LEGISLATIVE COUNCIL

Tuesday 21 June 2005

The President (The Hon. Dr Meredith Burgmann) took the chair at 2.00 p.m.

The Clerk of the Parliaments offered the Prayers.

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

ASSENT TO BILLS

Assent to the following bills reported:

Appropriation Bill
Appropriation (Parliament) Bill
Appropriation (Special Offices) Bill
Courts Legislation Amendment Bill
Criminal Assets Recovery Amendment Bill
Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Bill
Fire Brigades Amendment (Community Fire Units) Bill
Fiscal Responsibility Bill
Gambling (Two-up) Amendment Bill
Occupational Health and Safety Amendment (Workplace Deaths) Bill
Petroleum (Submerged Lands) Amendment (Permits and Leases) Bill
Road Transport Legislation (Speed Limiters) Amendment Bill
Rural Workers Accommodation Amendment Bill
State Revenue Legislation Amendment (Budget Measures) Bill
Sydney University Settlement Incorporation Amendment Bill

POLICE INTEGRITY COMMISSION

Report

The President announced the receipt, pursuant to the Police Integrity Commission Act 1996, of a report entitled "Report to Parliament—Operation Vail", dated June 2005.

The President announced further that, pursuant to the Act, it had been authorised that the report be made public.

MINISTRY

The Hon. JOHN DELLA BOSCA: I inform the House that on 15 June 2005 Her Excellency the Governor appointed the Hon. Anthony Bernard Kelly, MLC, as the Minister Assisting the Minister for Natural Resources.

CLERK ASSISTANT CORPORATE SUPPORT

The PRESIDENT: I advise that, following the retirement of Mr Mike Wilkinson, Mr David Blunt has been appointed Clerk Assistant Corporate Support, commencing on Monday 20 June 2005.

DIRECTOR PROCEDURE

The PRESIDENT: I advise that Mr Steven Reynolds has been appointed Director Procedure, commencing on Monday 20 June 2005**.**

USHER OF THE BLACK ROD

The PRESIDENT: I advise that I have written to the Premier recommending the appointment of Mr Steven Reynolds as Usher of the Black Rod. I advise further that Mr Reynolds will receive in due course a commission from Her Excellency the Governor.

THE HONOURABLE PETER BREEN INDEPENDENT COMMISSION AGAINST CORRUPTION INVESTIGATION

The Hon. PETER BREEN [2.04 p.m.]: I move:

That all documents, computers and other material seized by officers of the Independent Commission Against Corruption in executing a search warrant on the parliamentary office of the Hon. Peter Breen, MLC, on 3 October 2003, and remaining in the possession of the Clerk, in accordance with the resolution of the House of 4 December 2003, be returned to the Hon. Peter Breen within seven days of the passing of this resolution.

I ask the House to support the motion.

Motion agreed to.

RESTRICTED RAIL LINES

Production of Documents: Report of Independent Legal Arbiter

The PRESIDENT: I report that on 4 May 2005 the Clerk received from Ms Lee Rhiannon a written dispute as to the validity of a claim of privilege on documents lodged with the Clerk on 6 April 2005 relating to the audit of restricted rail lines. In accordance with the resolution of the House, Sir Laurence Street, being a retired Supreme Court Judge, was appointed as an independent arbiter to evaluate and report as to the validity of the claim of privilege. The Clerk released the disputed documents to Sir Laurence Street, who has now provided his report to the Clerk. The report is available for inspection by members of the Legislative Council only.

AUDIT OFFICE

Report

The Clerk announced the receipt, pursuant to the Public Finance and Audit Act 1983, of a performance audit report of the Auditor-General entitled "Follow-up of Performance Audit: Bus Maintenance and Bus Contracts", dated June 2005.

The Clerk announced further that, pursuant to the Act, it had been authorised that the report be printed.

STANDING COMMITTEE ON STATE DEVELOPMENT

Report: Inquiry into Port Infrastructure in New South Wales—Final Report

The Clerk announced the receipt, pursuant to standing order, of report No. 30, entitled "Inquiry into Port Infrastructure in New South Wales—Final Report", dated June 2005, together with transcripts of evidence, tabled documents, correspondence and public submissions.

The Clerk announced further that, pursuant to standing order, it had been authorised that the report be printed.

The Hon. TONY CATANZARITI [2.08 p.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by the Hon. Tony Catanzariti.

GENERAL PURPOSE STANDING COMMITTEE NO. 4

Government Response to Report

The Clerk announced the receipt, pursuant to standing orders, of the Government's response to report No. 11, entitled "The Designer Outlets Centre, Liverpool".

The Clerk announced further, pursuant to standing orders, that it had been authorised that the response be printed.

