consultation with the New South Wales Farmers Association, and I did. We worked closely with the New South Wales Farmers Association, ensuring that public liability insurance would be a pre-requisite for any exemption order. I have honoured that commitment. To illustrate this point I draw the attention of honourable members to a news release from the New South Wales Farmers Association earlier this year which stated:

Insurance companies have assured farmers that there is cover available for growers interested in being involved in genetically modified canola trials following a meeting today organised by the New South Wales Farmers Association.

The news release continued:

Association president, Mel Peters, says this is great news for the farmers who are interested in participating in trials and for their neighbours as well, as there would be some protection on top of the stringent protocols companies need to stand by. While growers need to ensure they grow crops in accordance with trial protocols, the insurance offers additional peace of mind.

I made it a condition that an exemption order should be issued only to a person or corporation with public liability insurance. Although Bayer eventually did not proceed with the trials, it was able to demonstrate that it had an appropriate level of liability insurance. I also point out that contrary to what the Deputy Leader of the Opposition has indicated in this debate, the New South Wales Farmers Association view could not be clearer with regard to a separate and stricter liability regime. At both its 2003 and 2004 annual conferences the following motion was moved:

That patent holders bear the responsibility for any litigation costs arising from such a release.

It was rejected on both occasions. Similarly, another motion proposed that "the New South Wales Government legislate protection for farmers affected by GE contamination". That too was rejected twice. This was not by one of two members but by the full conference. The Opposition's amendment on liability is in stark contrast to the stated NSW Farmers policy. This is a fact that the Deputy Leader of the Opposition and the Hon. Rick Colless systematically ignore. The reason for rejection of the proposals is that some incentive must be placed on all the participants, not just the owners of the technology. All participants should have incentive to farm according to best practice. A parallel is that while a car manufacturer is responsible for the car it builds, it cannot be held responsible for the way the driver drives.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

CITYRAIL SERVICES

The Hon. MICHAEL GALLACHER: My question is directed to the Minister for Transport Services. Is the Minister aware that many frustrated commuters will make the personal decision not to buy a ticket next Monday as a protest against the continued inability of the Minister and RailCorp to deliver a quality rail service? Does he acknowledge that many commuters will be forced to break the law as a means of expressing their anger and frustration? Will he now give a commitment to prevent this occurring by declaring Monday a fare-free day?

The Hon. MICHAEL COSTA: I just need to quote the previous Opposition Leader, Kerry Chikarovski, who said that a fare-free day was a publicity stunt.

The Hon. Michael Gallacher: Look what happened to her.

The Hon. MICHAEL COSTA: That is right. You did it! I can also quote Barry O'Farrell, the preceding shadow transport Minister. He said, "Fare-free days instituted to compensate Sydney commuters for poor performance also penalise taxpayers who fund State Rail's losses." He also said, "We saw recently the Government gave a fare-free day to compensate commuters for the lack of on-time running in trains, and that was a direct attack upon taxpayers. Taxpayers had to foot the bill for that." The then shadow transport Minister sums up the position quite accurately. The Government is not in a position to penalise taxpayers—

The Hon. Michael Gallacher: You used to look after the workers.

The Hon. MICHAEL COSTA: It is embarrassing. I can understand that the Leader of the Opposition is embarrassed by comments made by his predecessor about fare-free days. It is quite embarrassing for their own words to hoist them with their own petard. The Government's position is clear: if the rail unions decide to institute industrial action in the form of a fare-free day, we will certainly accommodate that and ensure that public safety is maintained and that confusion is minimised. We do not support it but if a fare-free day were instituted as part of an industrial campaign we would accommodate that.

As far as the Government is concerned, next Monday will be a normal day for CityRail. Passengers will be expected to pay their fare. Staff will be paid to perform duties and we expect those staff to perform their duties. Our rail system is subsidised by the non-travelling public to the tune of almost 75 per cent of operating costs. Barry O'Farrell made the intelligent and correct point that punishing the majority of taxpayers to compensate for on-time running performance that is below par is not a sensible way to deal with the matter. The only sensible way to deal with this matter is to get our new timetable in place as soon as possible and have appropriate drivers to support that.

I would like to know the Opposition's position on this. It appears that it has changed its position in relation to fare-free days. It is an interesting change. It just shows the immaturity of the current shadow transport Minister. Even though Barry O'Farrell was involved in wrecking the bus industry, I will say that he played a reasonable role in relation to transport. I had to deal with him when he was the chief of staff of Minister Bruce Baird. As a former rail official I found him quite reasonable to deal with. He made some comments yesterday that I was able to refer to about skipped stations. I was expecting a question from the shadow transport spokesperson on that matter but he obviously saw the same press release as I saw. Clearly, these matters do not go away. It does not matter if you are in opposition or not, the logic is the same. For example, skipped stations make sense to keep on-time running; fare-free days do not make sense because they punish the taxpayer and

they remove funding from the system. The Government's position has not changed on that. We will not be political opportunists as Opposition members are. It is a matter of embarrassment that the shadow Minister should raise this matter.

FEDERAL GOVERNMENT UNFAIR DISMISSAL LAWS

The Hon. CHRISTINE ROBERTSON: Can the Minister for Industrial Relations inform the House how the proposed Federal exemption for small business from unfair dismissal laws will affect working women in New South Wales?

The Hon. John Ryan: It will make sure that more of them get jobs.

The Hon. JOHN DELLA BOSCA: You are the one that is always posturing about compassion and decency. Why do you not listen to the truth instead of carrying on with your ideological nonsense, you little bigot? The New South Wales Industrial Relations Commission recently heard the case of a pregnant childcare worker who had been dismissed. The childcare centre was privately owned, with fewer than 20 staff. Under Mr Howard's regime this case would never have seen the light of day. Why? Because the Commonwealth wants small businesses employing fewer than 20 persons exempted from the unfair dismissal jurisdiction of the Australian Industrial Relations Commission and the New South Wales Industrial Relations Commission. Employees of those businesses would be denied the right to take a claim for unfair dismissal to a commission for a fair determination by the independent umpire. What is more, the Federal Government calls the proposed law the Fair Dismissal Bill. What a joke! What an Orwellian deception! The case before the New South Wales commission involved a woman who had worked for her employer for more than a year and was dismissed within four working days—

The Hon. Duncan Gay: You lost the Federal election.

The Hon. JOHN DELLA BOSCA: That gives you the right to kick the shit out of pregnant women, does it?

The Hon. John Ryan: Point of order: I have never heard such unparliamentary language. I do not know what the Minister has had for breakfast this morning. First he started by calling me a bigot; now he is using unparliamentary language. It is time he settled down and apologised to the House.

The PRESIDENT: Order! I remind all members that they must not chatter. Neither the Clerk nor I heard what the Minister said. Consequently, I cannot possibly ask him to withdraw it.

The Hon. JOHN DELLA BOSCA: I apologise to the House for that slip of the tongue and to the Deputy Leader of the Opposition. I think it just reflects my passion about the Opposition not taking this matter as seriously as it should. The employer said that the employee's work performance was the reason for the dismissal. The commission found that the employer—engaged in the childcare industry—raised work performance issues as an attempt to intimidate the employee and coerce her into not making any application to return to work after maternity leave. The case showed that there had been no recorded work performance or conduct complaint until shortly after the employee had provided the employer with documentation about her pregnancy. The commission said that it was difficult to contemplate the prospect that an employer acting with such abhorrent disregard for the circumstances of a pregnant woman might somehow avoid responsibility for such actions because it is a small business. But that is just what the Federal Government wants from its Fair Dismissal Bill. If these proposals were law, this woman would have been sacked when several months pregnant with no protection under the law.

The circumstances revealed in this case represent a classic case study for the protection provided by unfair dismissal laws. Over 47 per cent of employees in New South Wales are employed by small business. These workers will face greater job insecurity under Mr Howard's plan. This is fundamentally unfair. It would create two tiers of workers: those with access to unfair dismissal laws and those without. Why should people who work in businesses employing fewer than 20 people not have the same rights in the law as others? If the Commonwealth follows through with these plans the young woman mentioned earlier may be one of thousands of working mothers in New South Wales providing an essential second or sole income for her family who find no recourse available to her to challenge an unfair dismissal. What will be the result of these plans? They will be removing the rights of working women, and that is why the New South Wales Government will continue to resist and protect our system, which is based on fairness for all workers and employees.

LOCUST CONTROL

The Hon. DUNCAN GAY: I direct my question to the Minister for Primary Industries. How does the Minister reconcile his comments made in this House on Wednesday 10 November that new reports of locust hatchings have fallen and that hatchings appear to be slowing down, with the statement made the very next day on the ABC "Country Hour" by the Plague Locust Commissioner, Graham Eggleston, that the overall tally of locust hatchings has started to rise again? Are these inconsistent reports a further indication that the Minister has absolutely no idea what is happening in his portfolios, or has he deliberately misled this House about the true extent of the locusts that are now on the wing in most of western New South Wales?

The Hon. IAN MACDONALD: The honourable member is confusing a number of issues. First, there is no doubt that according to the situation reports that have been issued each Wednesday for the past six or seven weeks there has been a decline from a peak of about 2,200 in September to about 800 last week. They were the official figures as collected and compiled by the locust control centre that is operated by the Plague Locust Commissioner.

The Hon. Duncan Gay: Why is he saying the opposite?

The Hon. IAN MACDONALD: They are the figures.

The Hon. Duncan Gay: Who is wrong? I reckon it is you.

The Hon. IAN MACDONALD: I am not wrong. Those figures have been released. I will provide—

The Hon. Duncan Gay: You are saying that the professionals are wrong.

The Hon. IAN MACDONALD: Knowing the Deputy Leader of the Opposition as I do, I suggest, he has quoted the commissioner out of context or has twisted something he has said. The plain fact of the matter is that the hatchings declined to 800 last week. I have never said that there will not be some swarms. The point of the campaign was to minimise the number of swarms. We have treated more than 425,000 hectares in an effort to reduce the level of locust infestation in New South Wales. I believe that we have done a fantastic job. The rural lands protection boards and the Department of Primary Industries should be congratulated for their efforts. There are undoubtedly some swarms, but they are not as large as the swarms we have seen during previous plagues, nor are they anything like the locust situation that developed—

The Hon. Duncan Gay: How did you get it wrong?

The Hon. IAN MACDONALD: I do not have it wrong. The deputy leader should understanding something about the growth of locusts. We are seeing swarms now, but that has nothing to do with hatchings. They do not reach this situation six or seven weeks after hatching. The swarms being seen at the moment have nothing to do with hatchings.

The Hon. Duncan Gay: Apologise for getting it wrong again!

The Hon. IAN MACDONALD: The Deputy Leader is totally and utterly wrong, and he is being mischievous and divisive as usual.

BAIT FISH OPERATIONS

The Hon. JON JENKINS: I direct my question to the Minister for Primary Industries. Is it true that billfish, tuna, kingfish, mullet, snapper, tailor, salmon and sharks rely upon mackerel and yellowtail bait fish as their main food fish and that, along with mullet, these little fish form the backbone of the entire inshore and offshore fishery along the coast from northern Victoria to central Queensland? Is the Minister aware that the long liners previously used pilchards to pillage the stocks of yellowfin? Is the Minister further aware that because the stocks of yellowfin are now depleted the long liners have moved to target striped marlin? Is the Minister aware that the long liners now have to switch to live bait for striped marlin? Is the Minister also aware that the long liners are now netting tonnes and tonnes of mackerel and yellowfin in New South Wales waters to bait the long lines? I know the long liners are federally regulated, but what is the Minister doing about the bait fish operations in New South Wales waters, such as Shark Island and other areas, that are now almost devoid of baitfish?

The Hon. IAN MACDONALD: I like this question. It is another variation on a series of questions asked by the Hon. Jon Jenkins. He seems intent on re-creating the division between commercial and recreational fishers. I caution him to be careful in what he says. It is true that striped marlin is becoming a target for bait. As I have said previously, the honourable member is referring to a Commonwealth fishery and he should perhaps send some of his information to my Federal colleague Senator Ian Macdonald, the Minister for Fisheries, Forestry and Conservation.

The Hon. Duncan Gay: Is that because you cannot answer the question?

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition seems to forget there is a difference between Commonwealth and State fisheries. And interjections are—

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

The Hon. IAN MACDONALD: I cannot help myself. He makes so many silly mistakes, I feel compelled to correct him on the spot before he makes more of them publicly. I feel compelled to help him out. It is a Commonwealth fishery and if the Hon. Jon Jenkins is really concerned, he should direct some of these questions to the Federal Minister. They have quotas. These issues have been considered. For the information of the honourable member, the State Government has allocated \$200,000 from the Recreational Fishing Saltwater Trust for the study of these issues.

The Hon. JON JENKINS: I have a supplementary question. In view of what the Minister has said, will he write to the Federal Minister expressing his concerns about the pillage of baitfish waters in New South Wales?

The Hon. IAN MACDONALD: Senator Ian Macdonald and I have very good dialogue on this and other issues. I am happy to talk to him about it. However, I suggest that, given the honourable member's emotion and his thoughts about the issue, perhaps he can seek a response from the Federal Minister. As I said, these issues are subject to an inquiry and \$200,000 has been allocated to examine them.

GRIFFITH LAND RELEASE

The Hon. TONY CATANZARITI: I direct my question to the Minister for Lands. What practical measures are being taken to create housing for the people of Griffith given the predicted growth in this area?

The Hon. TONY KELLY: I thank the honourable member for his question and his continued interest in this fantastic area of New South Wales. As all honourable members are aware, Griffith is in the south-west of the State and it is going ahead in leaps and bounds. The wine industry and growth in the district are attracting hundreds of people to the town, both visitors and permanent residents. The local chicken producing company said it would employ two people a week every week for the next 10 years because of anticipated expansion.

I am pleased to inform the House that a major residential subdivision known as Collina Stage 10 has made prime real estate available in Griffith. The 43 lots will be auctioned on 3 December at the Griffith Ex-servicemens Club commencing at 1.00 p.m. Collina is a prime residential subdivision located in the most sought after location in Griffith. The blocks will range in size from 741 square metres to 979 square metres. In 1998, as part of the Premier's Five Point Plan to address employment and associated problems in the western Riverina, the Department of Lands undertook to program the release of 150 residential blocks into the market to satisfy the housing needs of the local community. At the time, land prices in Griffith were double what they were in most country towns because of the pressure of employment and the number of people moving in.

The Collina estate project began in 1987 and is expected to last for another 10 years. Construction of stage 10 began in May 2004. The Premier said in the other place that the Government is committed to providing new job opportunities, particularly for families in the country areas. This project continues to create employment opportunities for local building tradespeople, building suppliers and many other related professionals. By the end of this year 182 blocks will have been developed at Collina. A development application for the next stage, stage 11 of the Collina project, is being prepared for lodgment with Griffith City Council for approval. If it is approved that will make a further 55 blocks available for the Griffith area. The Collina project has created much-needed housing and jobs for the people of Griffith and surrounding areas. It is a wonderful example of how the State Government and local government are working together to create the best outcomes for jobs and for local communities.

OFFICE FOR WOMEN ROLE

The Hon. CATHERINE CUSACK: My question is addressed to the Treasurer. Does the Minister for Women give the Treasurer whole-of-government advice in relation to the budget? What role did the former Department of Women play in relation to advice on past State budgets? Will the new Office for Women have a role and an ability to provide such advice in the future?

The Hon. MICHAEL EGAN: The Hon. Catherine Cusack, although she has only been a member of this House for a short time, is more experienced than many novice members because she spent a great deal of her working life on the staff of Ministers in a previous government. She would know that Cabinet deliberations are confidential.

BUILDING REGIONAL TOWNS TOUR

The Hon. HENRY TSANG: My question without notice is addressed to the Treasurer, and Minister for State Development. Would the Treasurer inform the House about how the New South Wales Government is assisting regional towns to attract residential development to meet their growing needs?

The Hon. MICHAEL EGAN: This is a very good question from the Hon. Henry Tsang, a question that one would expect members of the Opposition, who claim to be supporters of regional towns, would have asked. I assure the House that the New South Wales Government is working with country communities to help meet demands for residential accommodation. A shortage of suitable housing makes it difficult for small towns to attract and retain skilled labour, making it difficult for their economies to grow. The Building Regional Towns Tour Program aims to address the need for housing to attract skilled labour to towns experiencing significant employment growth. Many regions throughout New South Wales are experiencing significant employment growth. The first Building Regional Towns Tour was held in November last year in Tumbarumba, Griffith and West Wyalong, attracting 25 developers and investors from 18 companies and resulting in up to \$3 million investment in residential housing.

For the latest tour, Forbes, Scone and Merriwa were targeted in early November. The Department of State and Regional Development worked with Forbes and Upper Hunter shire councils to deliver a tour for 17 developers and investors, representing 14 companies. The representatives received presentations on opportunities in each town, visited potential sites and met key local stakeholders. Forbes Shire Council has worked to develop business opportunities by completing a 20-lot industrial estate and spending about \$20 million this financial year alone on a sewerage plant, road improvements, a water supply upgrade and new saleyards. Forbes is also growing because of the Lake Cowal goldmine, which will employ up to 180 people during its current construction phase and up to 200 permanents when operating. Forbes Shire Council is working to develop opportunities and has received development applications for three residential subdivisions comprising over 200 lots.

The Upper Hunter also reports residential housing challenges with the expansion of Primo Abattoir in Scone involving about 180 jobs; the potential expansion of Bickham coalmine at Murrurundi involving about 60 jobs; growth of the game farming, nursery and tourism industries at Merriwa; and the development of Scone airport. Residential developments have been under way and land set aside at Scone, Aberdeen, Merriwa, Murrurundi and Blandford. The Government is also making it easier for young homebuyers in these areas to get into their first home. Since the Government abolished stamp duty for homes valued up to \$500,000, 31 first homebuyers in Forbes have saved \$121,130 in stamp duty. Meanwhile, in Scone and Merriwa, 31 first homebuyers have saved \$154,386.

The Hon. Duncan Gay: So what about the older people who have sold their houses?

The Hon. MICHAEL EGAN: I congratulate the Department of State and Regional Development on its initiative, and I recommend this great program to members of the House. The Deputy Leader of the Opposition wants to know about old members—people of his age group no doubt.

The Hon. Duncan Gay: And you as well.

The Hon. MICHAEL EGAN: And mine. As I announced to the House only a week or two ago, the Government is deferring stamp duty for those people who want to sell part of the equity in their home so that they can stay in their home rather than have to move.

The Hon. Duncan Gay: Did you say, "deferring"?

The Hon. MICHAEL EGAN: In fact I had the Deputy Leader of the Opposition in mind.

The Hon. Duncan Gay: Deferring?

The Hon. MICHAEL EGAN: Yes.

The Hon. Duncan Gay: So you are still going to take it?

The Hon. MICHAEL EGAN: Yes.

JUSTICE JEFF SHAW OUTSTANDING COURT CASES

Reverend the Hon. Dr GORDON MOYES: I ask the Minister for Justice, representing the Attorney General, a question without notice. Is the Minister aware that the family of intellectually disabled girl Rhiannon Richards will have to apply for a retrial of their case because former judge Jeff Shaw resigned due to an alleged drinking problem before he delivered his judgment? Is the Minister aware that the family is now liable to foot a legal bill of \$800,000 and that the Richards family is of only modest means? Is the Minister aware that Rhiannon Richards, who is now aged six, has such severe brain damage that she cannot speak and will need funds to support her for the rest of her life? Is the Minister aware that Rhiannon Richards' case was one of two cases that await Justice Jeff Shaw's judgment? Is the Minister further aware that the maximum compensation provided by the Government under the current legislation is only \$10,000? What, if any, initiatives will be introduced by the Government to remedy this injustice to a family already traumatically disadvantaged?

The Hon. JOHN HATZISTERGOS: I am aware of the newspaper reports relating to this matter, which I take is the genesis of the question that is being asked. I will refer the issues the question raises to the Attorney General.

REDFERN RIOT WORKCOVER INVESTIGATION

The Hon. GREG PEARCE: My question is addressed to the Minister for Industrial Relations. What is the status of the WorkCover investigation into the February riot in Redfern and into the adequacy of the system of work and other safety-related controls applied in the New South Wales Police Force? Has the investigation been completed? If not, when will the investigation be completed? Has any report been prepared and has any action been initiated as a result of the investigation? If so, what actions have been initiated and will the Minister make the report, or reports, public?

The Hon. JOHN DELLA BOSCA: There has been a WorkCover review of the NSW police response to the Redfern riot on 15 and 16 February. I am fairly sure all members would be aware of the events that transpired, and most people are familiar with the key reported incidents. Honourable members also would be aware that these events were a catalyst for an inquiry relating to Redfern and Waterloo by this Chamber's Standing Committee on Social Issues. I commend to the House the committee's interim report, which was released about a month ago. The interim report notes that WorkCover is undertaking an investigation into the incident separate from those of the State Coroner, the police and the NSW Ombudsman.

I remind honourable members that WorkCover does not distinguish between private and public sector employees under occupational health and safety laws. The investigation is focusing on the systems of work in place at the time of the riot and includes the provision of training and personal protective equipment to police officers. WorkCover has met with representatives from the Redfern local area command and has conducted interviews with individual police officers, including ranking police officers, involved at the time of the riot. Those discussions and interviews are continuing.

WorkCover expects to complete the investigation later this month. Honourable members are aware that this Government regards the ability of workers to earn a living in a safe environment as a basic right, and that includes officers of the New South Wales Police Force. WorkCover will continue to assist NSW Police, its commission of management and the Minister to comply with all appropriate occupational health and safety obligations.

NATIONAL COUNCIL ON DRUGS PRISONS REPORT

The Hon. IAN WEST: My question without notice is directed to the Minister for Justice. Could the Minister provide the House with information on the National Council on Drugs report entitled "Supply, demand

and harm reduction strategies in Australian prisons: Implementation, cost and evaluation"? What is the New South Wales Government's position on proposals to trial conjugal visits and provide needle exchange facilities in prisons?

The Hon. JOHN HATZISTERGOS: As honourable members would be aware, the National Council on Drugs was set up in 1998 as an initiative of the Howard Government to be its key advisory group on illicit drugs policy and the development and implementation of strategies to address the problem of drugs. It was established as part of a \$100 million funded program titled "Tough on Drugs" and was personally launched by the Prime Minister in Brisbane. Today the National Council on Drugs—this federally funded body—released the report to which the honourable member has referred—"Supply, demand and harm reduction strategies in Australian prisons: Implementation, cost and evaluation". Amongst its proposals, recommendation 13 states:

The introduction and rigorous evaluation of a trial needle and syringe exchange program is warranted.

Recommendation 18 argues:

There is limited data on the potential benefits of conjugal visits and a trial is warranted in Australian prisons.

This was, no doubt, borrowed from the Greens policy, which I referred to last week in the House. The recommendation was based on the fact that injecting drug use still occurs during incarceration. The argument in support of conjugal visits is as follows:

Male to male sex occurs in Australian prisons [therefore conjugal visits] may provide an incentive for prisoners to improve their behaviour in prison.

That is a quote from the federally funded report. Of course, this seems to strike contrary—

The Hon. Michael Egan: Is this the Howard Federal report?

The Hon. JOHN HATZISTERGOS: This is what the Howard Federal Government is advocating—needle exchange in prisons and conjugal rights for prisoners. This is part of the Tough on Drugs strategy, which the National Council on Drugs is advocating. In relation to the needle exchange initiative I remind the House that in 1990—

The Hon. Catherine Cusack: Your Government's representative was on it.

The Hon. JOHN HATZISTERGOS: Yes, and our Government opposed it at the ministerial council meeting, which was attended by the Hon. John Della Bosca, and I did not have to tell him. He did it instinctively, which shows his great instincts. However, let me not be distracted. In 1990—this is during the Coalition days—an officer of the Department of Corrective Services was stabbed with an AIDS-infected syringe at Long Bay. He was confirmed as being HIV positive and subsequently he died, as honourable members will remember. Also, in 1992 another officer was stabbed with an AIDS-infected syringe and, as a consequence, a considerable compensation claim was made against the Department of Corrective Services. The department devotes a huge amount of time, effort and resources to keeping drugs out of prisons. This includes not only powers to stop, detain and search visitors—

The Hon. Peter Breen: They are not very good at it. What about all the drugs in the prisons?

The Hon. JOHN HATZISTERGOS: The next time you are there we will organise a strip search especially for you. All minimum, medium and maximum security inmates are randomly strip searched before and after contact visits.

[Interruption]

The Hon. Peter Breen had his day yesterday. He should not get too excited. I am sure we will hear all about the representations he made on behalf of the individual he saw. However, let me not be distracted again. Visitors to minimum security facilities must surrender their personal possessions.

The Hon. Duncan Gay: Have you been checking up?

The Hon. JOHN HATZISTERGOS: No, I facilitated it. That is the sort of bloke I am. We have drug dog detector units, intelligence officers, urinalysis, random searches of staff, sterile zones, and overt video

surveillance. As 70 to 80 per cent of inmates have drug problems before they come into the correctional system we provide a wide range of rehabilitation and counselling facilities for them. We educate inmates about the risks of drug use, including hepatitis C infection, but we cannot countenance handing out needles to inmates to assist them in illegal activity inside correctional facilities. If an inmate is caught with drugs—

The Hon. John Ryan: Sit down. Time is up.

The Hon. JOHN HATZISTERGOS: Can I get an extension?

The Hon. IAN WEST: Madam President—

The Hon. Rick Colless: Point of order: The Minister invited the questioner to ask a supplementary question. That is out of order.

The PRESIDENT: Order! It is not out of order. The Hon. Ian West has the call.

The Hon. IAN WEST: I ask a supplementary question. Can the Minister elucidate his answer?

The Hon. JOHN HATZISTERGOS: Inmates caught with drugs inside correctional facilities face not only the prospect of internal and criminal charges but also regression in classification and lesser access to privileges. In regard to conjugal visits, the call for their trial is unwarranted since conjugal visits already exist in Victoria and also in some overseas systems. Moreover, concerns I have with making such visits legal far outweigh any potential benefits. In particular, the security issues associated with such a proposal make it a logistical nightmare for correctional authorities and would potentially expose taxpayers to liabilities that cannot be accepted. For these reasons the Government is unable to accept either of the two proposals that have been put forward in the paper done the Howard Government's National Council on Drugs, which was released today under the title of "Supply, demand and harm reduction strategies in Australian prisons: Implementation, cost and evaluation".

ST GEORGE HOSPITAL AND MR ISAAC MESSIHA

Reverend the Hon. FRED NILE: I ask the Minister for Industrial Relations, representing the Minister for Health, a question without notice. What are the results of any inquiry into the serious allegations by the Isaac Messiha family that the life support system was abruptly turned off because St George Hospital needed the bed of Mr Messiha, who then, within minutes, was declared deceased? What are the facts concerning New South Wales hospital beds? How many beds have been closed down during 2003-04 and how many hospital operating theatres have been reduced to only 60 per cent usage per week?

The Hon. JOHN DELLA BOSCA: I am aware, as all honourable members would be, of the case referred to by Reverend the Hon. Fred Nile. Clearly it is a sad and tragic case, as would be the passing away of a well-respected relative, dear father and friend, especially involving the difficult decisions that modern medical technology present to medical and hospital staff, relatives and friends when someone depends on life support for their continued existence. I have heard my colleague the Minister, who has gone through the details of this case, and the hospital management refute any suggestion—

The Hon. Michael Egan: And the doctor, I think.

The Hon. JOHN DELLA BOSCA: They and the treating doctor involved have refuted any suggestion that there was a linkage between the doctor and any concern about the availability of a bed. The decision was made on the clinical evidence. I am very confident about that. I reject the inference in the question, which seeks to restate what I think is a fairly disturbing furphy that there would be a linkage, either by clinicians in our public hospital system or private physicians working within our public hospital system or the hospital administration involved in a decision like that. I reject any implication that that could be the case. If it were the case, I, and many others on all sides of the Chamber, would be very concerned and obviously would take action about it. To give absolute comfort to the member, I will undertake to make further inquiry of the Minister and get a detailed answer to the general thrust of his inquiry. But I have to say that I reject the inference in his question.

CITYRAIL PLATFORM TICKETS

The Hon. CHARLIE LYNN: My question without notice is directed to the Minister for Transport Services. Did the Minister tell radio listeners this morning that his understanding was that there are platform tickets? Did he later during the same interview have to recant his advice and admit that he was amazed that there

are no platform tickets and that he will fix that today? Can the Minister inform the House when CityRail passengers will be able to purchase platform tickets?

The Hon. MICHAEL COSTA: It is clear that the Hon. Charlie Lynn was not listening to the interview and that somebody else wrote the question for him, because if he had listened to the interview he would have realised that I clarified the position on platform tickets straightaway.

The Hon. Michael Gallacher: It wasn't a pleasant morning, was it?

The Hon. MICHAEL COSTA: It was a very pleasant morning for me. I enjoy my mornings. I enjoy every day. I enjoy solving problems that have accumulated over decades and decades. I enjoy the fact that we are well on top of resolving the problems we have in this area.

The Hon. Duncan Gay: Look at your backbenchers. They are all laughing.

The Hon. MICHAEL COSTA: You ought to be looking at your back bench. It is diminishing every election and it may well diminish this Saturday again.

The Hon. Duncan Gay: You mean your candidate won't get up.

The Hon. MICHAEL COSTA: It might not be your candidate.

The Hon. Duncan Gay: What about your candidate. Lee's been out supporting your candidate this morning.

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

The Hon. MICHAEL COSTA: Don't kick any of them out. If The Nationals lose one more member, they will lose their party status. As I informed 2GB listeners this morning, platform tickets are sold at CityRail stations where passengers join CountryLink services—Strathfield, Campbelltown, Parramatta, Hornsby, Goulburn and Gosford. They are also sold at St Leonards and Olympic Park. Any person accompanying a blind passenger does not need to purchase a platform ticket. I am advised that they are available from ticket offices but not ticket vending machines. That is where the confusion occurred this morning. Platform tickets are available from relevant booking offices, not ticket vending machines. I have also asked the Chief Executive Officer of CityRail, Vince Graham, to look at ways to make the situation more equitable for all passengers, that is, also for passengers who are not on CountryLink-connecting platforms.

The Hon. Michael Gallacher: You did not give this answer this morning, did you?

The Hon. MICHAEL COSTA: I did.

The Hon. Michael Gallacher: You made a complete dog's breakfast of it. They call you the Minister of evil.

The Hon. MICHAEL COSTA: I am happy to be the Minister of evil who fixes the rail system. As I said, these platform tickets are available at CityRail stations that service CountryLink trains. It is appropriate that we put in place a system for people who want to accompany others onto our CityRail platforms in other areas, and I have asked Vince Graham to look at ways to put in place interim measures for transit officers to take into account circumstances in which people are accompanying a person with a disability or for another reason—

The Hon. John Ryan: Why shouldn't everybody be able to buy a ticket to nowhere?

The Hon. MICHAEL COSTA: If members opposite want to encourage fare evasion innovation, that is fine. They demand that the Government spend money on this and that. They are a bunch of hypocrites because they seek to cut every service, as they did in the last election campaign, but at the same time they want to encourage people not to pay their fares in accordance with the law. That is an irresponsible position, but it is typical of an Opposition that has been stung by election defeat after election defeat. And they cannot understand why! Let me tell members opposite why they continue to be defeated. It is because they do not have any policies or solutions. We are the only people to provide policies and solutions to problems.

DIGITAL CONTENT INDUSTRY

The Hon. KAYEE GRIFFIN: My question without notice is addressed to the Treasurer, and Minister for State Development. Will the Treasurer inform the House about recent developments in the New South Wales digital content industry?

The Hon. MICHAEL EGAN: The New South Wales digital media industry provides an insight into our growing role in global productions. A recent animation feature film, *Clifford's Really Big Movie*, which was released in Australian cinemas on 21 October, provides an excellent example of Australian talent in the global animation production chain. Animation production was directed from Korea by Sydneysider Murray Debus. In Parramatta, the animation pre-production company Mad Cow Pictures has completed its first feature film by creating the high-level effects for a film led by a former DisneyToon director. High-speed broadband technologies connecting New South Wales to other international digital media centres make these global productions feasible and cost effective. Mad Cow Pictures will now co-venture with Danish animation company Wicked RGB to work on animations and computer game graphics.

The Department of State and Regional Development is helping Mad Cow Pictures to find skilled workers to contact clients. The talent pool of the New South Wales animation industry should not be underestimated. DisneyToon Studios Australia in Sydney is now Disney's primary two-dimension animation studio in the world. It employs more than 260 animators working on animated films. Another New South Wales computer game company, Perception, employs more than 50 animators and programmers in the development of the game based on the *Stargate SG-1* television series.

The Hon. Michael Gallacher: You wouldn't know what that is.

The Hon. MICHAEL EGAN: No, I do not have a clue.

The Hon. Catherine Cusack: Tell us about *Australian Idol*!

The Hon. MICHAEL EGAN: I do know what that is. Do members opposite think I would watch that? Honourable members may have read recently that two high-profile companies, Rising Sun Pictures and Animal Logic, have secured digital effects work for the forthcoming Harry Potter film.

The Hon. John Della Bosca: You've heard of Harry Potter.

The Hon. MICHAEL EGAN: Yes, I have heard of Harry Potter. These exciting projects are evidence of New South Wales growth and expertise in this dynamic global industry.

OPERATION VULCAN

The Hon. DAVID OLDFIELD: My question is addressed to the Minister for Justice, representing the Minister for Police. How many criminals have thus far been apprehended through Operation Vulcan? How many illegal firearms have thus far been seized through Operation Vulcan? If any have been seized, how many of them were shown to have been used in a crime? What measures are in place to ensure that information that is merely vexatious and without substance does not lead to inappropriate action against law-abiding firearms owners? What avenues of redress are available to law-abiding firearms owners who suffer from actions that may be taken as a consequence of vexatious complaints? When does the Minister expect a progress report on Operation Vulcan?

The Hon. JOHN HATZISTERGOS: I will refer the question to the Minister for Police.

QUEENSLAND TILT TRAIN DERAILMENT

The Hon. ROBYN PARKER: My question without notice is directed to the Minister for Transport Services. Has the Minister offered the services of New South Wales rail experts who are either employed by or contracted to the Government, and who investigated the Waterfall train crash, to the Queensland Premier, Peter Beattie, to assist Queensland rail authorities investigate the causes of the tilt train derailment last night if a detailed investigation becomes necessary?

The Hon. MICHAEL COSTA: There was a serious accident in Queensland today, and I think all of us in New South Wales who have experienced a number of these unfortunate events in recent years—

The Hon. Rick Colless: You've had more experience than most.

The Hon. MICHAEL COSTA: I would not make a joke about it.

The Hon. Rick Colless: I am not joking. It is a fact.

The Hon. MICHAEL COSTA: Do not make a joke about it! This is a serious matter. It simply shows what the Opposition is like on these matters.

The Hon. Michael Gallacher: You have the expertise.

The Hon. MICHAEL COSTA: The Leader of the Opposition interjects that we have the expertise. Interestingly, he opposed the very legislation that set up the expert body that has carriage of this. I do not mind honourable members asking serious questions and being serious about an issue. However, to politicise what is a serious event in Queensland and make jokes about what has occurred is beyond the pale. And then to make disparaging comments about a body that was put together by this Parliament, opposed by the Opposition—

The Hon. Michael Gallacher: Point of order: There were no disparaging comments. There have been no jokes. The Minister is trying to put something on the record that is completely untrue. I ask the Minister to return to the question.

The PRESIDENT: Order! There is no point of order. The Minister has the call.

The Hon. MICHAEL COSTA: Perhaps if there were no interjections and I could finish what I was saying, we would not have the confusion that appears to have occurred on the Opposition benches. As I said, this matter is serious. There has been a serious incident on the Queensland rail system. Queensland has its own body; I think it uses the Federal agency in such situations. We will certainly make available all our resources if requested by the Queensland Government.

The Hon. Robyn Parker: But you haven't offered them.

The Hon. MICHAEL COSTA: Once again members opposite seek to politicise a serious matter. The fact is that an incident occurred this morning and people are engaged in efforts to correct that situation. It is not only tactless but also completely insensitive to make political points about something in respect of which people are currently trying to provide assistance. There are protocols for these matters. I am completely staggered by the Opposition: it opposed the body that would provide assistance. That body would be our independent regulator. It has adequate resources that we put in place through legislation that passed this Parliament in the face of consistent opposition by the Opposition. The Opposition not only opposed that body, it denigrated it. It even attacked the personnel that were involved in setting up the organisation, and now it has the hide, on the day of a serious incident in Queensland, to try to politicise a situation that requires compassion.

The Hon. Michael Gallacher: Point of order. I cannot sit idly by while the Minister manipulates and distorts the facts. We have expertise in New South Wales. With the Waterfall inquiry being wrapped up—

The PRESIDENT: Order! There is no point of order. Members who feel they have been misrepresented may seek to have the matter addressed under the appropriate standing order at the appropriate time.

The Hon. MICHAEL COSTA: If there are any requests from the Queensland Government or the Queensland rail authorities, of course we will provide assistance, and it will be provided by the body that was opposed by the Opposition.

DROUGHT FIGURES

The Hon. ERIC ROOZENDAAL: My question without notice is addressed to the Minister for Primary Industries. Will the Minister please update the House on the current state of the drought and how our farmers are coping during this difficult period?

The Hon. IAN MACDONALD: As honourable members may be aware, this weekend I released the November drought figures, which show that 67 per cent of New South Wales is still in drought. I am pleased to

say that this is the best figure since April. It is a far cry from just three months ago, when 92 per cent of the State was a drought zone.

The Hon. Michael Egan: How does it compare with other States?

The Hon. IAN MACDONALD: We are the worst. While the recent figures are certainly good news, we must remember that only 4 per cent of New South Wales is considered satisfactory, and another 28 per cent is marginal. The pattern of this drought has been very episodic, with brief periods of rain followed by long dry spells. As a result, conditions over the next few weeks will be absolutely crucial, particularly for marginal areas. Without consistent follow-up rains our marginal areas could easily fall back into drought.

October was the perfect demonstration of the types of extremes our farming community has had to cope with—from drenching rains to hail storms, to frosts and hot dry winds. High temperatures and dry conditions during mid September and again in mid October reduced the overall yield potential of our winter crops, especially in the central and southern areas. Despite this, our farmers are still looking at the best winter crop forecast in nearly three years, with the latest estimates showing a potential harvest of around eight million tonnes. Unfortunately, low water allocations in our irrigation areas mean that valuable summer crops such as rice and cotton will be well down.

The State Government continues to stand by the farming community, with more than \$130 million in drought assistance committed to date. This includes nearly \$55 million in transport subsidies for water and fodder so farmers can keep their stock alive. I stress once again that our full suite of drought support programs will continue until the drought ends. The Federal Government has also recognised the dire nature of this drought by extending exceptional circumstances support for 14 districts in New South Wales, including Goulburn, Yass, Moss Vale-South Coast, Forbes, Hume, Molong, Braidwood, Casino, Central Tablelands and Hay.

The Federal Government also granted rollovers to portions of the Gundagai, Condobolin and Narrandera districts, as well as for dairy farmers in the Riverina and Eastern Riverina areas. It had previously announced rollovers for the Bourke-Brewarrina and Grafton-Kempsey areas and the majority of the Western Division.

Today's decision means that for the next 12 months producers in these areas can continue to access family income support payments and interest rate subsidies of up to \$100,000 on new and existing loans. Unfortunately, the Federal Coalition Government has decided not to grant the rollover to several areas, including Armidale, northern New England, Mudgee-Merriwa, the south-west slopes and plains, Nyngan, stone fruit producers in Young, producers other than dairy farmers in the Eastern Riverina and Riverina boards, and the Walgett-Coonamble area that was announced previously. Interestingly enough, the Coalition Government, and a Nationals Minister, have even overlooked Dubbo.

The Hon. Tony Kelly: Overlooked Dubbo?

The Hon. IAN MACDONALD: Overlooked Dubbo, despite the fact that this board is still showing real signs of drought. There is a by-election in Dubbo on Saturday.

The Hon. Rick Colless: Where is your candidate?

The Hon. IAN MACDONALD: I did not make the decision not to include Dubbo. I have supported Dubbo all the way along the line. The Nationals Federal Minister will not roll over exceptional circumstances funding to Dubbo. What is going on? Why are The Nationals upset with Dubbo? I ask the Deputy Leader of the Opposition what has Dubbo done to deserve to be left out of this.

The Hon. Duncan Gay: Point of order: The Minister asked me a question, and the answer is that exceptional circumstances are based on the figures produced by the State Government.

The PRESIDENT: Order! There is no point of order.

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

The Hon. IAN MACDONALD: With pleasure. If it were a Liberal Minister for Primary Industries in Canberra, I am sure he would have said that Dubbo is deserving of exceptional circumstances assistance. What

have the people of Dubbo done? There are still cracks in the ground. Why are they being left out? What is the problem? This is a decision by the Federal Government to exclude the farmers of Dubbo from exceptional circumstances assistance. It is an outrageous decision not to support the people of Dubbo.

The Federal Government does not care too much about the local Nationals. It is a week before the by-election. It is like admitting that The Nationals at the State level are totally redundant and useless. The Federal Government has made the decision that it does not care what happens to The Nationals candidate in Dubbo, who was not even preselected. It does not care what went on in Dubbo.

The Hon. Duncan Gay: Point of order: The Minister is misleading the House. The people who do not care about Dubbo are members of the Labor Party. The Labor Party does not have a candidate.

The PRESIDENT: Order! Members should not make debating points under the guise of points of order.