LEGISLATION REVIEW COMMITTEE

Report: Legislation Review Digest No 8 of 2005

The Clerk announced the receipt, pursuant to the Legislation Review Act, of the report of the Legislation Review Committee entitled "Legislation Review Digest No. 8 of 2005", dated 20 June 2005.

The Clerk announced further that, pursuant to the Act, it had been authorised that the report be printed.

The Hon. DON HARWIN [2.11 p.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by the Hon. Don Harwin.

PETITIONS

Unborn Child Protection

Petitions requesting legislation to protect foetuses of 20 weeks gestation and to make resources available for post-abortion follow-up, received from **Reverend the Hon. Dr Gordon Moyes**, **Reverend the Hon. Fred Nile** and **the Hon. Melinda Pavey**.

Camden Maternity Ward

Petition calling on the Premier to honour election campaign commitments by reopening the Camden Maternity Ward, received from **the Hon. Charlie Lynn**.

Anti-Discrimination (Religious Tolerance) Legislation

Petitions opposing the proposed anti-discrimination (religious tolerance) legislation, received from **the Hon. Greg Donnelly, the Hon. Duncan Gay**, **Reverend the Hon. Dr Gordon Moyes** and **Reverend the Hon. Fred Nile**.

Brigalow Belt South Bioregion and Nandewar Bioregion

Petition opposing the removal of cypress pine and hardwood forests from State Forests management and the degradation of communities within the Brigalow Belt South and Nandewar bioregions, received from **the Hon. Duncan Gay**.

Western Sydney Public Transport

Petition requesting the restoration of pre-November 2004 train timetables and the implementation of extensive improvements to public transport in western Sydney, received from **Ms Lee Rhiannon**.

Freedom of Speech

Petitions opposing any legislation that would inhibit unencumbered discussion and freedom of speech regarding religion and introduce religious vilification in New South Wales, received from **the Hon. David Clarke** and **the Hon. Don Harwin**.

Crown Land Leases

Petition requesting the withdrawal of changes to the rental structure of Crown land leases, particularly enclosed road permits, received from **the Hon. Melinda Pavey**.

Breast Screening Funding

Petitions requesting funding for breast screening to allow access for women aged 40 to 79 years, received from **the Hon. Patricia Forsythe** and **the Hon. Robyn Parker**.

BUSINESS OF THE HOUSE

Withdrawal of Business

Private Members' Business item No. 105 outside the Order of Precedence withdrawn by Hon. Catherine Cusack.

Private Members' Business items Nos 24, 29, 33 and 32 outside the Order of Precedence withdrawn by Ms Sylvia Hale.

GENERAL PURPOSE STANDING COMMITTEE NO. 3

Membership

The PRESIDENT: I announce that Mr Jon Jenkins has today been nominated by the crossbench members as a member on General Purpose Standing Committee No. 3 in place of Mr John Tingle.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by Mr Ian Cohen agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 7 in the Order of Precedence, relating to the Parliamentary Electorates and Elections Amendment (Voting Age) Bill, be called on forthwith.

Order of Business

Motion by Mr Ian Cohen agreed to:

That Private Members' Business item No. 7 in the Order of Precedence be called on forthwith.

PARLIAMENTARY ELECTORATES AND ELECTIONS AMENDMENT (VOTING AGE) BILL

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

Second Reading

Mr IAN COHEN [2.29 p.m.]: I move:

That this bill be now read a second time.

The object of the Parliamentary Electorates and Elections Amendment (Voting Age) Bill is to amend the Parliamentary Electorates and Elections Act 1912 to reduce the minimum voting age from 18 years to 16 years. Lowering the voting age has been a heated topic of debate within the wider community for a number of years. It has received widespread coverage in the electronic media—especially on talkback radio—at both national and local levels, and in the press. As it stands, young people often have the least influence on determining what goes on in their lives, both up to and beyond the age of 18.

Legislation and public policy that pertain to youth—covering juvenile justice, youth unemployment, education and training, youth suicide, homelessness and other rights and responsibilities of Australian youth—have been, and often continue to be, devised without input from young people. There is disengagement of our youth from the political process. As a result, young people are being excluded from our society's most essential services and resources and their position is being typified increasingly by relative poverty, powerlessness and marginalisation. For example, the media continually and falsely portray our youth as a generation out of control, with declining regard for the rest of society. When young people are spoken about today the words that generally spring to mind are "unemployment", "homelessness", "suicide", "depression", "juvenile crime", "drugs", and "family breakdown". Words such as "opportunity", "hope", "ambition", "energy", "enthusiasm", "imagination", "aspirations", "initiative", "careers" and "beginnings" seem to have been forgotten somewhat.