The Hon. IAN MACDONALD: I am grateful to the honourable member for asking me this question, because the people of the Dubbo need to know. [*Time expired.*]

ECSTASY PILLS TESTING

Ms LEE RHIANNON: I direct my question to the special Minister of State. Is the Minister aware that Australia's leading drug agency, the Australian Drug Foundation, has said that allowing doctors to test ecstasy pills and advise partygoers of any contaminants could save lives? Is he aware that the foundation is considering asking police to grant a legal amnesty to doctors so they can carry out the tests? Is he aware that legal drug testing in several European countries has led to a dramatic drop in ecstasy-related deaths? Would the Government consider a request from the foundation for New South Wales Police to grant a legal amnesty so doctors can carry out such tests?

The Hon. JOHN DELLA BOSCA: I note that the honourable member has particularly focused on an amnesty by police. I am not exactly certain under what provision she envisages that amnesty would apply. There are broader issues that she ought to be aware of, including the fact that there might be other professional liabilities, unrelated to police matters. If there were inaccuracies or some alleged negligence, other sorts of liabilities could apply.

I think she is aware that the Premier has already suggested—this is the Government's current position and I agree with it wholeheartedly—that such an offer would be resisted, not on the basis that the honourable member suggests but on two important tests. One is that at the moment there is no reliable test, apart from the ethical issue of whether it is a good idea to apparently support the use of ecstasy at these events by facilitating its testing. The other problem is that it would appear—and all the advice I have is that these tests are fairly unreliable, and so—

Ms Lee Rhiannon: It is saving lives.

The Hon. JOHN DELLA BOSCA: The point that the honourable member is missing is that if there are not reliable tests and they are not instantaneous, they not only may not save lives but might give someone quite the wrong impression. There are a number of other legal complications—the medical professionals involved would have to hand the drugs back for consumption—and a whole range of other issues which I do not think I need to go into detail with as most members of the House would have come to grips with those issues. The important point that we need to bear in mind is that at the moment I am not aware of a satisfactory instantaneous test. Apart from all the other ethical issues and all the other practical issues involved in such a debate, I do not think we have the technology that delivers any kind of reasonable certainty to doctors or nurses—or the police—that would allow them to say that substances were pure. Of course, they could not say that they were safe, simply that they were the drugs they were believed to be.

Another point that the honourable member should consider—perhaps the entire House should consider it—and that the Government and the community would need to debate if these drugs continue to be used by a significant number of young people, is that in a number of foreign jurisdictions it has been suggested that it is possible that the testing of drugs in these situations not only leads to a reduction in the number of deaths—which the honourable member is implying happens because people have greater knowledge of what is in the drugs—but also has something to do with a reduced inclination by people to use the drugs. That is something that needs

to be considered more broadly. Such an alert would provide limited information on the composition of any substance. Data on the prevalence of the use in the community, the harmful effects of the substance and the clinical presentation would all be matters of great concern in the kind of program the honourable member was talking about.

The Hon. MICHAEL EGAN: If honourable members have further questions, they might like to place them on notice.

LOCUST CONTROL

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition asked me a question about my statements relating to reports of hatchings of locusts from landholders, as well as comments by Graeme Eggleston, the New South Wales Plague Locust Commissioner. The commissioner confirmed to my office by phone at 4.25 p.m. today that he was misquoted by the ABC on 11 November. Mr Eggleston indicated verbally to the reporter that reported locust hatchings in fact had decreased, not increased as the piece had stated.

The Hon. Tony Kelly: Decreased?

The Hon. IAN MACDONALD: Had decreased, not increased. The official figures show a downward trend in the last few weeks. For the benefit of the Deputy Leader of the Opposition—

The Hon. Duncan Gay: Don't tell me; tell the ABC.

The Hon. IAN MACDONALD: Yes, it has misreported it. I will show the Deputy Leader of the Opposition that. He would have relied on the ABC rural report.

The Hon. Rick Colless: Apologise to him.

The Hon. IAN MACDONALD: I am not going to apologise to him. He accused me of something that was totally inaccurate.

The Hon. Duncan Gay: I reported it accurately.

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition was misled, as usual. On 10 October there were 2,139 hatching reports and since then the number has gone down steadily week by week to 800 on 15 November. I must say that I was offended by the Deputy Leader of the Opposition.

Questions without notice concluded.

UNIVERSITY LEGISLATION AMENDMENT BILL

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

Motion by the Hon. Tony Kelly 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.

GENE TECHNOLOGY (GM CROP MORATORIUM) AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. IAN MACDONALD (Minister for Primary Industries) [5.05 p.m.]: Another key reason for rejecting the Opposition amendment is that it contains no nexus between the event in question and the time of ownership. Take for example the situation where a small research entity developed and owned certain technology 10 years before the event in question. This amendment attempts to hold the former owner responsible, notwithstanding that it may have had nothing to do with that technology for almost a decade.

This is an extraordinary proposal. It is also contrary to all other cases where the activities of one farmer affect a neighbour—many of which have very significant health and safety considerations indeed—such as avian influenza, ovine Johne's disease, or bovine spongiform encephalopathy. In all of these circumstances, recourse would be to the common law.

While some might think that targeting the owners of technology may seem reasonable at first, the reality is that small farming businesses and public research agencies would also get caught up in the results. Furthermore, and perhaps most importantly, the development of new technologies would be thwarted. Universities and other research institutes would cease developing new technologies and valuable and innovative intellectual property would be lost overseas.

This amendment is simply a thinly veiled attempt to disrupt any form of GM research trials. Unlike many members of this House, I do not purport to know the answers to all the questions, which is why I support trials, under appropriate conditions, that will give farmers the information they need to make an informed choice as to whether they want to take up the technology. Is it suggested that the public should make decisions in the absence of scientific data?

The amendment provides that by simply owning technology the owner is liable for all losses arising from the presence of that material in someone's crop. Why should ownership dictate liability? This turns the common law entirely on its head without any justification for doing so. Common law liability is not linked to ownership—it is linked to acts or omissions. In common law it is the person who is negligent or reckless who is accountable for their actions or inactions. In some cases this may of course be the owner of the technology, but only when that owner commits a negligent act. The amendment would totally overturn the law. It is not reasonable that the simple act of ownership should determine liability. Such a regime would create a perverse incentive for farmers to be less responsible. Surely this is not what the Opposition wants.

I am well aware of farmers' concerns about potential liability in relation to GM crops, and on several occasions I have requested the advisory council to consider this very issue. The matter has also been actively considered at a Federal level, where two separate parliamentary committees accepted that reliance on common law was appropriate for providing a remedy for victims of genetic contamination. More than 100 trials of the Office of the Gene Technology Regulator have taken place and continue to take place all over the country. And they are all being conducted under the protection of the common law. It is of note that there have been no problems with that regime to date.

This matter has also been actively considered in other countries, such as the United Kingdom, the United States, Canada and New Zealand. All these countries have accepted reliance on common law and existing statutes. The opponents of GM technology want to see new laws enacted that would impose strict liability. It is clear that such action is intended as a major disincentive by those ideologically opposed to this technology, rather than for a legitimate protection of farmers in New South Wales. While this may be a new technology, there are well-established areas of law and insurance that specifically address this issue.

I am advised that any farmer whose crop may have been contaminated by a GM crop trial would have the common law remedies of trespass, nuisance, and negligence at their disposal. However, I have listened carefully to the representations of the Hon. Jon Jenkins in this regard, and realise that if farmers are to prove damages at common law they must have access to the necessary tests to prove the contamination of their crops. To facilitate that process, I will ensure that the department will hold the necessary seed and leaf tests for farmers to access if they believe their crops have been contaminated. I see no need to alter current and well-established liability principles, which have been actively accepted at a Federal level and in almost every jurisdiction across the world similar to ours. I urge the Opposition to reconsider its position on this issue and to line up with its Federal colleagues.

Mr Ian Cohen has made considerable noise about a report last year by the Government of the United Kingdom. He asserts that the United Kingdom public consultation on biotechnology indicates an unwillingness of that population to accept GM crops or GM food. He is of course referring to the study describing the GM Nation Debate. A review of the GM Nations study in the prestigious journal *Nature* indicates that the methodology underlying the study was so badly flawed that the data not only failed to support the conclusions but actually undermined them. The main fault of the study was that while the debate attracted 36,000 people, the sample was not random as people with strong views on the issue were the ones most likely to respond. This skewed the sample, a point conceded by the authors of the study. I suggest that the honourable member look at *Nature* and not at some of the "info-nut" sites he researches. The authors have tried to overcome this by commissioning a report on a random sample of the population for responses to questions raised during the debate.

The *Nature* paper—not any old publication—indicates that when the results of the debate are compared with the random sample from the general population, startling differences emerge. For example, Mr Cohen indicates that the debate found that only 8 per cent of respondents would eat GM food. He might be interested to hear that 35 per cent of people from the random sample of the general population were happy to consume such produce. Importantly, the United Kingdom Government has concluded that there is no scientific case for a blanket ban on the cultivation of GM crops in the United Kingdom, and that proposed releases need to be assessed on a case-by-case basis.

Mr Ian Cohen: Well, label them properly!

The Hon. IAN MACDONALD: There are labelling laws in this country at the national level. The United Kingdom Government has also recognised the need to address the co-existence of GM and non-GM crops. As can be seen from a review of these recommendations, they suggest a model that is very similar to how New South Wales and Australia are proceeding with this debate.

Mr Cohen has also made statements indicating that yields of herbicide tolerant corn and soybean in the United States are lower than conventional varieties. It is possible that the yields of some GM crops may be lower than those derived from conventional varieties. However, Mr Cohen's fixation on yield exposes his ignorance of farming practices. The selection of varieties is made on the potential gross margin profit that could be achieved, not solely on yield. GM crops may be planted for a number of reasons other than yield. For example, they may provide a management system for otherwise difficult-to-control weeds, or they may contribute to a decrease in the number of pesticide applications required as we have seen in the Australian cotton industry and as reported by the University of Sydney.

The continuing expansion in the acreage of GM crops planted in the United States of America, especially GM corn and GM herbicide tolerant soy beans, indicates that farmers in that country have identified considerable benefits from this technology. They would not do it if it were not beneficial. They are not dumb; they are smart. Unlike Mr Cohen, I do not consider that farmers are incapable of making a rational decision, and I believe in allowing farmers the freedom of choice for their farming practices whilst maintaining a cautious approach to protect the integrity of the supply chain.

There is a need to recognise the potential benefits associated with both conventional and biotechnological breeding methodologies. To suggest that one type will replace the other is naïve. The research on virus resistant sweet potato in Africa may be an example where both biotechnology and conventional breeding could be important in overcoming a devastating disease. However, the paper quoted by Mr Cohen indicating 100 per cent yield increases has not been peer-reviewed and its results would have to be treated with caution.

Mr Cohen also quotes numerous scientists from the United Kingdom with regard to possible detrimental effects associated with GM foods. Mr Cohen would do well to read the March 2004 statement from the British Medical Association, which concludes that, consistent with the Royal Society review in 2002, there is no robust evidence to suggest that GM foods are unsafe. In addition, it is unclear why honourable members continue to refer to issues associated with human health and the environment that are quite clearly outside the scope of this legislation.

It appears that no matter how many times Mr Cohen, the Hon. Peter Wong, and the Hon. Dr Arthur Chesterfield-Evans are advised that the intergovernmental agreement regarding gene technology places the onus for determining possible environmental or human health risks on the Commonwealth, they cannot discern the difference between State and Federal responsibilities. I suggest the honourable members make their concerns regarding environmental or health issues known during the review of the Commonwealth Act next year, which other members quite clearly recognise as being the appropriate course of action.

The Hon. Duncan Gay also referred to how crop trials in South Australia are regulated. In particular, he suggested that the conditions relating to GM trials are set down in regulations. A brief review of the legislation suggests that GM crop trials in South Australia are regulated under the Genetically Modified Crops Management Act 2004 (South Australia). The regulation under this Act provides for the areas of the State where GM crops may not be cultivated. This regulation is the Genetically Modified Crops Management (Designation of Areas) Regulation 2004.

However, the whole of South Australia has been declared as an area in which GM crops may not be cultivated, except for research purposes, although trials of GM crops may proceed under an exemption order

issued by the responsible Minister. The exemption order may be subject to a range of conditions, but they are not set out in any form of regulation attached to the Act. Therefore, the regulation of GM crop trials in South Australia appears to be very similar to the process prescribed under the New South Wales Gene Technology (GM Crop Moratorium) Act.

GM technology is a significant development in agriculture and in human health. I note that all honourable members seem to accept that genetic modification in relation to humans seems acceptable for a raft of reasons, from the elimination of many congenital diseases through to treatment of cancer and so on. In other words, we accept that we can alter the genetic of human DNA and in that way be involved in genetic engineering. However, when it comes to genetically engineering food for some desirable trait that we want to express in a breeding program, the Greens see red. Like all other honourable members, they have accepted that genetic modification provides wonderful opportunities for research into eliminating some of the worst curses suffered by humanity.

New South Wales is not being left behind but is proceeding in a measured manner. We are not being cavalier, as was suggested. As I made very clear to the Hon. Dr Arthur Chesterfield-Evans, I have accepted every advisory council recommendation bar one. I rejected the recommendation for a segregation trial that was proposed by New South Wales Farmers and put forward by Bayer CropScience, Monsanto, and the Oilseeds Federation of Australia in its submission earlier this year. I supported the other recommendations in their entirety. The exemption orders are thorough and to the point and they provide a basis upon which the research can continue. However, it should be done in a measured way that meets the demands of science and the community and, importantly, the demands of the farming community. I commend the bill to the House.

[Debate interrupted.]

DISTINGUISHED VISITORS

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! I welcome the presence in the public gallery of Mr Uribe, a human rights activist from Columbia.

GENE TECHNOLOGY (GM CROP MORATORIUM) AMENDMENT BILL

Second Reading

[Debate resumed.]

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

The House divided.

Ayes, 25

Ms Burnswoods
Mr Catanzariti
Mr Clarke
Mr Colless
Ms Cusack
Ms Fazio
Mrs Forsythe
Miss Gardiner
Mr Gay

Ms Griffin
Mr Jenkins
Mr Lynn
Mr Macdonald
Reverend Dr Moyes
Reverend Nile
Mr Obeid
Mr Oldfield
Ms Parker

Mr Pearce
Mr Ryan
Mr Tingle
Mr Tsang
Mr West
Tellers,
Mr Harwin
Mr Primrose

Noes, 6

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

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Suspension of Standing Orders

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [5.27 p.m.]: I move:

That standing orders be suspended to allow the moving of a motion forthwith:

That it be an instruction to the Committee of the Whole that it has power to consider amendments relating to the membership of the advisory council and liability for crop contamination.

This motion will allow the amendments to be moved that we have flagged for some time. We wish to add the Grain Harvesters Association to the membership of the committee. We also believe that liability should be with the beneficiary of the trials, taking into account that they are trials. Members should be aware that the purpose of motion is to allow me in the Committee of the Whole to move these amendments, which are otherwise outside the leave of the bill.

Mr IAN COHEN [5.28 p.m.]: I move:

That the question be amended by omitting all words after "advisory council" and inserting instead ", directions of the Minister, bringing proceedings and liability for harm caused by GM food plants".

The Hon. IAN MACDONALD (Minister for Primary Industries) [5.28 p.m.]: The Government opposes the motion and the amendment. Some of the foreshadowed Greens amendments are outside the leave of the bill, and so are outside the jurisdiction of the State legislation. For example, Greens amendment No. 5 continually refers to measures to be introduced in relation to the environment.

As honourable members would be aware, environmental considerations are the province of the Federal Government, by agreement between all State governments and the Federal Government. Health issues are in the same category and both are clearly addressed by the Office of the Gene Technology Regulator under the Commonwealth Gene Technology Act 2000. Indeed, all governments in Australia have signed an intergovernmental agreement that recognises Commonwealth regulation of these matters. A number of The Nationals proposed amendments are also outside the leave of the bill.

For instance, the proposal to include potential conditions of an exemption order in the actual Act undermines the role of the advisory council and the best practice of considering applications for exemption orders on a case-by-case basis. Rather than have the Committee deal with matters that are clearly outside the leave of the bill and which will progress the matter no further, the Government takes the view that only matters that fit within the ambit of this bill should be dealt with in Committee. We should not stray into areas that are clearly outside the limitations of the bill. To do so would only delay the bill, without any prospect of implementation or success.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [5.31 p.m.], in reply: The Opposition will support the amendment of the Hon. Ian Cohen at this stage, but will oppose it in Committee. The amendments need to be discussed. Because both the Government and the Opposition will oppose the amendments of the Hon. Ian Cohen, they will not be agreed to, but I firmly believe that he should have the opportunity to move them.

The Hon. Jon Jenkins: I would like to hear the debate. I understand the Minister's concerns that this will delay the bill, but even if they are not implemented I am interested to hear the debate.

The Hon. Ian Macdonald: They are outside the leave of the bill.

The Hon. Jon Jenkins: I understand that, but I would be interested to hear debate about procedures and processes. I would like the Minister to address why the House should not have a short debate on that.

The Hon. Ian Macdonald: I have never heard a short debate on any clause in this bill. If we allow amendments outside the leave of the bill to be put in Committee by using this framework—

The PRESIDENT: Order! The Minister has already spoken.

The Hon. Don Harwin: The Minister can seek leave.

The PRESIDENT: Would the Minister like to seek leave?

The Hon. Don Harwin: If the Minister wishes to seek leave, the Opposition will not object.

Reverend the Hon. Fred Nile: I reiterate the point that perhaps the Minister was going to make. If we deal with amendments outside the leave of the bill, we could spend many hours debating matters that, in the long run, will not be accepted by the Committee. This is therefore a waste of time.

The PRESIDENT: Order! Mr Ian Cohen—

The Hon. Don Harwin: Point of order: I would like to clarify the amendment because there is some confusion.

The PRESIDENT: I am just about to do that. Mr Ian Cohen has moved that the question be amended by omitting all words after "advisory council" and inserting instead the words "directions of the Minister, bringing of proceedings and liability for harm caused by GM food plants".

The Hon. Duncan Gay: Point of clarification: We were not aware that the amendment of the Hon. Ian Cohen removed liability from our amendment. That is a key component of our amendment, so we will have to oppose his amendment.

Amendment negatived.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 17

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

Noes, 20

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

Pairs

Mr Gallacher	Ms Robertson
Mrs Pavey	Ms Tebbutt

Question resolved in the negative.

Motion negatived.

In Committee

Clauses 1 to 3 agreed to.

Mr IAN COHEN [5.45 p.m.]: I move Greens amendment No. 1:

No. 1 Page 3, schedule 1 [1], lines 3-13. Omit all the words on those lines.

This amendment will omit item [1] in schedule 1, which aims to streamline the process of consultation between the Minister and the advisory council. The Government's proposal reduces the consultation process to the passing to the advisory council of an application and/or the written details of the exemption order. This would clearly weaken the council's ability to give sound advice. The Greens believe that the current Act deals with this situation sufficiently, that the procedures are working and that they should remain. It is worth mentioning that the so-called overly bureaucratic process is not outlined in the legislation. So why is it necessary to amend the Act?

It is a matter of practice that the exemptions went back and forth. Therefore, I do not believe that the Government's proposed amendment is about simplifying the process. I suggest that the motive behind it is to gut the consultation process by ensuring that the council gets only the bare minimum of information and an opportunity to respond. Further, in relation to the Government's desire to speed up the process, section 8 (3) of the Act already restricts the council in its time frame to 28 days. Having only received two applications thus far, one of which was granted an exemption—Bayer CropScience decided not to proceed—the Government cannot complain that the process is overly bureaucratic. This amendment will maintain the essential role of the advisory council in assessing applications and making recommendations on highly controversial applications for trial and any exemption orders under the current moratorium in New South Wales. I commend Greens amendment No. 1 to the Committee.

The Hon. IAN MACDONALD (Minister for Primary Industries) [5.47 p.m.]: I move Government amendment No. 1:

No. 1 Page 3, schedule 1 [1], lines 5–13. Omit all the words on those lines. Insert instead:

- (2) The Minister is not to make an exemption order unless the Advisory Council has been provided with the following material (and any other material that the Minister considers to be relevant) and has been asked to provide, in consideration of the material provided, its written recommendation as to whether an exemption order should be made:
 - (a) if the exemption order is to be made on the written application of a person—a copy of the application, or
 - (b) if the exemption order is to be made other than on the written application of a person—written details of the proposal to make the order.

The bill requires the Minister to refer either or both of the applications made to the Minister and the written details of the proposal to make an exemption order. This requirement was included in the bill simply because the Act does not make it compulsory for the person seeking an exemption order to make a written application to the Minister. In the absence of such a written application, the Minister would then refer the written detail of the proposed exemption order to the council. This amendment makes it clear that if the Minister receives a written application for an exemption order he must refer it to the advisory council. Only in the absence of a written application would the Minister refer written details of the proposed exemption to the advisory council.