A strong argument in favour of lowering the voting age is that it would reverse the trend of recent years to scapegoat young people for various social problems. If young people were given some power to be involved

in the decisions made about them, better decisions would result. This might just help to reduce some of the alienation that the current political exclusion of young people causes. It is time that young people were recognised for the commitment they show to their communities, for their genuine desire to contribute to developing a better future for Australia and for their willingness to participate when the rest of society gives them the opportunity to do so. Lowering the voting age to 16 years in New South Wales would allow them to do just that. Not only would it give our youth the opportunity to participate in society but it would allow them to play an equal role within it and give them greater access to decision-making structures. A phenomenon of modern-day politics is that special interest lobby groups exert considerable influence within the political process. There is no well-organised youth political lobby and, as a result, the impact of policies on young people receives less care and attention.

I turn to the specifics of the bill. The bill will qualify 16-year-olds to vote in parliamentary elections. However, voting for 16-year-olds and 17-year-olds is not to be compulsory. Whereas at present provisional enrolments can occur at the age of 17 years, the bill provides for the provisional enrolment of persons from 15 years of age. The bill will not confer a right or privilege other than the entitlement to vote at an election, impose an obligation or liability or qualify a person to hold a position or exercise a power upon persons under 18 years of age. For example, the right to vote usually carries with it the entitlement to hold positions such as returning officer for an election. That would not be the case for 16-year-olds and 17-year-olds. Further, the bill would not qualify or make liable persons under 18 years of age to serve as jurors. It will disqualify from voting persons who are committed to the control of the Minister administering the Children (Detention Centres) Act 1987 for 12 months or more.

It seems absurd that in this country one cannot vote until one is 18 years of age but at 15 one can leave school, take up full-time work and pay tax. At the age of 16 one can leave home, join the Navy and be required to defend this country, sign a legally binding apprenticeship contract, be declared bankrupt for non-payment of debts, have children, join most political parties and learn to drive. At 17 one can enlist in the Air Force or Army. Surely some of these actions have potentially more serious consequences than an individual's vote. At 16 one can endanger someone else's life as well as one's own at the wheel of a car. Under the Federal Government's new Australian Security Intelligence Organisation [ASIO] laws, 16-year-olds and 17-year-olds can be strip searched and detained. There seems to be an inherent contradiction in giving young people these responsibilities while saying at the same time that they are not responsible enough to vote.

Support for lowering the voting age is gathering momentum around the country. In Victoria an adjournment speech given by the Hon. J. H. Eren of the Australian Labor Party on 3 June 2004 called for the Attorney-General to investigate "ways of furthering youth participation in the democratic process" and lowering the voting age to 16. In Queensland an adjournment speech by Mr Neil Roberts of the Australian Labor Party called on the Beattie Government to consider lowering the voting age to at least 17, and possibly 16. He said:

> Young people today are better educated, they deal with a more complex and changing world and, through the many examples of their active participation in community affairs, demonstrate that they are ready to directly participate in democratic processes. The voting age in Queensland was lowered to 18 in 1973. That was 30 years ago. It is time to do so again.

In South Australia a private member's bill was introduced in March 2001 to lower the voting age to 17. The Youth Affairs Council of South Australia has recommended that State and Federal governments introduce legislation allowing 16-year-olds and 17-year-olds the option to register to vote in both State and Federal elections. The National Children's and Youth Law Centre expressed its support for such action. New South Wales Young Labor also strongly advocated lowering the voting age to 16 as recently as last month on talkback radio and in the *Sydney Morning Herald*.

However, this trend towards lowering the voting age is not confined merely to Australia. The Social Democratic Party in England has committed itself, along with a large coalition of organisations, to giving 16-year-olds the vote. The Votes at 16 coalition, which campaigns to lower the voting age in the United Kingdom, has received much attention through media coverage in recent times. International precedent has also been set. In November 2004 a private member's bill was introduced in the Canadian Parliament to lower the voting age to 16. While this bill is still in the debate stage, it has received multipartisan support from each of the four Federal political parties in the House of Commons. Brazil, Nicaragua, Iran and Cyprus have already lowered their voting ages to 16. In Scotland people aged between 16 and 17 are able to vote for community councils, and Germany has changed the voting age for municipal elections to 16. The voting age is 17 in East Timor, Indonesia, North Korea, the Seychelles and the Sudan.

Article 25 of the International Covenant on Civil and Political Rights states that every citizen shall have the right and opportunity, without unreasonable distinctions, to take part in the conduct of public affairs directly

and freely through chosen representatives and to vote and be elected at genuine periodic elections, which shall be by universal and equal suffrage. In Australia we view our system as involving universal suffrage yet we deny young people the right to vote. Of course, some people argue that those under the age of 18 may not have enough knowledge or understanding of the issues or of politics in general or the maturity to cast informed votes. I take exception to this argument. Studies have shown that, by the age of 15, children:

> … can take into account the long-range effects of political action and use philosophical principles for making political judgments.