That is not all the amendment does. It also allows the Minister to refer additional information that he believes necessary to the council for its consideration. This is an important addition to ensure that the council is supplied with sufficient details of an application for an exemption to the moratorium. The Government opposes Greens amendment No. 1. In relation to the whole operation of the council, the Minister must also give his reasoning for ignoring the council's recommendation. These requirements have not changed at all, thus reinforcing the important role of the advisory council. The Government's amendment is intended to reduce unproductive and unnecessary red tape. The bill requires the Minister to give the advisory council a copy of either or both and, as I said, I have dealt with that in considerable detail.

I make it clear that in the past I have forwarded to the advisory council all the material that has been forwarded to me by the proponents. I have also made it clear that I will listen carefully to the advisory council and take into account what it does. Government amendment No. 1 is designed to clarify the issue that has been raised in debate by The Nationals, the Hon. Jon Jenkins and others in relation to material to be referred to the advisory council. The Government has accepted those comments.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [5.50 p.m.], by leave: I move Opposition amendments Nos 1, 2 and 3 in globo:

No. 1 Page 3, schedule 1 [1], line 6. Omit "either or both". Insert instead "one".

No. 2 Page 3, schedule 1 [1], line 11. Insert "or" after "order,".

No. 3 Page 3, schedule 1 [1], line 12. Insert "if no application has been made to the Minister—" before "written details".

Before I speak to these amendments, I turn my attention to Greens amendment No. 1. While I agree with Mr Ian Cohen's rhetoric, I am concerned that all this amendment does is omit lines 3 to 13 without inserting anything to replace them. It does not tally with the rhetoric. In case I have misunderstood it, perhaps the honourable member can explain what the amendment does. I am sure he will not be backward in letting me know if I have it wrong. It is interesting that, after dismissing our concerns on this issue during the second reading debate the Minister has moved an amendment that almost addresses everything we want.

Reverend the Hon. Fred Nile: That is right.

The Hon. DUNCAN GAY: It does not quite do that. Once again we have an amendment that does not quite match the rhetoric. The rhetoric from the Minister was that these applications have to be written, and he would expect that they would be written, but the amendment does not say that. In some respects the amendment is slightly better than mine. Using the New South Wales Farmers Association's rhetoric, my amendment tightens it up so that everything will have to go to the advisory committee. Therefore, I move:

That Government amendment No. 1 be amended by deleting the following words:

or

- (b) if the exemption order is to be made other than on the written application of a person—written details of the proposal to make the order.

The provision will now be that the application must be written. We have tightened up the legislation by doing two things: we have included a provision that applications have to be written, and we have made provision for the Minister to include more material. A combination the two amendments will do all that everyone has asked for, and we believe it is a better way to go.

Mr IAN COHEN [5.54 p.m.]: I appreciate the in-principle support of the Deputy Leader of the Opposition for my amendment. The Greens amendment maintains legislation as it was last year, as we prefer it in its original form, unamended.

Reverend the Hon. FRED NILE [5.55 p.m.]: I seek clarification from the Minister. I assume that all applications would be written. I cannot imagine that a company would apply for an exemption without providing details, and I certainly cannot imagine that a company would do that by making a telephone call to the Minister. The legal requirements need to be clear as to the boundaries, the land to be covered, et cetera.

The Hon. IAN MACDONALD (Minister for Primary Industries) [5.55 p.m.]: The Government will oppose Opposition amendments Nos 1, 2 and 3. Government amendment No. 1 makes it clear that should the Minister receive a written application for an extension order, he or she shall refer the application to the advisory council. Only in the absence of a written application would the Minister be required to refer written details of the proposal to the advisory council. Of course, the Minister may provide to the advisory council any other material that he or she considers relevant. The Government's amendment makes this clear, but I accept the amendment moved by the Deputy Leader of the Opposition to Government amendment No. 1.

Mr IAN COHEN [5.56 p.m.]: I would like to speak to the three amendments, as I failed in my attempt to explain to the Deputy Leader of the Opposition that the Greens amendment simply leaves the legislation as it was last year. That was the aim of our amendment, and we believe that to be superior to the direction that has been taken. Opposition amendment No. 1 does little to prevent the Government from weakening the established process of interaction between the Minister and the advisory council. The Government proposes to reduce the consultation process with the advisory council, and the Opposition amendment would only assist in this and would severely weaken the council's ability to give sound advice.

The Greens believe that the current Act deals sufficiently with a situation, that procedures are in place and working, and that they should remain. It is vital that the advisory council is provided with the best possible information. It has the expertise, and it is best placed to advise the Minister. I ask members not to allow the Government to walk away from that process. For the same reasons as I gave in relation to amendment No. 1, Opposition amendment No. 2 will support the Government's desire to walk away from the process of consultation with the advisory council, the expert panel established by the Government to advise the Minister. The Greens do not support Opposition amendment No. 3.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [5.58 p.m.]: I am fully aware that if the Government amendment, as amended by us, succeeds, my amendments will not be put. Mr Ian Cohen has

indicated that the Greens will not support them, and the Government does not support them, and as parts of the Government's amendment are better than mine, I seek leave to withdraw my amendments.

Opposition amendments Nos 1, 2 and 3, by leave, withdrawn.

The Hon. JON JENKINS [5.59 p.m.]: 559 I note that the Government will accept The Nationals amendment, but there is a slight grammatical error. The intent of the bill will still be very clear but the language of the bill will be slightly out of kilter. I am not sure how we deal with that. Perhaps the Minister will address this minor issue.

The Hon. IAN MACDONALD (Minister for Primary Industries) [6.00 p.m.]: My understanding is that inelegant language and grammatical errors caused by amendments agreed to in Committee are tidied up after the bill is passed by this Chamber.

Greens amendment No. 1 negatived.

Amendment of Government amendment No. 1 agreed to.

Government amendment No. 1 as amended agreed to.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [6.03 p.m.], by leave: I move Opposition amendments Nos 4 and 6 in globo:

No. 4 Page 3, schedule 1. Insert after line 13:

[2] Section 8 (6)

Omit "An exemption order may be conferred subject to conditions or unconditionally."

Insert instead:

An exemption order is subject to the following conditions:

- (a) each person that cultivates a GM food plant pursuant to the order must have insurance of a type approved by the Minister, for an amount that the Minister considers to be adequate to cover losses that may be suffered if the GM food plant or a descendant of that plant contaminates another person's crop,
- (b) before cultivating any GM food plant pursuant to the order, the Minister is to be provided, in a form approved by the Minister, with the precise location of the area in which the GM food plant is to be cultivated,
- (c) any machinery or equipment that comes into contact with a GM food plant must, as soon as practicable and before coming into contact with any plant other than a GM food plant, be cleaned using a method approved by the Minister,
- (d) any land on which machinery or equipment is cleaned in accordance with paragraph (c) must, as soon as practicable after that cleaning, be cleaned using a method approved by the Minister,
- (e) any land on which GM food plants are cultivated pursuant to the order (and any land required to be set aside as a buffer or pollen trap around that land) must be cleaned by burning, ploughing or any other method approved by the Minister, within 9 months of planting the GM food plants, or within 14 days of harvesting those plants, (whichever occurs first),
- (f) any other conditions imposed by the Minister.

No. 6 Page 3, schedule 1 [2], line 16. Omit "subsection (6)". Insert instead "subsection (6) (f)".

I move the two amendments together but, following a request, I ask that the questions be put seriatim with regard to paragraphs (a), (b), (c), (d), (e) and (f) in Opposition amendment No. 4. Whilst there is general support for most, there may not be support for one of them. However, I am sure that by the time I am finished talking about them, there will be support for all of them! Amendment No. 4 is a key amendment and it relates to insurance. There is concern in the community that insurance coverage is not available for this purpose. The Minister assures us that insurance is available. That is why I have inserted in the amendment that the Minister should cite the insurance and find the insurance acceptable. We are not asking some third party to be satisfied; we are saying that before the Minister grants an exemption he should see the insurance. That is protection for both the farmer and neighbours.

The New South Wales Farmers Association has no position on this issue. It encourages farmers who become involved in future trials of GM crops to investigate all insurance options available. Such advice is okay

so far as it goes: that is what farmers should do. But if there is no insurance and the exemption order has been granted, where does that leave the farmers? Under my amendment the Minister cannot sign off an exemption order without insurance that is approved by him. It is just another protection for farmers. The Minister assures us that there is plenty of insurance out there. I have concerns about whether there is. But if there is plenty of insurance available, it will not be a problem.

With regard to proposed paragraph (b), the New South Wales Farmers Association supports an open and transparent trial process, and that is what we are trying to achieve. In relation to proposed paragraph (c), the New South Wales Farmers Association supports the proposition that protocols must cover the movement of machinery post farm gate to limit the potential for contamination. The association supports also proposed paragraphs (e) and (f). The Opposition does not have any secret agenda with these amendments. We are entering into a trial situation and it is important that the trial be conducted carefully and properly. The amendments are designed to facilitate that.

Mr IAN COHEN [6.08 p.m.]: I support these amendments. I am convinced by the argument of the Deputy Leader of the Opposition that the Minister's involvement provides further protection for neighbours and other farmers and also that the process should be open and transparent. I am unconvinced by the argument that the New South Wales Farmers Association supports this proposition. For me, that is hardly a substantial argument in support of the amendments.

The Hon. Duncan Gay: I would rather have its support than not have it.

Mr IAN COHEN: I am sure you would rather have the association's support than ours. However, the Greens support the amendments, understanding that No. 6 is consequential upon No. 4. The points made by the Deputy Leader of the Opposition were valid with regard to the protection of vulnerable parties in this situation.

The Hon. JOHN TINGLE [6.10 p.m.]: The thrust of the amendment proposed by the Deputy Leader of the Opposition is reasonable given that, as he said, we must get it right. I have one problem about proposed paragraph (a), and it is probably not the problem he might expect. I am worried about the inclusion of the phrase "for an amount that the Minister considers to be adequate to cover losses". We may not always have a Minister of such shining rectitude as the current Minister. I would like clarification from the Deputy Leader of the Opposition about how the guidelines will be set. There must be some guidelines. A future Minister who is anxious to push this through could determine insurance at a ridiculous \$20. It would leave a gap you could drive a horse and cart through simply to provide for insurance that the Minister considers is adequate. The amendment needs to be tightened up and I would be grateful for clarification.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [6.11 p.m.]: I thank the honourable member for raising those concerns. I am trying not to be confrontational or obstructionist. As the honourable member said, one could drive a horse and cart through part of the amendment. It is true that with regard to that aspect highlighted by the honourable member I have left it to the Minister to decide. Most Ministers operating in the Westminster system do the right thing—even this Minister on occasion.

The Hon. Rick Colless: Not very often.

The Hon. DUNCAN GAY: Not as often as we would like. The key issue is the fact that there is insurance. The other part is not as important as the fact that a company is willing to offer insurance, and that is the issue I wanted to cover. The honourable member pointed out a potential loophole, but the fact that there is insurance is the overwhelmingly important point.

The Hon. IAN MACDONALD (Minister for Primary Industries) [6.12]: I would like to correct the statement of the Deputy Leader of the Opposition that paragraphs (a) to (f) proposed in his amendment are supported by the New South Wales Farmers Association. The association's brief of 9 November states:

No. 4 Part (a)

NO POSITION; the Association encourages farmers involved in future trials of GM crops to investigate all insurance options available.

N.B. For the following amendments No. 4 Parts (b) to (f) and No. 5, the Association does not see the need for additional prescriptive legislation under the Act. Whilst supportive of the sentiments of these amendments, the Association suggests that it is the role of the Advisory Council to ensure that the Minister is advised of the conditions that should be included in exemption orders.

That is the key point, and that is why we do not create legislation that burrows down to every element and construct within society. We have regulations and consultative councils for that purpose, and in this case we have an advisory council.

Various points were made about proposed paragraphs (a) to (f). If they have not read it, honourable members should read the *Government Gazette* dealing with exemption order No. 4, which is the application by the three proponents for an exemption order relating to trials in New South Wales. Every point made has been covered in detail by the very thorough advisory council. The order that I make at the end covers the points raised by the council. I dealt with the issue of insurance at some point in my second reading speech. However, I believe I should restate my comments on that matter. In effect, the result is a regulation. In reference to paragraph 41 with regard to liability the special supplement states:

The exempt person must hold and maintain, and must ensure that all subcontractors are beneficiaries under or otherwise hold and maintain, for the period of the trial and the post-harvest monitoring period, a public liability insurance policy that provides coverage as a minimum:

41.1 in respect of each occurrence, for at least the Australian dollar equivalent of 10 million Euros; and

41.2 for any losses it may incur in connection with the cultivation of GM canola and research trials conducted in accordance with any exemption order...

The Hon. Rick Colless: You are speaking in favour of the amendment.

The Hon. IAN MACDONALD: No, I am not. This is the sort of detail that is dealt with in regulations and the exemption order; it is not in legislation. Paragraph 42 states—and this is the nub of the point also made by the Deputy Leader of the Opposition:

The exempt person must, within 30 days of commencement of this order, provide evidence in writing to the Director General's satisfaction of insurance policies described in clause 41.

In other words, the exemption order requires that it be determined by the advisory council and then relayed to me as the Minister before I make such—

The Hon. Duncan Gay: That is a regulation that you may or may not enact.

The Hon. IAN MACDONALD: That is all right. If the Deputy Leader of the Opposition is successful in including these details in the legislation, every time we need to make a small change we will be forced to amend the Act. Whatever the words are, they could be altered tomorrow because the advisory council may consider that they are inadequate, that they do not cover the field properly or that they are totally unworkable. A reference to my being satisfied about the insurance starts to make it a very difficult scenario from the beginning. That is why the Government follows the model of having a framework setting the guidelines in legislation dealing with agriculture. We then have regulations, consultative committees and so on to flesh out the detail.

It is best regulatory practice not to include the finite points about dealing with the operation of an Act. If we were to do that, we would be required to amend the Act repeatedly. We cannot change the sections other than by introducing amending legislation. The sentiments are entirely within the exemption order, and that is where they should reside. The amendments deal with how the protocols can be determined. It is quite properly the role of the advisory council to do that, and that is why it was established. The best way to handle this is to stick with the wording in the bill. These issues are quite properly left to the advisory council to consider and to make a recommendation to the Minister.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [6.18 p.m.]: These conditions are the minimum, not the maximum. An honourable member asked earlier what would happen if we had a different Minister. Another Minister might not adhere to this. In many areas the Minister's provision goes beyond what we are asking for here. We are not to know what may or may not be in the regulation that is drawn up for an exemption next time. The next Minister might be the Hon. Michael Costa. We could have a gung-ho Minister. The present Minister is gung-ho enough, but the Government has even more gung-ho members who would climb up his armpits. We need a minimum. The Minister can and should go beyond this in the regulations. Despite what the Minister said, we have not gone into the minutiae. If we had, these amendments would not be as simple as they are. We must include in the legislation some basic tenets that a recalcitrant Minister cannot ignore.

That is why they have been included at this stage; we did not want to get involved with the minutiae. That a provision requiring neighbouring property owners to be advised properly and the Minister to be assured

of this before granting an application is in the bill rather than in a regulation is appropriate protection, in my view, for the farmers of New South Wales against a gung ho Minister who may or may not adhere to the principles.

The Hon. RICK COLLESS [6.20 p.m.]: Those who are considering their position on this matter should read the words of the proposed amendment: that an exemption order may be conferred subject to conditions or unconditionally. I know the Minister is handing around a copy of a *Government Gazette* that has the regulation in it, but the Act clearly states at the moment that an exemption order may be conferred subject to conditions or unconditionally. That means, to my mind, that all those things that the Minister is waving around and the so-called stringent conditions are not a requirement; according to the *Government Gazette* they do not have to happen; they are not compulsory. The document that the Minister has been waving about contains many conditions, but it does not have to happen that way; it is not compulsory. The purpose of this amendment is to ensure that the appropriate conditions are applied to the approvals.

Reverend the Hon. Fred Nile: The Deputy Leader of the Opposition said that this provision applies to the minimum position, but that is not stated anywhere. The bill refers to "the following conditions", not to "the following minimum conditions". The advisory council may want to apply more conditions. The amendment will take away the flexibility that the advisory council has to lay down specific conditions for each application, which may vary depending on where and what it is, and so on.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [6.22 p.m.]: I think the honourable member has misconstrued what I said. We have included matters that needed to be addressed. The Minister will still be able to enforce his own regulation when he grants the exemption. Reverend the Hon. Fred Nile argued that we have not said that this is the minimum. However, we have not said that it is the maximum, either. With this type of legislation, clearly some aspects must be adhered to and others are dealt with by regulation. Indeed, additional matters must be done by way of regulation. When the Minister grants an exemption, he is not precluded from inserting additional requirements in a regulation. If we were to accept the honourable member's argument, there would not be an amendment at all because the amendment would preclude him from using the regulation—and obviously that is not the case.

The Hon. IAN MACDONALD (Minister for Primary Industries) [6.23 p.m.]: I wish to reiterate why this amendment is not the way to go. The difficulty can be seen very clearly in paragraph (e) in the amendment. Honourable members should not lose sight of the fact that if this amendment is passed and is accepted by the other House, it will then be the law of the land. Proposed paragraph (e) states:

Any land on which GM food plants are cultivated pursuant to the order (and any other land required to be set aside as a buffer or pollen trap around that land) must be cleaned by burning, ploughing or any other method approved by the Minister, within nine months of planting the GM food plants, or within 14 days of harvesting those plants, (whichever occurs first).

That is a clear demonstration why legislation drafted this way is not best regulatory practice. The New South Wales Farmers Association stated clearly that while it was supportive of the sentiments of these amendments it suggests that the role of the advisory council is to ensure that the Minister is advised of the conditions that should be included in exemption orders.

The Hon. Duncan Gay: Where did the association say that? It didn't say that.

The Hon. IAN MACDONALD: Yes, it did. I have the document right in front of me. So here we have a very prescriptive clause that provides:

Within 9 months of planting the GM food plants, or within 14 days of harvesting those plants.

There may be a sound case for extending that time without taking any action. If the advisory council were to say to the Minister, "Look, action should be taken within 28 days," the Minister would have to prepare a bill to come before this Chamber to amend a condition that has been legislated. It is for that reason that the advisory council should advise the Minister of these specific points.

The Deputy Leader of the Opposition is trying to tightly bind the legislation by effectively putting regulations in the bill. I believe that will create difficulties downstream both for the advisory council and for the Minister—there is no doubt about that. You cannot have this sort of level of detail in a bill without running into difficulties downstream. If this is agreed to, we will be coming back to debate this bill again.

Mr Ian Cohen: We already have. We are back for the second time.

The Hon. IAN MACDONALD: No, we have only come back once, but it will be necessary again if these prescriptions are included. These matters should be dealt with by regulation, that is through the exemption order. That was agreed to when we framed the legislation. Of course, in practice there have been some difficulties, and that is why we have this amendment bill. But the more of these regulatory-style clauses that are incorporated in the bill, the more certain it will be that we will have to come back to the Parliament to amend the legislation in order to get around the difficulties created by this amendment.

I have a lot of faith in the advisory council. The constitution of the advisory council was agreed to by this Parliament. The membership of the council was determined by this Parliament, not by me, and it was done by way of amendments in this Chamber. If members recall, initially New South Wales did not have an advisory council—as most States do not. However, as a result of my accepting amendments from honourable members in this place—from Reverend the Hon. Fred Nile and others—we established an advisory council. The council has a membership of experts to determine these sorts of issues. The Government and the New South Wales Farmers Association believes that the best way to deal with these issues is to leave them to the advisory council.

The Hon. JOHN TINGLE [6.27 p.m.]: I gather that the main argument between the Government and the Opposition is whether the matters raised by the Hon. Duncan Gay, particularly in amendment No. 4, should be a matter of regulation or legislation. That is basically correct, is it not?

The Hon. Duncan Gay: Yes.

The Hon. JOHN TINGLE: The regulations gazetted on 25 May this year relating, for instance, to paragraphs (c) and (d) of amendment No. 4, deal with harvesting and the transportation of canola. Clause 20 provides that an exempt person must, within 30 days of the commencement of this order, provide evidence in writing to the director-general's satisfaction of the measures to be undertaken to clean harvesting equipment following harvested GM canola. There are other references to the cleaning of the equipment. I cannot, at this stage, find an equivalent section in the regulations that covers paragraph (d) of amendment No. 4 about the cleaning of land. I accept that they may be there, but I have not found them because I am only now looking at this document.

It seems to me that they are so central to the avoidance of contamination from GM food crops that it would not hurt to have them in legislation. I cannot see how they would ever need to be changed except to be strengthened. I believe that the amendments of the Hon. Duncan Gay are more specific than what is contained in the regulations but they do not argue with them. Therefore I suppose the question is whether the Committee believes this should be in legislation or regulation. Either would be important, but I think legislation may be more enduring and may, in the long run, be more effective.

The Hon. JON JENKINS [6.29 p.m.]: The Minister may frown when I say this, but I think it is good that this legislation comes before the Parliament on a fairly regular basis. The field of genetic engineering and molecular biology is very fast moving. Indeed, this is the third time we have debated this type of legislation in the 12 months that I have been a member of this Chamber: November last year, May this year, and now. I think it was the first legislation I voted on when I became a member, but I will have to check *Hansard*. I do not necessarily agree with the Minister's view that this type of legislation should not be revisited on a regular basis. However, I do have some concern about fine details being included in the legislation. It makes the processes restrictive, but, conversely, it opens an avenue for the Minister—not necessarily this Minister but another Minister at some future time—to make the process easier.

The Hon. Duncan Gay: Laissez-faire?

The Hon. JON JENKINS: It is definitely not laissez-faire. It is likely that I will support the Government because the advisory council is probably the right body to make these restrictions. As I understand it, the Minister cannot ignore the recommendations of the advisory council without giving written reasons for doing so. The matter will then come back into the public domain and before the Parliament, and that would occur before the exemption order was given.

Mr Ian Cohen: This is a lovely speech.

The Hon. JON JENKINS: No, it is explanation of why I am voting the way I am.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 17

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

Noes, 19

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

Pairs

Mr Gallacher	Ms Robertson
Mrs Pavey	Ms Tebbutt

Question resolved in the negative.

Amendments negatived.

[The Chairman left the chair at 6.37 p.m. The Committee resumed at 8.15 p.m.]

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [8.15 p.m.]: I move Opposition amendment No. 5:

No. 5 Page 3, schedule 1 [2]. Insert after line 15:

- (6A) As soon as practicable after receiving information of the kind referred to in subsection (6) (b), the Minister is to:
- (a) publish that information in the same manner as a notice of an exemption order is published under section 9, and
 - (b) forward that information to each of the following:
 - (i) each local council for an area (within the meaning of the *Local Government Act 1993*) in which the GM food plants are to be cultivated,
 - (ii) each board (within the meaning of the *Rural Lands Protection Act 1998*) for a district in which the GM food plants are to be cultivated,
 - (iii) any other person, or person belonging to a class of persons, prescribed by the regulations.

This amendment, to which I referred during the second reading debate, relates to the location of trials and letting neighbours know where trials are. The Minister said that information about the global positioning satellites [GPS] is provided in the *Government Gazette* and on the net. I accept that some farmers have GPS, but not necessarily the farmer who lives next door to a property on which GM crops are being grown. We believe that the local rural lands protection boards, local newspapers, and local farmers deserve the right to know what is happening next door.

Mr IAN COHEN [8.16 p.m.]: The Greens would have preferred that notification of an exemption order include details of the area of land involved. However, we support the amendment as it seeks to oblige the Minister to distribute the details of an exemption order more widely than is currently required. It is an absolutely valid point that, if we are to relate effectively to the farming community, we need to provide this information in the media that is most widely received by the farming community.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.18 p.m.]: The Government does not support this amendment. As has been clearly shown, the Act already compels me to publish all exemption orders in their entirety in the *Government Gazette*, which, of course, is publicly available. The Act also requires me to cause notice of each exemption order to be published in the papers and on the department's web site. Of course, this is done.

Reverend the Hon. Dr Gordon Moyes: Did you say which papers?

The Hon. IAN MACDONALD: Local papers and one of the Sydney papers—I think it is the *Sydney Morning Herald*. As well as that, neighbours are notified. The advertisements refer to the availability of the entire exemption order on the web site, from the *Government Gazette* or from the departmental contact officer. The locations of all GM canola trials are specified in the exemption orders. As I have already outlined, these orders are widely available to the public, thus the proposed amendment is not necessary. Once again, the amendment is contrary to the best practice regulation, and I do not support it.

Mr IAN COHEN [8.19 p.m.]: The Minister said that neighbours are to be notified. Does that mean neighbours with contiguous borders to the specific trial plot, or does it mean neighbours in the area? The Minister is well aware that there is concern about pollen dispersion and other factors. As often happens with notification of other issues in country areas, neighbours whose land borders the property might be informed, but there is a potential for other neighbours to be affected.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.20 p.m.]: Again, this is covered in the *Government Gazette* and on the web site. The special supplement states:

neighbour means:

- if the site on which the GM canola are growing comprise part of a holding, all occupiers of holdings that are adjacent to that holding; or
- if the site on which the GM canola are growing comprise the whole of a holding (the **first holding**), all occupiers of holdings (**second holdings**) adjacent to the first holding, and all occupiers of holdings that are adjacent to the second holdings.

The terms "holding" and "occupier" have the same meaning as in the *Rural Lands Protection Act 1998*.

In other words, it is everyone around the site.

Mr IAN COHEN [8.21 p.m.]: I do not mean to split hairs, but does that mean "contiguous" or "in the area of"?

The Hon. Ian Macdonald: It means contiguous but adjacent to the holding.

Mr IAN COHEN: So it is with common borders, so to speak.

The Hon. Ian Macdonald: Yes.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [8.21 p.m.]: To clarify the matter for Mr Ian Cohen, it means "contiguous" and "with a common border". My argument remains the same. This is not in the legislation; it will be at the whim of the Minister to include that information. Frankly, we need more.

Reverend the Hon. Fred Nile: It's in the regulation.

The Hon. DUNCAN GAY: It is in the regulation, which is drawn up by the Minister.

Reverend the Hon. Fred Nile: We will repeal the regulation.

The Hon. DUNCAN GAY: The regulation is not part of the legislation.

The CHAIRMAN: Order! The Deputy Leader of the Opposition will address his comments to the Chamber, not to individual members.

Mr IAN COHEN [8.22 p.m.]: Considering the nature of the issues that have been raised time and again with this type of crop production, it would seem reasonable to me that the Committee be given an

assurance that landowners and users of land in the close vicinity, as well as those who are adjacent, would be notified. Given the debate that has occurred in this Chamber, and the potential for the spread of pollen and other GM contaminants, for want of a better way to describe them, it is reasonable to ask that neighbours in the area be notified.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.23 p.m.]: Mr Ian Cohen has shown exactly why we need to leave the situation as it is. What is the definition of "reasonably close proximity"? An advisory council has been constituted by this Chamber, and it can advise us as to whom we should advise.

The Hon. Duncan Gay: In other words, "Trust me."

The Hon. IAN MACDONALD: No, I am not saying trust me.

The Hon. Duncan Gay: You are saying that.

The Hon. IAN MACDONALD: No, I am not. I am saying that on these issues I will agree with the recommendations of the advisory council. I would be silly not to.

Mr IAN COHEN [8.24 p.m.]: I just want to make it clear that the Minister is simply construing the whole debate one way. I would have thought it is quite obvious that I am making a general recommendation that there be an adequate degree of transparency. I do not know how the Minister can say that is a reason to leave it to his discretion. It is clear that honourable members have had a lot of debate about buffer zones, what is safe, and what neighbours should be notified directly on this matter. Surely a reasonable area is not just farmers whose land has a common border with the land on which there is a trial crop.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.24 p.m.]: If anyone had noted, during debate on the last occasion the proceedings of the advisory council were exposed for all to see via a member or two choosing to go to the media at every opportunity they could to say precisely what they felt. Worry about this issue is completely useless.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [8.25 p.m.]: It is interesting that the Minister has now chosen to have a go at the advisory council. I am advised that this whole raft of amendments was developed without consultation with the advisory council. The first it saw of it was when they were introduced into Parliament.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 19

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

Noes, 18

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

Pairs

Mr Gallacher
Mrs Pavey

Ms Robertson
Ms Tebbutt

Question resolved in the affirmative.

Amendment agreed to.

Mr IAN COHEN [8.34 p.m.]: I move:

No. 1 Page 3, schedule 1 [2], line 16. Omit "may". Insert instead "must".

This amendment will ensure that conditions relating to the cultivation, harvesting, handling, storage, transport, use and disposal of GM food plants subject to an exemption order under the Act are mandatory rather than discretionary. I commend the amendment to the Committee.

The CHAIRMAN: Order! For the benefit of members who are trying to follow the debate I clarify that the Greens circulated two sets of amendments. We are now dealing with the second set of amendments, which appear on sheet C-022B. Only amendments 1, 2 and 3 can be considered; the others are outside the leave of the bill.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.36 p.m.]: The Government opposes Greens amendment No. 1. Amendment No. 2 is also opposed as it is linked to amendment No. 1: they are unnecessary. The Gene Technology (GM Crop Moratorium) Act already allows for exemption orders to include appropriate conditions for each application to cultivate a GM crop. Additionally, section 13 of the Act states that one of the functions of the advisory council is to provide advice to me in relation to proposed GM research trials. I followed carefully the advice of the council in drafting exemption orders 4, 5 and 6, gazetted on 20 May 2004. As honourable members can see, these orders include conditions with respect to post-harvest issues. These conditions were recommended to me by the council. The proposed amendments would diminish the role of the council to being a mere rubber stamp, and this Government does not support them.

Amendment negatived.

Mr IAN COHEN [8.37 p.m.]: I move:

No. 2 Page 3, schedule 1 [2], line 17. Omit "relate to one or more". Insert instead "take into account each".

This amendment is an extension of amendment No. 1, making it mandatory that an exemption order be subject to conditions that take into account the cultivation, harvesting, handling, storage, transport, use and disposal of GM food plants as well as the ongoing use or monitoring of the land where GM plants have been cultivated. I understand that my later amendments are not able to be debated, particularly amendment No. 5 on strict liability, as it has been covered by other amendments. But despite the Minister giving a written assurance to this Chamber 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", he curiously has not taken the opportunity to ensure that his undertaking is fulfilled. It is worth noting here that it should not have to be for members of this Chamber to resolve this issue of liability.

The Hon. Ian Macdonald: Point of order: The honourable member is dealing with an issue that is not before the Committee.

The CHAIRMAN: Order! I uphold the point of order. The matters being referred to by Mr Ian Cohen are outside the scope of the amendment under consideration. As Greens amendment No. 5 is not being considered Mr Ian Cohen should refrain from referring to it while Greens amendment No. 2 is under consideration.

Mr IAN COHEN: I appreciate that.

The Hon. Ian Macdonald: You had plenty of time before to deal with that.

Mr IAN COHEN: I acknowledge that. If the Minister has sought independent legal advice I call on him to table it for the information of the Chamber. I commend Greens amendment No. 2 to the Committee.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.39 p.m.]: The Government opposes Greens amendment No. 2 for the reasons we opposed Greens amendment No. 1.

Amendment negatived.

Reverend the Hon. FRED NILE [8.40 p.m.]: I move Christian Democratic Party amendment No. 1:

No. 1 Page 3, schedule 1 [2]. Insert after line 22:

- (6B) The Minister is to consult with the Australian Grain Harvesters Association in relation to the harvesting of GM food plants and the cleaning of equipment that has been used to harvest such plants.

I propose this amendment because of the proposition put repeatedly by the Greens and The Nationals that the membership of the advisory council be expanded to 11 members, including a person appointed on the nomination of the Australian Grain Harvesters Association. This is a better way to proceed. It is not necessary to have a representative of the association as a member of the advisory council, which has already met many times. The council should be consulted, as would be required by my amendment. The Minister said in his second reading reply that he would consult, but this amendment would remove any doubt.

Mr IAN COHEN [8.41 p.m.]: The Greens have some sympathy with the Christian Democratic Party amendment regarding the Australian Grain Harvesters Association and is happy to support it. However, I move:

That the amendment be amended as follows:

Insert after "Association", "before an exemption order is granted".

This amendment would considerably strengthen and clarify Reverend the Hon. Fred Nile's amendment.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.41 p.m.]: It is highly unusual to include criteria instructing an advisory council to consult with a particular body. Notwithstanding that, the Government is prepared to support both amendments. Of course, when it dealt with the matters relevant to the proposal put to it by the three proponents earlier this year, the advisory council consulted with the grain harvesters.

Reverend the Hon. FRED NILE [8.42 p.m.]: The amendment requires the Minister, not the advisory council, to consult with the harvesters.

The Hon. Ian Macdonald: That is ridiculous. The advisory council should consult and put recommendations to me.

Reverend the Hon. FRED NILE: I will clarify the situation. This amendment requires the Minister to consult. I do not see a problem with the Greens amendment. I assume that with every exemption order there will be some reference to grain harvesters' equipment. This amendment simply allows them to have some input into the Minister's thinking.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [8.43 p.m.]: It might be churlish of me to point out—

The CHAIRMAN: Never!

The Hon. DUNCAN GAY: It has never stopped me in the past, as the Chairman indicates. When I first proposed that there be a council, the Australian Grain Harvesters Association was included in the membership for the simple reason that the most important group in farming in respect of the contamination and spreading of GM crops or non-GM crops is the grain harvesters. Reverend the Hon. Fred Nile moved the amendment to have a different group not including the association.

Reverend the Hon. Dr Gordon Moyes: I included it in my speech.

The Hon. DUNCAN GAY: Although he was supportive in his speech, the Hon. Gordon Moyes' voting behaviour was not. My proposal before we went into Committee about including the Australian Grain Harvesters Association in the advisory council would have allowed this as well, but the Christian Democratic Party voted against that.

Reverend the Hon. Fred Nile: For good reasons.

The Hon. DUNCAN GAY: Reverend the Hon. Fred Nile does not have a heart. He heard what I said and has frightened the Minister. I suspect that that is a surprise to both him and the Minister. Mr Ian Cohen quite rightly raised a concern about when and how consultation should be conducted. Although I will support the amendment, I am not sure what "consulting" means in this situation. It could be a telephone call, or an exchange of letters or emails. It is not explained. One member said to me earlier in respect of one of my amendments that he could drive a cart and horse through it. If this Minister decides not to do the right thing—as we have seen on occasions—

The Hon. Ian Macdonald: Like what?

The Hon. DUNCAN GAY: This Minister has fought to exclude the Australian Grain Harvesters Association from the advisory council. His supporters have spread the word that members of the association are a mob of rabid greenies and are not to be trusted. These blokes run machines worth between \$500,000 and \$1 million, they listen to John Laws and country music, sniff diesel smoke and keep the dream alive. They could not be further from greenies.

Mr Ian Cohen: They could be our new constituency. Watch out!

The Hon. DUNCAN GAY: They could be the Opposition's new constituency, but they certainly will not be the Government's constituency after this. They are professionals and they know what they are doing. It is in their interests to look after their clients. One of my great disappointments is the lack of support that the association has had from its colleagues in the New South Wales Farmers Association. I do not know what is happening. It might be a bit of professional envy. Having said all that, might I say that if this is all we can get we will take it and we will support it.

Reverend the Hon. Dr Gordon Moyes: It gets better.

The Hon. DUNCAN GAY: If it does get better, I will be pleased to hear it.

Reverend the Hon. FRED NILE [8.49 p.m.]: It is obvious that there has been some confusion over whether it should be the Minister or the advisory council because the consultation should be going on before the exemption order is granted, and the area of consultation is the actual advisory council, not the Minister. The Minister does not consult with individual bodies. I seek leave to amend my amendment by omitting the words "The Minister" after the words "Before the exemption order is granted" and inserting instead the words "the Advisory Council".

Leave granted.

Amendment, by leave, amended.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.50 p.m.]: The Government agrees with that necessary amendment because the way it was constructed it indicated that I would be happy to consult with the Grain Harvesters Association before I had even consulted with the advisory council.

Mr IAN COHEN [8.50 p.m.]: This amendment is losing its backbone vertebra by vertebra at this rate. However, having gone this far, we accept it. The amendment clearly indicates the reasonableness of what I think is Greens amendment No. 4, which I understand is similar to, if not the same as, Opposition amendment No. 7, which would resolve the problem far more effectively.

Amendment of Mr Cohen of amendment as amended by leave agreed to.

Amendment as amended agreed to.

Mr IAN COHEN [8.52 p.m.]: I move Greens amendment No. 3 on sheet C-022B:

No. 3 Page 3, schedule 1. Insert after line 33:

[3] Section 9 Notification of making an order

Insert after section 9 (1):

(1A) In the case of an exemption order, the Minister is to cause to be published, with the notice of the order, details of the area of land to which the exemption order applies.

[4] Section 12 Director-General to keep register of orders

Insert after section 12 (2):

(2A) The register is also to contain, in the case of an exemption order, details of the area of land to which the exemption order applies.

This amendment provides that the Minister publish the details of the land to which the exemption order applies so that the surrounding farmers and the community are aware of where the trial is taking place and can be aware of the risks involved and can take action to prevent contamination. We believe that everyone should know exactly where a trial is occurring under a moratorium in this State. There has never been any incidence of vandalism concerning this in Australia so there is no need to keep the trials secret. Secrecy only causes people to be concerned about what is going on. The amendment also provides for the director-general to keep a register of any exemption orders with details of the area of land to which the order applies. The Minister referred earlier to his faith in the advisory council. I would like to ask him why, if he has so much faith in the advisory council, he has reduced consultation with them in this bill. I commend the amendment to the Committee.

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.53 p.m.]: The Government does not support this amendment. The amendment is unnecessary as details of the location of all trial sites are contained within the exemption orders. The exemption orders are publicly available as they are published in the *Government Gazette*, on the departmental web site and in the newspapers. They are also available, on request, from the departmental contact person. To support this amendment would be contrary to the Government's commitment to best regulatory practice. It is therefore not supported.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [8.53 p.m.]: This amendment is similar to the one that the Opposition moved earlier and was lost, so obviously I support the amendment in principle. Given that we lost our amendment in the division I can see no point in taking this amendment to a division, but I certainly support it in principle. I find it ridiculous that we cannot get support from the people who should support us in making this compulsory within the legislation. We are being asked to trust the Government, but we have an opportunity to put this in the legislation. It must be remembered that this is the Carr Labor Government, and frankly, it cannot be trusted.

We did not have the numbers last time and it is one of those unusual situations in which The Nationals, the Liberals and the Greens are together. I would have thought that the people who should stand up for farmers would be there with us to make sure that this is right for farmers. We agree with the amendment in principle.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 19

Mr Breen	Mr Gay	Mr Ryan
Dr Chesterfield-Evans	Mr Harwin	Mr Tingle
Mr Clarke	Mr Lynn	Dr Wong
Mr Colless	Mr Oldfield	
Ms Cusack	Ms Parker	<i>Tellers,</i>
Mrs Forsythe	Mr Pearce	Mr Cohen
Mr Gallacher	Ms Rhiannon	Ms Hale

Noes, 18

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

Pairs

Miss Gardiner
Mrs Pavey

Ms Robertson
Ms Tebbutt

Question resolved in the affirmative.

Amendment agreed to.

Schedule 1 as amended agreed to.

Title agreed to.

Progress reported and leave granted to sit again.

TABLING OF PAPERS

The Hon. Tony Kelly tabled the following reports:

Annual Reports (Statutory Bodies) Act 1984—Reports for the year ended 30 June 2004:

Health Foundation
Landcom—Volumes 1 and 2
NSW Nursery Industry Services Committee
Roads and Traffic Authority

Ordered to be printed.

HEALTH LEGISLATION FURTHER AMENDMENT BILL**Second Reading**

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [9.05 p.m.]: I move:

That this bill be now read a second time.

The second reading speech was delivered by the Minister in the other Chamber and I seek leave to have it incorporated in *Hansard*.

Leave granted.

This bill proposes amendments to a number of pieces of health legislation, namely, the Dental Technicians Registration Act 1975, the Health Services Act 1997, the New South Wales Institute of Psychiatry Act 1964, the Optical Dispensers Act 1963 and the Public Health Act 1991. The bill also proposes the repeal of the Nursing Homes Act 1988. I commence with the repeal of the Nursing Homes Act and the associated amendments to the Public Health Act. The Nursing Homes Act was enacted in 1988 and requires all nursing homes in New South Wales to obtain a licence to operate from the Director-General of Health. The Act does not apply to those facilities that were previously known as hostels.

The Nursing Homes Act predates the Commonwealth Government's Aged Care Act 1997, which establishes a comprehensive funding and regulatory regime for aged care facilities for both nursing homes and hostels. Therefore, nursing homes in New South Wales are currently regulated by both State and Commonwealth governments. This is in contrast to other States, where the Commonwealth alone regulates nursing homes. As part of the Government's obligations under the competition principles agreement the Department of Health conducted a review of the Nursing Homes Act. That review concluded that as the Commonwealth's Aged Care Act provides a comprehensive regulatory and funding system for aged care the Nursing Homes Act adds an additional and unnecessary layer of regulation to the aged care sector.

There has long been concern by nursing home operators that duplicate State Government regulation of nursing homes places additional barriers to the opening of new places by service providers. The repeal of the Nursing Homes Act demonstrates the Government's commitment to remove any obstacles to bringing new aged care places on line and it will assist families in securing a place for a family member who requires dedicated professional care. While the Commonwealth regulatory system is comprehensive and incorporates a wide range of powers to sanction poor performers there is one area where the Government is concerned that Commonwealth regulation is inadequate and where it is necessary to retain State Government regulation. This is a strong commitment from the Government in the area of professional nurse staffing.

Under the Nursing Homes Act all licensed facilities are required to employ a chief nurse to be responsible for the overall care of the residents of a nursing home. Licensed nursing homes are also required to ensure that there is at least one registered nurse on

duty at all times in the facility. The Commonwealth's legislation does not include requirements for minimum nurse staffing. Therefore, cognate to the repeal of the Nursing Homes Act, amendments to the Public Health Act have been prepared to carry over the current staffing requirements from the Nursing Homes Act. For that purpose a definition of "nursing home" is to be included in the Public Health Act. That definition includes any facility that is currently licensed under the Nursing Homes Act or that was approved in principle for licensing, any facility that in the future is granted high-care residential places under the Commonwealth's Aged Care Act and any other class of facility prescribed by the regulations.

This comprehensive definition is designed to retain the status quo in relation to nurse staffing. The inclusion of any facility that in the future is granted an allocation of high-care places is intended to ensure that there is a level playing field and that residents in a facility that would have been required to be licensed under the Nursing Homes Act will be guaranteed the same minimum staffing levels as those facilities that were, in fact, licensed. The power to make regulations to include additional classes of facilities in the definition of "nursing home" will provide a mechanism to quickly respond to any changes in the way the Commonwealth allocates aged care places. This is particularly relevant, given the recent Commonwealth review of aged care funding.

I take this opportunity to provide the House with an undertaking that the Government will monitor developments in the Commonwealth's classification of aged care places and will regulate as required to ensure that any changes do not allow facilities providing care to the most dependent residents to avoid their obligations to have a registered nurse on duty at all times and to appoint a director of nursing. Officers of the Department of Health have undertaken detailed consultation with peak aged care industry bodies and the New South Wales Nurses Association on these matters. It is important to acknowledge that all participants in these consultations have acted in good faith and done their best to reach agreement on the most appropriate mechanism to meet the Government's commitment to maintain nurse staffing levels for the benefit of nursing home residents.

The proposed amendments to the Public Health Act achieve an appropriate balance. It is further proposed to amend the Public Health Act to delete section 52. This section requires the Minister to approve crematory equipment and apparatus. Consistent with the Government's commitment to the competition principles agreement, the Department of Health undertook a review of the Public Health Act, which recommended removing that section. It was found to be overly regulatory. The Environment Protection Authority has oversight of industry operations with its regulations governing equipment and omissions.

The next proposed amendment is to the Dental Technicians Registration Act 1975 to bring the maximum penalties for breaches of the Act and the regulations into line with the penalties that apply under other health professional registration Acts in New South Wales. The proposed increase for penalties for an offence under the Act is from five penalty points to 50 penalty points or from \$550 to \$5,500. It is proposed to increase the penalties that can be imposed by regulation from two penalty points to 10 penalty points, or from \$220 to \$1,100. It is important to ensure that the penalties remain comparable to, and consistent with, similar penalties applying to other health professionals.

It is proposed to amend the Health Services Act 1997 to support NSW Health's shared corporate services program. The report of the Independent Pricing and Regulatory Tribunal entitled "New South Wales Health: Focusing on Patient Care" confirmed that the potential exists for significant savings to the health system through consolidation of corporate services and other support functions and it recommended that a shared corporate services entity be established. There already has been significant work undertaken to reform the delivery of corporate services across area health service boundaries. In order to make further progress in the efficient and effective provision of corporate and health support services, amendment of the Health Services Act is now required to establish a shared corporate services vehicle for the public health system. The proposed vehicle is through the establishment of a Public Health System Support Division of the Health Administration Corporation, a corporation established under the Health Administration Act 1982.

The concept of shared corporate service delivery is now being embraced here and overseas, in both the public and private sector, as an effective means of improving corporate and business service delivery within a large organisation. In NSW Health, the Shared Corporate Services Program will drive this process. Included in the program are all health support services such as linen and catering services, as well as traditional corporate services such as human resources, finance, information technology, asset management and administrative services. The program will see services delivered through local and regional networks by public sector staff under an umbrella service delivery structure in the form of a Public Health System Support Division of the Health Administration Corporation. This structure will provide maximum flexibility so as to allow the delivery of services in the most efficient manner.

The bill includes provisions to facilitate the transfer of public health system staff engaged in corporate and health support service delivery to the Public Health System Support Division of the Health Administration Corporation, or the use of such staff by the Health Administration Corporation. I emphasise for the benefit of members that any employee of a public health organisation who is transferred to the Public Health System Support Division of the Health Administration Corporation will retain all existing entitlements and employment conditions. Like all other staff in the public health system, employees of the Health Administration Corporation engaged in the Public Health System Support Division to provide health support and corporate services within that system will be employees of NSW Health.

These proposals are about achieving the maximum benefit to the public health system by establishing a division of the Health Administration Corporation as the public sector provider of health support services. Proposed section 126G ensures that the shared corporate services program can be implemented in a consistent manner across the public health system, and that maximum benefit of the program can be realised. This clause provides that compliance with Ministerial directions concerning the provision and use of corporate and health support services under the new shared model does not expose public health organisations or the Health Administration Corporation to potential action under Part IV of the Commonwealth Trade Practices Act. Section 51 of the Trade Practices Act permits the statutory authorisation of conduct that might otherwise fall under Part IV, and there is precedent for its use in these circumstances in the form of section 134O of the Victorian Health Services Act 1988.

I turn now to the proposed amendments to the New South Wales Institute of Psychiatry Act 1964. The purpose of these amendments is to ensure that the institute may operate outside the territorial boundaries of New South Wales without seeking Ministerial approval, and to address administrative difficulties experienced by the institute in relation to the incurring of expenditure and the employment of staff. One of the primary roles of the institute is the provision of education and training to

health professionals and other members of the community in the field of mental health. For over 30 years the institute has been engaged in providing education and training to individuals, both interstate and overseas, and has been recognised by the World Health Organisation for this role. However section 4 (3) of the Act requires Ministerial approval before the institute may operate outside the borders of New South Wales. In order to facilitate the institute's ongoing collaborations with other jurisdictions and to remove unnecessary administrative impediments to those collaborations, it is proposed to remove the requirement that Ministerial approval be obtained before the institute operates outside New South Wales.

The second series of amendments to the Act is to allow the institute, subject to the Minister's approval, to arrange for the employment of its own staff. This amendment will, if approved, make administration of the institute more efficient. Finally, it is proposed to provide the institute with a general power to delegate its functions to its staff. This power of delegation will allow the administration of the institute to be undertaken in a more effective and efficient fashion.

The bill also contains proposed amendments to the Optical Dispensers Act 1963 to address serious concerns about the health risks associated with coloured and novelty contact lenses. The Optical Dispensers Act restricts the dispensing and sale of optical appliances. The Act currently defines an optical appliance as an appliance designed to correct, remedy or relieve any refractive abnormality or optical defect of sight. This definition does not include coloured or novelty contact lenses that serve no corrective purpose. Therefore, any person, irrespective of their training or expertise in eye care, may carry out the sale and dispensing of those contact lenses. The United States Food and Drug Administration [FDA] issued a consumer warning on the dangers associated with such lenses. The FDA warned that improper use of such lenses could lead to loss of sight and it recommended that consumers should only obtain lenses following proper fitting by an eye care professional.

It is therefore proposed that the Optical Dispensers Act be amended to ensure that novelty and coloured contact lenses may be obtained only from registered optometrists and licensed optical dispensers. The proposed amendment will ensure that the supply of lenses remains within the purview of regulated health professionals and helps to ensure that lenses are properly fitted and that consumers receive proper attention and advice when purchasing lenses. While the proposed amendments will ensure that those lenses can be retailed only by optometrists and optical dispensers, there will be no requirement for purchasers to obtain a prescription. The proposed amendment will not affect current business practice and will not disadvantage manufacturers or suppliers who have advised the Department of Health that their lenses are distributed only via optical dispensers and optometrists. I commend the bill to the House.

The Hon. ROBYN PARKER [9.06 p.m.]: The Health Legislation Further Amendment Bill proposes amendments to the New South Wales Institute of Psychiatry Act 1964, the Dental Technicians Registration Act 1975, the Health Services Act 1997, the Optical Dispensers Act 1963 and the Public Health Act 1991. The bill will also repeal the Nursing Homes Act 1988. I advise at the outset that the Opposition will not oppose the bill, but I wish to raise certain aspects of the bill.

Amendments to the New South Wales Institute of Psychiatry Act to remove requirements for the institute to apply for the Minister's approval before operating outside New South Wales are commonsense and practical provisions to facilitate the ability of the institute to delegate administrative functions. From time to time it is necessary to update legislation and this amendment will allow for modern-day practices and standards to apply. Indeed, to some extent the institute has already been operating in this fashion and has received recognition from the World Health Organisation for its role in this regard. It should not be necessary for the institute to seek ministerial approval to operate outside New South Wales. Other amendments will allow the institute to make arrangements with respect to the employment of its own staff and the delegation of functions of its staff.

The bill also removes Public Health Act provisions requiring the Minister for Health to approve crematory equipment and apparatus. These are sensible measures, particularly in light of the fact that the Environment Protection Authority already provides oversight and regulation in that regard and it is the more appropriate body to do so. The bill amends the Dental Technicians Registration Act 1975 to increase the penalty points from five points to 50 points for breaches of the Act. It brings the penalties into line with other health professional registration Acts and, therefore, it is appropriate for the penalties to be updated. Honourable members will recall that recently the House debated increasing penalty points for other health care providers. The penalty points to be imposed through regulation also will be increased from two penalty points, or \$220, to 10 penalty points, or \$1,100. As I noted at the outset, these are sensible and timely amendments. However, I make some cautionary comments with respect to the repeal of the Nursing Homes Act and associated amendments to the Public Health Act.

The Nursing Homes Act 1988 requires all nursing homes in New South Wales to obtain a licence from the Director-General of Health to operate. However, the Act does not apply to those facilities previously known as hostels. The Nursing Homes Act came into existence prior to the Commonwealth Government's Aged Care Act 1997. The Commonwealth Act establishes a funding and regulatory regime for aged-care facilities for both nursing homes and hostels. Unlike the situation in other States, in New South Wales nursing homes are currently regulated by both the New South Wales and the Commonwealth governments. Therefore, it is appropriate to assist nursing homes by removing one level of government regulatory accountability so that they have to comply with only one set of standards and regulations.

There is some concern about professional nursing staffing under the New South Wales Public Health Act. The sector has raised two key concerns. The first is that consumer protection be built into the existing Commonwealth legislation. If a nursing home is found to be wanting in a particular regard, sanctions can be enforced by the Federal Department of Health and Ageing, and history shows that that can include withdrawal of a licence and closure of a home. The Act also provides for a complaints mechanism and resolutions regime. Sanctions have been applied and nursing homes have been closed to ensure that the aged and the infirmed in our community get the care they deserve.

The sector's argument is that if professional nursing standards in a nursing home are not up to scratch and there are resultant problems, the Commonwealth legislation already has sanctions in place. It is concerned also that one unintended consequence may be that the provisions are a disincentive to the future provision of high care, particularly with small numbers of high-care places in country areas, such as those in the Hunter where I live. The sector is justifiably concerned that nursing homes will have to pay for both the director of nursing and 24-hour coverage by a registered nurse. The proposed amendments to the Public Health Act require that the director of nursing be a nurse, and that 24-hour care be available on site by a nurse. This would mean that smaller acute-care establishments, particularly in country areas, may have to double up when the director of nursing is in attendance during nursing hours and could act as a qualified nurse providing that service.

I ask the Minister to consider whether that concern is valid and, if so, address it. Perhaps we could hear more from the Minister on that point. The shadow Minister for Health, Barry O'Farrell, raised also the concerns of some associations about low-care places, which were previously known as hostels. I note that the Minister in his second reading speech in the other place provided an assurance that new staffing provisions will apply only to existing nursing homes and to high-care places allocated under the Home Care Act. That is important because the Aged Care Industry Council indicated that it would have strong opposition to the legislation if it were extended to cover low-care establishments. Perhaps the Minister can confirm that that is still the case.

As I said, there is concern about other aspects of the bill. The Board of Optometrical Registration and the Optical Dispensers Licensing Board have looked at ways in which cosmetic contact lenses are supplied to the general public. I am pleased that the Government has stopped short of introducing a system that requires a prescription to obtain particular products. Consumers who are attracted to cosmetic contact lenses to change the colour of their eyes, rather than to gain any benefit in terms of better eye sight—which such lenses do not provide—are not likely to be able to afford, or want, to go through the process of obtaining, a prescription which could lead to the purchase of cosmetic contact lenses over the Internet or through other means without the necessary advice and protection for the purchaser.

The bill provides for advice to be given to consumers about some of the pitfalls that might occur with cosmetic contact lenses and the correct way to apply them. It will result in a better public health outcome without adding extra cost. Indeed, it provides for a regulatory scheme so that the dispensing of cosmetic contact lenses is controlled. This legislation amends also the Health Services Act to establish a corporation to achieve savings through the health system—what the Minister has described as the consolidation of corporate services and support functions. I am concerned that this solution, which seeks to reduce administrative overheads, will establish yet another layer of bureaucracy. Historically, the Carr Government has shown a great fondness for, among other things, layers of health bureaucracy.

I would like to think that the proposed benefits will flow through and, indeed, provide front-line support and more funding for health care, rather than add layers of further bureaucratic positions. The legislation followed the announcement by the Minister of Health earlier this year that reorganising the health portfolio and area health services—we will be dealing with some of those amendments in later legislation—could mean the loss of jobs. At times, the savings seemed to be a bit illusory. Indeed, we do not always see evidence of savings being delivered in wards, in providing more nurses, more beds and better health outcomes for the people of New South Wales. Indeed, in the Hunter, where I live, comments in the *Newcastle Herald* by Terry Clout, who is responsible for the Hunter area health service, seem to bear out that contention when he talks about the tribunal.

The Opposition's major concern is that if we consolidate some of these services we need to ensure, particularly in country towns, that front-line services are the beneficiary and that an attempt is made to engage the community and those directly affected, particularly in areas where there might be some job losses as a result of the consolidation of services. I place on record the Opposition's concern about potential job losses as a result of implementing this legislation. The Minister has advised that the plan will generate \$100 million in savings. We want to see that money ploughed back into front-line services. The shared corporate services program includes plans to improve services such as recruitment, payroll, accounts, purchasing, information technology support, legal communications and support to non-clinical services, such as linen and catering.

At the end of the day, if that outcome is achieved and if there are improvements to health-care services, the health-care system in New South Wales, which is failing under the Carr Government, can only be assisted, and the mismanaged health department can only be improved. If savings are delivered and they provide help where it is needed in our hospitals, by providing more beds—there has been an incredible reduction in beds since the Carr Government came to office—we will be delighted, particularly if the local communities are consulted about and involved in those changes. If job losses are minimal and the outcomes are beneficial to the people of New South Wales and for health care generally, we will be pleased to support this legislation. I ask the Minister in his reply to deal with those matters I have raised and, in particular, re-state the Minister's comments in his second reading speech regarding nursing homes.

Reverend the Hon. Dr GORDON MOYES [9.21 p.m.]: The objects of the Health Legislation Further Amendment Bill are to implement changes to a number of pieces of health-related legislation. The major statutes affected are the Dental Technicians Registration Act, the Health Services Act, the New South Wales Institute of Psychiatry Act, the Optical Dispensers Act and the Public Health Act. Importantly, the bill proposes to repeal the Nursing Homes Act and its concomitant regulation, an initiative taken as a result of national competition policy, in order to streamline legislation applicable to nursing homes in New South Wales. Apparently, New South Wales is the only State in Australia in which both Commonwealth and State legislation applies to nursing homes.

As a person who has been a provider of nursing homes in this State—seven of them—I can assure honourable members that there is a constant problem between Commonwealth and State legislation. The buck is passed from one authority to another on a whole range of issues, with the emphasis on the State trying to pass the costs of high-care nursing over to the Commonwealth. The bill will remove a layer of State legislation seen as unnecessary for the effective regulation of nursing homes.

The repeal of the Nursing Homes Act is certainly due. One of the important implications of the repeal of the Nursing Homes Act and the Nursing Homes Regulation, as noted by the Carr Government, would be the void left in the regulation of professional nurse staffing. Many people do not understand this. As a practitioner who has held licences for a significant number of nursing homes and high-care centres, including third schedule public hospitals, I can say that the arrangements with Commonwealth legislation and State requirements for professional nurse staffing are very muddled.

A nursing home—and I will use that phrase for the moment, although these days they are usually referred to as high-care nursing centres—that is built on one level can be operated with three shifts of nurses a day, seven days a week, with only one registered nurse, merely because it is only on one level. On the other hand, the F. H. Rayward Lodge at Harbord, which I have operated, is a seven storey building, and a registered nurse is required on every level, for three shifts a day, seven days a week. The cost difference for staffing each year between those two examples is in excess of \$1 million, for registered nurses alone.

This bill will regulate this part of the Public Health Act, requiring a registered nurses to be on duty at a nursing home at all times. I have no problem with that requirement; I have always maintained that as a minimum. Directors of nursing should always be registered nurses. In Christian retirement facilities we encourage the employment of registered nurses on every floor, three shifts a day, seven days a week. The bill also requires the director of a nursing home to be a registered nurse also. Again, I have no problem with that provision; that has been my practice over many years.

The bill inserts a definition of "nursing home" in order to facilitate limited governance by the Public Health Act of nursing homes. I point out some difficulties with this proposal. I have already said that the term "nursing home" is not in general use these days. We are talking about high-care nursing, and within the industry we have a number of different facilities. Some are high-care centres, which must engage registered nurses in the event of an emergency or the need for intervention with regard to serious health issues that relate to very frail, aged people. We also have to take into account the Commonwealth's emphasis upon aged care in place. Ageing in place is a very important government philosophy and that has developed a whole range of new programs. The Government will be aware of the extended aged care in homes [EACH] program. I run a number of those at this moment also. The program does not take aged people into high-care nursing homes; it takes high-care nursing staff into the homes of clients and provides the level of care in the client's home that is provided in a nursing facility.

The bill seems a little soft on this point and I ask the Government to consider alternative programs such as the EACH program and ageing in place, which provide high care and extended care in the client's home. A

number of new programs provide this type of care, and we will see much more of it. The Government should also take account of other activities, including one with which I have had quite some experience over the years. I have managed nursing services on behalf of Wesley Mission for many years, particularly the Noakes Nursing Service. Currently we have 700 nursing staff, which include registered nurses, nursing assistants and personal care staff that we hire out to nursing homes, government hospitals—including some of our largest hospitals, including Royal North Shore Hospital—private establishments and not-for-profit nursing homes across the northern, north-western and some southern parts of Sydney. These services, particularly ageing in place, must be taken into account in this bill.

The bill proposes to remove a provision from the Public Health Act that deals with the use of crematory equipment and apparatus in order to simplify regulatory requirements. I find it rather amusing that such a provision has related to nursing homes—although over the years I have also had the responsibility of running several morgues. We do not have any crematory out the back.

Ms Sylvia Hale: Although, as you said this morning, they are only very small.

Reverend the Hon. Dr GORDON MOYES: They are only small. As a matter of fact, the latest crematory equipment is smaller than even a baker's oven. Regardless, I do not think such provisions should be linked with nursing home legislation. We supervise our staff very closely, and I can assure honourable members that we do not get rid of our failures! The bill proposes amendments to the Dental Technicians Registration Act to bring the maximum penalties for breaches of relevant statutory measures into line with penalties applicable under other health professional registration legislation in New South Wales. We support those changes.

Turning to the Health Services Act 1997, I point out that the report by the Independent Pricing and Regulatory Tribunal entitled "New South Wales Health: Focusing on Patient Care" has confirmed that there is a current potential for significant savings for the health system through the consolidation of corporate services, and it was recommended that a shared corporate services entity be established. As a result, the bill proposes the establishment of a Public Health System Support Division of the Health Administration Corporation, the corporation established under the Health Administration Act 1982, to be part of the public health system.

The bill provides that staff currently involved in providing corporate and health support services will be transferred to this division. In his second reading speech the Minister emphasised that those transferred to this new division will retain all existing entitlements and employment conditions. The bill also amends the definition of "nursing home" as a result of the repeal of the Nursing Homes Act 1988, and this is overdue. However, I indicate that around Australia there are now a number of different definitions and I would ask those advising Ministers on this to note what is happening so we can get some uniformity among the States.

The New South Wales Institute of Psychiatry Act 1964 always poses a number of difficulties. The bill amends that Act to ensure that the institute may operate outside New South Wales without seeking the approval of the Minister. This is proposed in order to ease administrative burden and also to facilitate efforts with interstate and overseas entities for the provision of education and the training of professionals. The whole area of working in psychiatry, for both not-for-profit and for-profit organisations, is a minefield. For the last 27 years I have been responsible for running three psychiatric hospitals, including one of the largest in the nation, and we currently have 72 psychiatrists on staff. The experience of working with large numbers of psychologists and psychiatrists and nursing staff is almost enough to make me a good candidate to be a member on the Government side. The power to delegate to staff is also proposed in order to give more freedom to the institute to concentrate on matters of strategy.

I say very little about the Optical Dispensers Licensing Act except to make the point that coloured and novelty, non-prescription contact lenses are being sold or dispensed by anybody. I notice them for sale at the markets. People can buy them at Paddy's and acquire a new appearance. They can be bought at the Morisset Mega Market and other places. The people who sell these lenses have no training or expertise in eye care: they simply import them and sell them like any other products.

I checked with a member of the optical dispensers association and was told that although it is commonly believed that the improper use of these lenses may lead to the loss of sight he has never known of this being likely to happen. However, the proposal in the bill is a conservative and safe practice. The Minister assured us that the proposed amendments will not affect current business practice and will not disadvantage manufacturers or suppliers, who have advised the Department of Health that their lenses are distributed only by optical dispensers and optometrists.

I ask the Government to look carefully into the issues of ageing in place, that is in their own home, and in high-care nursing centres, and also the provision of high-care nursing services to patients in extended care in their own home. We commend the bill.

Ms SYLVIA HALE [9.34 p.m.]: This bill incorporates an extraordinary mishmash of issues, and it brings them together in a way that is often inappropriate, as Reverend the Hon. Dr Gordon Moyes said. The Government has lumped together dental technicians registration, psychiatry, nursing homes, cosmetic contact lenses, and crematory equipment in the same basket. Whether the Government considers each of these issues so unimportant that it does not warrant a bill in its own right, or whether it is simply symptomatic of a lazy government that cannot be bothered to give each issue full consideration, the Greens put on record our opposition to so many disparate issues being dealt with in the one bill. The only thing linking these issues is the fact that they fall within the responsibility of the Minister for Health, but bills such as this make a mockery of informed, considered public debate.

The Greens had intended to move an amendment to remove provisions that would abolish the Nursing Homes Act. However, I have been informed that it is not possible to do so because such an amendment would be contrary to the object of the bill. So, because so many disparate elements have been lumped together in the bill it is impossible for the Greens to move an amendment to remove a part of the bill that we find unacceptable.

The Greens are not opposed to most of the provisions of the bill. We support proposals to tighten control of the sale of cosmetic lenses, and note that this move has the widespread support of the optometry industry. The improper use of contact lenses, whether accidental or otherwise, can lead to potentially serious health impacts and possibly even the loss of sight. For this reason the Greens wholeheartedly endorsed the proposal to limit the sale of all contact lenses to fully trained, licensed dispensers.

The Greens also support the change to the Dental Technicians Registration Act to increase penalties for breaches of the Act, bringing them into line with the penalties applying to other health professions. The Greens recognise the merit of having legislative continuity across the different health professions, but I once again put on record the Greens' opposition to higher financial penalties being used as a means of maintaining high professional standards. Higher fines for breaches of the Act do not automatically deliver better quality health care. The Greens support the proposed amendments to the Public Health Act and the Institute of Psychiatry Act, both of which appear to remove unnecessary regulation and bureaucracy.

I turn now to the Health Services Act. While it is sometimes the case that savings and efficiency improvements can be achieved through shared service delivery, on this occasion the Government has failed to provide any hard evidence of that. The proposed amendments are being justified on the basis that shared corporate services and the establishment of a new division of the Health Administration Corporation will result in cost savings, but no evidence has been provided. It is not good enough for the Government to simply assert that amalgamations and mergers will automatically produce savings.

This furphy has been exposed with the Government's hollow justification for council amalgamations. Across the State councils have been sacked and merged, all on the pretext of cost savings, when the Government's real agenda has been to concentrate and centralise State government control. Understandably, there is some suspicion surrounding the Government's claims of supposed cost savings. There is disquiet within the medical fraternity that the real agenda behind the move by the Government to rationalise corporate services is not about cost savings but, rather, an attempt to centralise control and make it easier for the Minister and the inner sanctum of the Carr Government to exert control over the corporate arm of NSW Health. No doubt time will tell.

I turn now in some detail to the most contentious provision in the bill: the proposal to abolish the Nursing Homes Act. Let me say at the outset that the Greens reject the Government's explanation that the Nursing Homes Act must be abolished to comply with the Government's competition policy principles agreement with the Commonwealth. How much longer will the people of New South Wales have to put up with the two major political parties in this State using market ideology and competition policy to justify decisions about the provision of social services being made on the basis of market considerations rather than social need?

Nursing homes and aged care should not be subject to the forces of an unfettered, competitive market. Caring for some of the most frail and vulnerable members of our community, people who have spent decades contributing their labour, passion, skills and taxes to the betterment of society, cannot be left to the vagaries of the economy. This sector does not function as a normal market, for a variety of reasons. Many elderly people,

and indeed some nursing homes themselves, are often heavily reliant on the not-for-profit sector to provide a wide range of support services. In addition, decisions about nursing home placement are completely different from other purchasing processes. Decisions about the selection of a nursing home are often made collectively by families and clients and are based on a wide range of emotional, geographic, medical and cultural factors. Many of these considerations are outside the market paradigm.

The Government has justified this move towards a more market-based approach to aged care as an attempt to stimulate the provision of additional beds. The Minister's second reading speech claimed that this bill would "remove any obstacles to bringing new aged care places on line and will assist families in securing a place for a family member". The move towards a privatised, market-driven approach to child care has done precisely the opposite. Under the Howard Government's market-driven approach, child care places are harder to get, more expensive and increasingly of inconsistent and/or poor quality. A wise and astute Government would heed the mistakes made in child care rather than repeat them in aged care. The Greens categorically reject the assertion that the introduction of competition principles will, by definition, deliver more beds or better quality aged care.

Key stakeholders in the aged care sector have for some time raised concerns about the overzealous charge towards a fully competitive market. Organisations, including UnitingCare and the Council of Social Service of New South Wales, expressed concern as early as during the review of the Act in 2000 that proprietors, driven by the financial bottom line and operating in an environment of weaker legislation, will inevitably resort to reduced quality of care for recipients and dangerous, stressful working environments for staff.

During the review numerous organisations expressly warned against abolishing the Act. They included the Retired Teachers Association, the Council of Senior Citizens Associations, JewishCare, Aged Services, the Alzheimer's Association of New South Wales, the Council on the Ageing (NSW), the Council of Retired Union Members Association, the Australian Association of Social Workers (NSW), Carers NSW Inc., and the New South Wales Health and Community Care Development Officers Network. All these organisations signed a submission that made the following observation:

The Nursing Home regulations continue to be an essential measure against unscrupulous proprietors and a safeguard for residents; one that should not be lost in any changes to the NSW Act.

The submission continued:

While it can be argued that there is duplication of legislation at Commonwealth and State levels, there are aspects of the NSW legislation that are unique and serve to safeguard the needs, rights and interests of older people in residential care facilities.

The submission concluded:

NSW should retain, expand and strengthen its regulatory role because of the duplication and inconsistencies between Commonwealth and State legislation.

Rather than abolish the Act, those organisations argued that there was a real and pressing need to retain and strengthen the New South Wales legislation if we are to protect the needs and interests of residents in New South Wales nursing homes. Although I have not managed to speak to each and every organisation that endorsed the submission, those to whom I have spoken are still staunchly opposed to the repeal of the Nursing Homes Act. They have two main concerns, and I will deal with them individually.

The first relates to the Commonwealth legislation adopting a more laissez faire approach to staff and resident ratios and allowing staff with a lower level of professional accreditation to manage and staff nursing homes. The second relates to the weakness of the Commonwealth legislation in relation to consumer protection and complaints mechanisms. The New South Wales Act stipulates the number of staff required for a given number of residents. It also provides that a licensed nurse must be duty at all times. The Commonwealth legislation is far less prescriptive and makes no reference to a nursing staff to resident ratio. It requires only that one nurse be on duty.

While the privatised nursing home industry has lobbied for this, consumer groups and residents are concerned that the Commonwealth system would lead to fewer nurses on staff and an overall reduction in the standard of care. Both the Australian Consumers Association and the Combined Pensioners and Superannuants Association find this a cause for concern. Both organisations are also worried about the loss of consumer protections.

For some time there has been widespread dissatisfaction about the Commonwealth complaints mechanism because it offers fewer avenues for making complaints and has less capacity to investigate and substantiate them. This investigative role is vital in cases in which residents or their families have lodged a complaint while the resident remains in the nursing home. Some residents, or, more accurately, most residents at some point, will be heavily reliant on nursing home staff for their day-to-day needs. In that situation they are vulnerable to coercion or exploitation. It is essential that residents and their families have a rigorous and fully independent complaints mechanism at their disposal. Unfortunately, there are unscrupulous or negligent operators. The Commonwealth mechanism does not provide the same level of protection as the New South Wales system.

As I said, the Greens are not opposed to the concept of streamlining State and Commonwealth legislation to avoid unnecessary duplication and administrative red tape. There is also no doubt that more beds are required now. With our ageing population, that need will only accelerate. However, the process of streamlining the regulatory environment and augmenting overall stock must also guarantee the highest level of safety and consumer protection. Unfortunately, with this bill the New South Wales Government is transferring its responsibilities to the Commonwealth in the full knowledge that consumers will have less protection. The fact that many of these consumers are aged and vulnerable is all the more worrying. As I said in my opening remarks, the Greens support most of the provisions in this bill, but we have great concerns about the provisions that abolish the Nursing Homes Act.

The Hon. Dr PETER WONG [9.47 p.m.]: I support the Health Regulation Further Amendment Bill, which amends six Acts, but I do so with reservations about a few of the amendments. I do not intend to address the amendments in the sequence in which they appear in the bill. The first amendment I will deal with relates to the Optical Dispensers Act 1963. As the Minister said, in amending an Act that has been in existence for 41 years, the bill addresses serious health risks associated with coloured and novelty contact lenses. The amendment provides that novelty and coloured contact lenses can be dispensed only by a registered optometrist or licensed optical dispenser. As a medical practitioner, I am well aware of the health risks associated with the sale and dispensing of contact lenses without proper fitting by an eye care professional. Without a proper fitting by a registered optometrist, the cornea can be severely deprived of oxygen, leading to corneal ulcers and keratitis. I strongly support that amendment.

The second amendment that I will deal with relates to the Dental Technicians Registration Act 1975. There are no major structural changes in the bill; rather, it seeks to impose penalties that are comparable with and consistent with similar penalties applying to other health professionals. In light of that, I do not oppose this amendment.

The third amendment makes a few changes to the New South Wales Institute of Psychiatry Act 1964. I support the amendment, which will allow the Institute of Psychiatry to operate interstate and overseas without seeking ministerial approval. I also support the amendment that will give the Institute of Psychiatry general powers to delegate functions to staff within the institute. While I support the amendment that will allow the Institute of Psychiatry to arrange employment for its staff, this will remain subject to the Minister's approval, and that seems to compromise the independence and objectivity of the institute. Nevertheless, I do not oppose the amendment to this Act.

In relation to the proposed amendment of the Public Health Act 1991, I do not oppose the change that requires ministerial approval for crematory equipment and apparatus, given that the Environment Protection Authority oversees and regulates this area. For a nursing home, whose primary duty is to provide general and palliative care to the elderly, I am encouraged that amendments to this Act will provide for a standard in minimum staffing levels. There is no doubt that a registered nursing home requires a registered nurse to be on duty at all times. Without a registered nurse, or several for that matter, depending on the size and number of residents, there cannot be a dispensation of prescribed medicine. The requirement that a registered nurse be appointed as a director of nursing is very sensible. A registered nurse in such a position can best identify with those in care and the needs of the nursing staff.

The proposed amendments that would cut through the need to comply with two levels of government are very sensible indeed. I agree with the Minister that the Commonwealth Government's Aged Care Act 1997 is comprehensive and incorporates a wide range of powers to sanction poor performance. While minimum nursing staff levels are not mentioned in Commonwealth legislation, I am encouraged that the Government seeks to at least maintain such levels. Given the increased demand for nursing home places, we have a responsibility to ensure that providers are not hampered by conflicting regulations, which create unnecessary burdens and divert much-needed finances. I support the proposed amendments.

While I support, in theory, the proposed amendments to the Health Services Act 1997, I am concerned that practical applications, which should, as envisaged in the proposed changes, provide for a more efficient health system by improving corporate and business services, remain ad hoc approaches to continued overhead and administrative costs. While it is sensible to reduce these overhead costs, which can then be pumped back into front-line services, I fear that the rearrangement of these services, where one administrative body is superseded by another, will only generate more bureaucracy and create a new level of management. Honourable members would admit that the Public Health System Support Division of the Health Administration Corporation sounds very bureaucratic and pompous indeed.

The second aspect of this proposed amendment that I am concerned about is the potential loss of jobs, particularly in regional and rural New South Wales. Although the Minister would like to assure all members that all current employees of NSW Health will be redeployed to the new administrative body and retain existing entitlements and employment conditions, I find it difficult to believe that job losses have not been considered in calculating how to minimise costs. Having said this, I will not oppose the proposed amendment. I commend the bill to the House.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [9.52 p.m.], in reply: I thank honourable members for their contributions to the debate. I can confirm that the matters raised by the Hon. Robyn Parker have been addressed by the Minister and, as I understand it, have been the subject of a detailed response by him in the other place and also in other areas. I am happy to provide those to her in some detail. The Government is committed to maintaining the current high levels of professional nursing care to residents of aged care facilities. The repeal of the Nursing Homes Act and the cognate amendment of the Public Health Act represents a sensible and balanced approach to the regulation of high dependency aged care facilities under a complementary and non-duplicatory Commonwealth-State legislative framework.

For a large organisation such as NSW Health, the amendments to establish a Public Health System Support Division of the Health Administration Corporation as a shared corporate services vehicle will provide an effective means of improving corporate and health support service delivery to the public health system. This approach will help eliminate duplication and inconsistency. The result will be better corporate services at reduced cost. The savings can then be reinvested into front line health services, including, for example, emergency departments, for the benefit of the New South Wales public in general.

[Interruption]

I assure the Hon. Catherine Cusack that they will be. This is an important initiative demonstrating the Government's ongoing commitment to improving the delivery of quality health services to the people of New South Wales. The bill incorporates a number of proposed amendments to other Acts within the Health portfolio. As honourable members have observed, amendments to the Dental Technicians Act bring the penalties in that Act into line with other health profession legislation.

The proposed amendment of the Public Health Act concerning crematory equipment, notwithstanding the witticisms of Reverend the Hon. Dr Gordon Moyes, is not proposed, as he suggested, to deal with a nexus between nursing home activities and crematory activities, rather, it removes unnecessary regulation, given the Environment Protection Authority's oversight of the industry's general operations rather than the health regulatory framework.

The New South Wales Institute of Psychiatry Act amendments streamline the process for forging important international and interstate partnerships. The amendments to the Optical Dispensers Licensing Act, which I think have attracted the support of all honourable members, are a response to new products that have arrived in the marketplace. As Reverend the Hon. Dr Gordon Moyes pointed out, such products have been subject to widespread distribution in a whole range of non-medical and, indeed, non-professional optical dispensing environments. The amendments provide that novelty and coloured contact lenses can be properly dispensed only by a licensed and registered professional. This safeguards the welfare of those seeking to use these items, for whatever purpose—presumably cosmetic reasons in most cases.

The amendments are the result of an ongoing program to diligently monitor and improve general health statute regulation. I understand there have been some suggested amendments, if required. The concern I have is that the ones I have seen drafted seem to be outside the leave of the bill. I will leave them to a later stage of the debate, if indeed there is one. I again thank honourable members for their contributions and I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

TABLING OF PAPERS

The Hon. John Della Bosca tabled the following reports:

- (1) Annual Reports (Departments) Act 1985—Report of the Attorney General's Department for the year ended 30 June 2004.
- (2) Annual Reports (Statutory Bodies) Act 1984—Reports for the year ended 30 June 2004:

Legal Aid Commission of New South Wales
Public Trustee
- (3) Community Justice Centres Act 1983—Report of the Community Justice Centres' Council for the year ended 30 June 2004.
- (4) Legal Profession Act 1987—Report of the Law Society of New South Wales for the year ended 30 June 2004.

Ordered to be printed.

ADJOURNMENT

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [9.58 p.m.]: I move:

That this House do now adjourn.

TRIBUTE TO THE HONOURABLE LEO McLEAY

The Hon. AMANDA FAZIO [9.58 p.m.]: Tonight I place on the public record my regard for the Hon. Leo McLeay, who retired from the House of Representatives prior to the Federal election held on 9 October 2004. At the time of his retirement Leo McLeay was the longest serving Labor Party member of Parliament in Canberra. He represented the seat of Grayndler from 23 June 1979 and was re-elected as the member for Grayndler in 1980, 1983, 1984, 1987 and 1990. Following the 1992 electoral redistribution he was elected as the member for Watson in 1993, 1996, 1998 and 2001. Prior to entering the Federal Parliament Leo McLeay had an extensive career in the Labor Party.

He was a Young Labor activist at the same time as Paul Keating and Ron Dyer, and was the Secretary of the Australian Labor Party [ALP] Youth Council (NSW) in 1969. He served as the State Organiser, ALP (NSW Branch) in 1976 and as Assistant General Secretary from 1976 to 1979. He also served as an alderman on Marrickville Council from 1971 to 1977. During his parliamentary career Leo McLeay occupied the positions of Chair of Committees and Deputy-Speaker from 11 February 1986 to 29 August 1989, and Speaker of the House of Representatives from 29 August 1989 to 8 February 1993. He served as Government Whip from 24 March 1993 to 12 May 1994 and Chief Government Whip from 12 May 1994 to 11 March 1996.

Following the election of the Coalition Government, Leo served as Chief Opposition Whip and Deputy Manager of Opposition Business in the House from 19 March 1996 to 22 November 2001. Despite having held so many prestigious positions in the Federal Parliament, I believe the most significant achievement of Leo McLeay's parliamentary career came about as a result of his chairmanship of the House of Representatives Standing Committee on Expenditure. He was responsible for a report entitled "At Home or in a Home", commonly referred to as the McLeay report. When the Hawke Government was elected in 1983 the need to restructure aged care policy was becoming more urgent in view of statistical projections for the next 20 to 30 years showing a rapid increase in the Australian population aged 80 or more.

In the early 1980s various studies and reports on the needs of the aged and disabled had been carried out at both Federal and State levels. All pointed to the need for reform of the existing aged care system. In particular, the 1982 report of the House of Representatives Standing Committee on Expenditure—the McLeay report—"In a Home or at Home: accommodation and home care for the aged" stressed the need to redress the funding imbalance which resulted in institutional care being used more heavily than community-based care. In response to the issues raised, the Hawke Government announced in its 1984-85 budget its intention to develop a new Home and Community Care [HACC] Program to provide a more comprehensive range of integrated services targeted at the frail aged and the younger disabled. It was a deliberate move away from an emphasis on institutionalisation of the aged and the disabled to community-based care for those able to continue to live in their own homes.

Legislation was introduced in the House of Representatives in October 1985 to provide a framework for government initiatives in the area of aged care. The Home and Community Care Program, as we know it, is a direct result of the McLeay report and we should recognise the positive impact of the work of Leo McLeay's committee on the community in general. Leo was a very popular local member and at the 2001 Federal election he achieved an impressive two-party preferred booth result in some areas ranging from 51 per cent at Bardwell Park to 86.8 per cent at Campsie. The Labor two-party vote passed 70 per cent in 15 booths and 80 per cent in 5 booths.

As well as his work in the Federal parliamentary Labor Party, Leo McLeay remained an influential figure within the ALP in New South Wales. Leo has acted as a mentor to many people who have served or who currently serve as members of the New South Wales Parliament. The list of members who have thanked Leo McLeay for helping them during their political careers includes Johnno Johnson, George Thomson, Ron Dyer, Marie Andrews, Eddie Obeid, John Hatzistergos, Barbara Perry, John Della Bosca, Eric Roozendaal, Linda Burney, Kayee Griffin, Paul McLeay and me.

This list is by no means exhaustive and I have not attempted to check the Federal sphere. I am sure that he will continue to provide encouragement and sound advice to many within the Labor Party and the broader labour movement. My colleague the Hon Kayee Griffin paid tribute to Leo McLeay in this House on 22 September 2004. Like Kayee I also had the privilege of working for Leo McLeay and witnessed first-hand his strong commitment to social justice and his hard work as a local member. I strongly believe that people who come from a working-class background have a heightened sense of responsibility when it comes to advocating on behalf of their constituents, especially when they come from a migrant background or are socially or economically disadvantaged. Despite having achieved all of the above, Leo McLeay was only 58 at the time of his retirement.

I wish Leo and his family well in the future. I am sure that he and his wife, Janice, will continue to pursue a social justice agenda while enjoying the company of their family, Paul, Cassandra, Mark, Alice, Martin and their two grand-daughters. I consider Leo McLeay and the McLeay family to be very good friends of mine. I would like to thank Leo for the support he has given me during my membership of the ALP and particularly his support for my employment, both in the ALP office and in entering the New South Wales Legislative Council.

The Hon. Rick Colless: So he is to blame?

The Hon. AMANDA FAZIO: Yes, he is to blame and I am sure he is entitled to take credit for it. I wish Leo and Janice a happy and very long retirement.

VIET TAN

The Hon. DAVID CLARKE [10.03 p.m.]: Recently my parliamentary colleague the Hon. Charlie Lynn gave an outstanding address to this House reminding us of the continued suffering of the Vietnamese people under a Communist dictatorship and informing us of important new initiatives of the Vietnamese Reform Party seeking freedom for Vietnamese, announced at a large gathering he attended in south-west Sydney recently. As one who was also present and who had the opportunity to address that gathering, I heartily endorse the comments of the Hon. Charlie Lynn.

In recent years we have witnessed the collapse and demise of Communist dictatorships in the now dismantled Soviet Union and in its satellite States of Central and Eastern Europe. What a great event that was for the people of those nations, who, as a result, gained the freedom and liberty so long denied by those regimes and the evil Communist philosophy that they represented. Sadly, there is still a small handful of nations suffering under Communist repression. One of these nations is Vietnam, where 80 million long-suffering people continue to be denied economic prosperity or religious and political freedom. They are denied everything except a life of misery.

Australia is a haven for many thousands of Vietnamese who have sought refuge from that bastion of repression and monumental economic basket case. On 7 November this year some 800 representatives of the Vietnamese-Australian community gathered in Sydney for the Australian launch of a new program of initiatives organised by the worldwide-based Vietnam Reform Party. All the major Vietnamese community organisations were represented. They met with great enthusiasm and determination. This party, which is organised throughout the free world and clandestinely within Vietnam itself, brings together under one political umbrella freedom-seeking Vietnamese on an international basis.

What is the aim of the Vietnam Reform Party? It seeks freedom and economic prosperity for the people of Vietnam and that will only occur with the demise of the communist dictatorial regime of that unhappy country. Overwhelmingly, the Vietnam Reform Party speaks on behalf of Vietnamese communities throughout the world and represents the aspirations of Vietnam's long-suffering population. The party's Vietnamese name is Viet Tan, a combination of the word "Vietnam" and the words "Canh Tan", which mean reform and modernisation.

Whilst the reform party has been working for 22 years for Vietnam's freedom, this recent great assembly in Sydney and assemblies internationally mark the party's launching of new public initiatives that will highlight worldwide the plight of Vietnamese people. Communism has collapsed in Europe and the day is coming when communism will collapse in Vietnam as well. Nothing is more certain and nothing is more inevitable than that the oppression of the people of South Vietnam since 1975, and the communist oppression of the people of North Vietnam for an even longer period, will come to an end. It will end sooner rather than later because at the end of the day democracy will win over communism, freedom will be victorious over dictatorship and good will triumph over evil.

The age of dictatorships is coming to an end. The age of freedom for all peoples is now coming upon us. The Hanoi regime will not stop this march of history. Its day of accountability and facing the anger of its subject is getting nearer. Joseph Stalin is dead. Mao Zedong is dead. Ho Chi Minh has long been dead and buried. His name will be reviled and cursed in the annals of history as the epitome of evil. History will not allow the people of Vietnam to continue to suffer indefinitely. The yearning for freedom will not go unanswered forever. Vietnamese in Australia and elsewhere, and good people everywhere, have not forgotten them. That campaign for freedom will go on in Australia and the free world. It will spread to Saigon, perversely renamed Ho Chi Minh city, and then on into the heart of the Vietnamese communist heartland, right into Hanoi itself.

I congratulate the Vietnamese community in Australia on its renewed call and activity for the freedom of its homeland. I endorse the cause of the Vietnam Reform Party because it is the cause of freedom itself. I pay tribute to the Vietnamese-Australian community for not forgetting those who still suffer in their homeland. The great majority of the Vietnamese-Australian community will live to see democracy come to Vietnam. They will live to see their homeland gain its freedom. They will live to applaud the demise of communism in their homeland. What a great day that will be, and I will be celebrating with them.

TRIBUTE TO DR VERNON ALLEN JAMES

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.08 p.m.]: I pay tribute to Vernon Allen (VA) James, a surgeon of great note, who died on 7 July this year. VA was the eldest of five children whose father left when he was nine, and he felt a strong sense of responsibility to bring up his siblings. He was educated by State bursaries and attended Waverley College. He played rugby union for Eastern Suburbs and Eastwood rugby clubs, and was a winger for the Waratahs in 1950. He played rugby league for Norths. In 1952 he graduated from the University of Sydney and was a resident at Royal North Shore Hospital. He then became a general practitioner at Hunters Hills before practising at Shellharbour from 1956 to 1963, where he was known for his 2½-litre black Riley. He left Australia in 1965 to be a surgeon at St Andrews Hospital, Scotland, and then undertook vascular surgery in Liverpool, England.

He returned to Australia and became a general and vascular surgeon in 1968 in Port Kembla, Coledale, and Bulli, but not at Wollongong Hospital. He was well known for starting work at 6.30 a.m. and not finishing until 8.00 p.m. or 9.00 p.m. He could do nearly as much work in a day as some surgeons did in a week. I worked with him throughout 1978. He used to start work at 6.30 a.m. but he would not call me, so I used to get up in time to make sure that I did not miss starting work with him. He appreciated this, although he would not have said so. He was a very fast and impressive technical surgeon. He told the story that when he visited America a salesman said that his newfangled retractor could take 40 minutes off a gallbladder operation. VA said that that was impossible. The American looked at him and wondered why. The answer was that he took about 35 minutes to do a gallbladder operation, skin to skin, while at that time most American surgeons took about three hours.

He did not have resources for detailed surgery at Port Kembla Hospital so he raised the funds through Rotary and other organisations. Many of the ventilators had little plaques with the names of the donors. In this tiny intensive care unit, with relatively inexperienced residents and registrars, he relied on very experienced nurses as the young doctors rotated. I can remember listening to the noise of the ventilators late at night and I would be quite miffed when he would ring, speak to the nurse and hang up because he had the information he wanted; he did not need me. Nevertheless, I was conscious that the extra hours we worked made the difference between life and death in this poorly staffed hospital.

VA was a very honest man. He would tell patients what he had found and what their prognosis was. This was at a time when the pleasant lie was often substituted for the unpleasant truth. He was a kind man but he was devoid of mawkish sentimentality and he did not stand on ceremony. He had a lot of patients. He walked around quickly with a nurse behind him carrying a box of tissues, amongst other things. As a registrar I would try to get back to people who needed to talk, but time was short. I can remember an ex-Kangaroo rugby league player who had his urethra damaged by extensive surgery to try to remove what was probably terminal colon cancer. VA told the ex-Kangaroo that his condition was probably terminal and apologised for the fact that his catheter would have to stay in for some weeks.

For the next few weeks VA came in each day with a "Sorry, mate" because the man was embarrassed about the catheter. The ex-Kangaroo would say, "It's okay, mate", as he came to terms with his terminal diagnosis. It was classic male non-dialogue as the two of them cracked hardy—a glorious form of courage in a way, although that sort of thing is much frowned upon by psychologists. VA was very popular with his patients and did very well. I can remember one feisty dressmaker with the largest mammary augmentation I have ever seen, who had some complications from vascular surgery on her leg while she was in Sydney. As the professor came around with his huge entourage at the Sydney teaching hospital, St Vincent's, he made the mistake of asking the feisty patient how she was doing. She enumerated all the mistakes he and his staff had made, and she said, "I just want to go back to Port Kembla to see Dr James because he knows what he's doing and you don't". And she came back to Port Kembla to tell us the story.

VA was very innovative. He was using Doppler and drug company technologies for streptokinase when no-one else was using them. He had six patients with this. Everyone else was having trouble with uncontrolled bleeding and death. It was years before the protocol was taken up, and it is now used as a standard procedure. He fought with the administrators who wanted to close his beloved Port Kembla hospital, which he described as a "raped woman", and regarded the administrators who stole Port Kembla's equipment as little better than thieves. He lasted a while at Wollongong Hospital and then went to Newcastle, where his brother was an administrator. He finally retired to Mullumbimby, where he still did some work.

VA came back when the waiting lists were very long and the Carr Government was on a promise to shorten them. He was still extremely fast. He received the FRCS in 1965 and the FRACS in 1967, and he was awarded the Medal of the Order of Australia in 1984. But his greatest achievement was, when he returned to Wollongong weak with leukaemia, having the hospital operating theatres at Shellharbour named after him. He regarded that as his greatest triumph. He is survived by his second wife, Margaret, and his children, Robert, Maryanne, Allison, Allen and Rachel. He had a large funeral and his ashes were scattered in North Shellharbour Beach, where he loved to fish. [*Time expired.*]

MYALL CREEK MASSACRE

The Hon. JAN BURNSWOODS [10.13 p.m.]: Tonight I draw attention to a meeting held in Parliament House on Wednesday 10 November to form a group known as the Sydney subgroup of the Friends of Myall Creek. I pay tribute to Bryce Gaudry for hosting this function. I shall say a little about the aims of the group and the spirit of the very large number of people who joined in marking this organisation. The group aims to further the work of the existing national group. The organisation is committed to the promotion and development of the Myall Creek site and, through this, the promotion of reconciliation and an acknowledgement of our history. The notice about this important meeting stated:

The events that took place at Myall Creek in 1838 are both understood and misunderstood and yet it remains one of the defining episodes in the shared indigenous and non-indigenous history of our country.

I refer to a speech I made in this House some four years ago, in June 2000, in which I drew attention to the reconciliation ceremony that was held at Myall Creek, just outside Bingara, on 10 June that year. On that occasion several hundred people gathered at the beginning of the 350-metre path lined with the story of the brutal deaths of 28 Aborigines on that day in 1838. That path leads to the memorial itself, which is a giant boulder dedicated to the lives of those 28 men, women and children whose spirits, according to Aboriginal legend, have yet to be put at rest. A number of people played an important part in ensuring that this event in our history is commemorated, and that it is commemorated in the spirit of reconciliation.

One of those people is Reverend John Brown, who played a large role in organising the memorial and the service. Another is Peter Stewart, who was also involved in the organisation of the meeting last Wednesday. As I said, one important aspect of this whole movement is the spirit of reconciliation. For instance, the ceremony in 2000 was attended by, amongst others, descendents of both the perpetrators and the victims,

including Sue Blacklock, whose great-grandfather was a boy when the massacre occurred and was one of the few survivors. Sue embraced Beulah Adams, whose great-uncle received the death penalty for his crimes. That was a very striking image of reconciliation. What makes the Myall Creek massacre so significant in our history is not that it was a massacre, because there were many of those, but that those who took part in the massacre were tried, convicted and executed. I quote the editorial in the *Sydney Monitor* in November 1838, in which the editor described the massacre as:

... a deed for which we cannot find a parallel for cold-blooded ferocity, even in the history of Cortez and the Mexicans, or of Pizzaro and the Peruvians.

He went on to ask:

How will this fact tell in England, in France, in Austria, in Prussia and in America? We tremble to remain in a country where such feelings and principles prevail.

The significant feature that makes the Myall Creek massacre stand out from so many others is that it was the first occasion in our history on which white men were tried, convicted and executed for their actions. It followed a long period in which there was little concern—certainly, very little legal concern—about the treatment of Aboriginal people on the frontier. So I welcome the formation of the Sydney subgroup of the Friends of Myall Creek. The aims of the group include having the Myall Creek site preserved and acknowledged as a heritage site of national significance, the development and sponsorship of education programs to inform our community about the significance of Myall Creek, and a commitment to enlist the support of government and the private sector to fund Myall Creek scholarships for indigenous and non-indigenous students undertaking work, study or research in this important project of reconciliation. [*Time expired.*]

CHILD DEATH REVIEW TEAM ANNUAL REPORT

The Hon. CATHERINE CUSACK [10.18 p.m.]: Last week the New South Wales Child Death Review Team released its annual report, which examines the deaths of children and young people aged 0 to 17 years for the period January to December 2003. The Child Death Review Team is a 16-member expert panel that includes government representatives but nevertheless meets and makes recommendations independent of government. The team is notified by the Registry of Births, Deaths and Marriages of all child deaths in New South Wales. It maintains a child death register, analyses data regarding causes of death, identifies patterns and trends, and makes recommendations to prevent future deaths. The death of any young person is incredibly tragic, with repercussions that are life changing for their parents, families, friends, teachers and, in many cases, the professionals who nursed or otherwise cared for them. For those who died in accidents or as a result of violence there are volunteers, police and emergency workers, all of whom are profoundly affected as the death of a very young person is something impossible to come to terms with. I know I speak for all members when I extend my sympathy to and concern for those affected by the loss of a child.

The work of the New South Wales Child Death Review Team is invaluable, and I acknowledge convenor Gillian Calvert and deputy convenor Professor Caroline Finch. I particularly acknowledge the longer serving members of the team because I believe that the work and reporting on this issue has evolved in a very constructive and useful way, and I imagine that their ongoing involvement has been instrumental to this achievement. Those longer serving members include Dr Ian Cameron of the Rural Doctors Network, Associate Professor Judith Irwin of the University of Sydney, and Dr Elisabeth Murphy of the New South Wales Health Department, who is the longest serving member of the committee, having been appointed in December 1996.

Between January and December 2003 there was a total of 566 child deaths. Of these, 56.9 per cent, or 322 deaths, were males and 43.1 per cent, or 244 deaths, were females. This is the lowest number of deaths since 1996 and shows that the rate of deaths for children has fallen. Overall, the death rate due to diseases and morbid conditions has fallen, as has the death rate due to external causes. Of course, this is welcome news.

There are very distinct patterns according to age. The infant mortality rate, that is the rate of deaths for babies under the age of 12 months, has fallen to 3.4 deaths per 1,000 live births. This is very significant because infant deaths account for just over half of all child deaths. In 2003 there were 292 infant deaths, 150 of which related to prebirth factors and abnormalities. For toddlers aged from 1 to 4 years, 15 toddlers died in transport incidents—including car accidents—which were the highest cause of death; 13 died from respiratory diseases; and 8 died from accidental drowning or submersion. I note from the report that there was not one drowning in a dam or on a rural property, and that is quite an achievement.

In the age group 5 to 9 years medical conditions were the second major cause of death. Drowning was the third-highest cause, with 5 such deaths, and transport incidents resulted in 4 deaths. For the age group 10 to 14 years transport incidents claimed 12 lives. The next two major causes were neoplasms and respiratory diseases, and the fourth major cause, with 4 deaths, was self-harm. I noted when reading the report that one child aged 10 had committed suicide in 2003. That is most distressing in one so young. Among children aged 15 to 17 years, 20 lives were lost to transport incidents, 13 to intentional self-harm, 11 to neoplasms and 6 to assault.

There is a great deal of information in the report. However, I wish to draw attention to a couple of issues of particular interest to me as a country member of Parliament. The report provides unequivocal evidence that the more rural and remote a community the higher the death rate. Indeed, in remote communities the child death rate is three times higher than in accessible communities. The Richmond-Tweed area has the lowest infant mortality rate. In the Tweed, where about 467 babies are born each year, no infant deaths were recorded for the three-year period from 2000 to 2003. This contrasts with 20 infant deaths in the Nowra-Bomaderry area, where about 392 babies are born each year—slightly fewer than the Tweed. However, 11 of those babies died over the three-year period. We need to be cautious with these figures, as I have discussed with my friend and colleague the honourable member for South Coast, but they certainly warrant further investigation.

Across all age groups there were 40 child deaths in the Richmond-Tweed area over the three-year period, and, thankfully, that is a low rate. Tweed Heads, Lismore, Coffs Harbour and Port Macquarie have very low rates of child deaths, and it seems to me that this supports the review team's observation that the more accessible the services the lower the death rate. There is a real equity issue in relation to the distribution of health and community services across the State, particularly to regional and rural areas. The evidence provided by the Child Death Review Team could not be more stark. Aboriginal and Torres Strait Islanders comprise 3.5 per cent of our population but 9 per cent of child deaths. That is much too high.

I take special interest in the relatively high number of male deaths. There is no physiological reason for this, and clearly a major factor is the risk-taking behaviour exhibited by boys. One aspect of the report that did disappoint me was the failure of the State Government to finalise suicide prevention strategies. I commend this report as essential reading, and thank the Child Death Review Team for its very professional and important work.

ROYAL NATIONAL PARK CABINS

The Hon. JON JENKINS [10.23 p.m.]: There are approximately 220 coastal cabins in the Royal National Park, divided into four communities. From north to south they are Little Garie, Era, Burning Palms and Bulgo. Most cabins were built between 1910 and 1950, either on freehold land with the permission of the then owners, or on Crown reserve land. When development proposals threatened in the mid-1940s the communities forsook the opportunity to purchase the land themselves. For the common good they lobbied, along with groups such as the Confederation of Bushwalking Clubs, to have the freehold land incorporated into the Royal National Park. This selfless act was to guarantee that the public would have access to the huts for future generations. The Royal National Park Cabins Protection League was formed in 1945 to represent the communities and to lobby the government of the day. It is now recognised as one of the oldest community-based conservation groups in New South Wales.

None of the communities is accessible by road. Cabin owners walk in carrying their food and fuel and, from time to time, materials for maintenance. As well, they take responsibility for carrying out refuse. In fact the National Parks and Wildlife Service has banned the local Landcare group from carrying out any track maintenance. This is a great personal disappointment for me because, being disabled, I will never have the opportunity to visit this area. The cabin communities number hundreds of families across a wide range of backgrounds, with the involvement of some reaching back over five generations. The communities have a strong attachment to the place and to the maintenance of values of self-regulation and self-reliance, low technology and alternative technology living, public service and assistance through the three surf-lifesaving clubs, two of which would not exist without the communities, Landcare and Fireguard, and a precious connection to our forbears.

After the founding of the National Parks and Wildlife Service in 1967 a policy of cabin removal was introduced. Under this policy between a quarter and a third of the original number of cabins were removed. To counter this, the communities sought heritage listing. The result is that Era and Burning Palms are listed by the National Trust; Era and Little Garie are listed by the Australian Heritage Commission and all communities are listed in the Wollongong Council heritage study. Two independent studies, the 1994 draft cabins conservation

plan and the 2001 Brooks draft cabins management plan, emphasise the cultural, social and historic value of the communities. This forced a change of attitude.

The February 2000 plan of management for the Royal National Park calls for the cabins, and specifically their social fabric, to be retained under strict conditions to be negotiated between the National Parks and Wildlife Service and the communities. Since early 2000 negotiations have been in train between the service and the communities aimed at determining these conditions. However, on Friday 12 November the National Parks and Wildlife Service issued a press release about the cabins, claiming among other things that it was wresting control of the cabins for the public. Of course, this is rubbish. If the service had had its way there would be no cabins left for the public; they would have been pulled down a long time ago. It was National Parks and Wildlife Service policy that excluded the public from having access to the cabins. The conditions of the current licence expressly restricted the use of the shacks to the owners and their immediate families.

These are heritage structures with technology dating back to the 1930s, such as kerosene fridges and lamps. This infrastructure and technology requires some experience to manage. There are public safety and maintenance issues for any shack that is to be rented to inexperienced people. However, the fundamental issue is whether the National Parks and Wildlife Service is to follow proper procedure. The principles of heritage management are that the responsible authority develops policies for management through a conservation management plan. The National Parks and Wildlife Service draft cabin management plan of 2001 has not been endorsed by the New South Wales Heritage Office and requires 12 recommendations to be met before it will be resubmitted.

The cabin communities welcome a better deal for the public. However, contrary to the weekend announcement, at this stage the systems and policies are not yet in place. Simultaneously with the press release the service delivered a new licence to the communities, with four alternatives, none of which is acceptable. For any current owner to take out a new licence or nominate another person, such as their children, to take out a licence, they must relinquish ownership of the cabins to the Minister. The Minister threatened to remove any shack where the owner does not accept one of the options, by saying:

Please note, that should you choose not to sign a new licence or accept one of the alternative options outlined above, following the termination of your current licence, I propose to cause the cabin on the cabin site specified above to be removed in accordance with the provisions of s160A-s160F of the National Parks and Wildlife Act 1974. You will be given an opportunity to make a submission in this regard which will be considered before a decision is made on whether to adopt this course of action.

This threat of demolition is contrary to the Royal National Park plan of management, to New South Wales Heritage Office recommendations and to the borough charter. In proceeding as it has, the National Parks and Wildlife Service appears to be ignoring advice given to it by the Independent Commission Against Corruption expressly to strengthen its resistance to corruption, and also ignoring the advice of the Heritage Office. I add finally that this new scheme by the National Parks and Wildlife Service continues with the pantheistic agenda to remove all cultural connection to any National Parks and Wildlife Service estate. It is a part of the ethnic cleansing ideology that is applied not only to those of European descent but also to indigenous peoples. The desired end is to remove all connection of people with the land and therefore to remove all reason for people visit.

I call on the Minister to withdraw the threat of demolition of the shacks; to ensure that the conservation management plan for the cabin areas is finalised, taking into account the recommendations of the New South Wales Heritage Office and the advice of ICAC; and that the conservation management plan is finalised with shack holders having six months to review the plan prior to having to sign any document, in line with the commitment given by the National Parks and Wildlife Service and the New South Wales Ombudsman. [*Time expired.*]

Motion agreed to.

The House adjourned at 10.28 p.m. until Wednesday 17 November 2004 at 11.00 a.m.