In any case, the same argument could probably be used against the majority of the electorate. We have to be consistent: either a citizen's level of knowledge, understanding and maturity is a factor in his or her right to vote or it is not. After all, we do not automatically become politically aware and mature once we turn 18.

The PRESIDENT: Order! As there is no Minister in the Chamber, I will leave the chair.

[*The President left the chair at 2.39 p.m. The House resumed at 2.41 p.m.*]

Mr IAN COHEN: It is important that we are consistent. Either a citizen's level of knowledge, understanding and maturity is a factor in his or her right to vote, or it is not. After all, we do not automatically become politically aware and mature once we turn 18 years of age. If an ignorant or immature adult can vote, why cannot smart and mature 16-year-olds or 17-year olds? An argument often used against giving young people the vote is that they will simply follow their parents when they vote. The reality is that everyone comes to their voting decision in different ways. Some adults vote a certain way because their family has always done so. Some break ranks with family tradition and follow personal convictions. There is no reason why young people are any different or more likely to follow their parents' voting patterns.

Because of their lack of political power, young people are wholly dependent on the goodwill of adults—they must rely on adults to voice their concerns in the public arena. But the response is often one that suits adults in preference to young people. It is sometimes said that teenagers have no interest in politics. Currently young people have little incentive to be interested in politics when they have no influence over the people who govern them and set the policies and priorities that affect them. That could change if they were given a political voice. In New South Wales even people who are so physically incapacitated that they cannot sign the enrolment or voting form are allowed to vote. One does not have to pass a test in English language literacy, intellectual ability or political knowledge. Not even an eyesight test is required.

It is also important to note that the arguments currently being used against the youth vote are the same arguments that were used in the past to justify why women and indigenous people should not have the right to vote. Just as those arguments are not about the ability of a particular gender or race of people, they are not particular to 16-year-olds. As I have just illustrated, they are relevant to all people who have the right to participate in the democratic decision-making process. Young people are therefore being denied the right to vote on the basis of age. We now have laws against age discrimination and, according to those laws, there should be no discrimination based on age unless there are compelling reasons for that deferential treatment. Since it has not been proved that 16-year-olds and 17-year-olds lack the ability to make political decisions, they ought not be denied the vote on the basis of age. Imagine if elderly people were denied the right to vote because of their age.

In summary, young people are currently caught in a social, economic and political system of structural dependency that does not encourage them to take responsibility for themselves. If we as political leaders are serious about addressing youth issues we must encourage young people to be part of the democratic process. The only way in which they can genuinely take part is if they are included in their own right through having the opportunity to vote from the age of 16. I commend the bill to the House.

Debate adjourned on motion by the Hon. Don Harwin.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by Reverend the Hon. Fred Nile agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 147 outside the Order of Precedence, relating to the Smoke-free Environment Amendment (Motor Vehicle Prohibition) Bill, be called on forthwith.

Order of Business

Motion by Reverend the Hon. Fred Nile agreed to:

That Private Members' Business item No. 147 outside the Order of Precedence be called on forthwith.

SMOKE-FREE ENVIRONMENT AMENDMENT (MOTOR VEHICLE PROHIBITION) BILL

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

Second Reading

Reverend the Hon. FRED NILE [2.46 p.m.]: I move:

That this bill be now read a second time.

The Smoke-free Environment Amendment (Motor Vehicle Prohibition) Bill, an important bill that will amend the Smoke-free Environment Act 2000, will prohibit smoking in motor vehicles and provide for a fine of $550 or a maximum penalty of five penalty units.

The Hon. Don Harwin: Point of order: A copy of the bill is not available to honourable members.

Reverend the Hon. FRED NILE: I have a copy.

The Hon. Don Harwin: I request that the bill be circulated.

The PRESIDENT: Order! The bill will be circulated.

Reverend the Hon. FRED NILE: This bill deals with an important health issue regarding the harmful effects of passive smoke. It deals also with road safety issues resulting from many reports that drivers smoking cigarettes cause accidents when they drop ash onto their dresses or trousers. This bill aims to eliminate or reduce the danger of fires during the bushfire season when drivers or passengers throw cigarette butts out of a car window and onto a country road. The first issue relates to the harmful effects of passive smoking in a car not only on drivers but also on passengers.

Since giving notice of my intention to introduce this bill I have received a number of encouraging phone calls relating to the harmful effects of passive smoke. One lady who called me said that her husband, who was a non-smoker, had an arrangement with a friend, who was a heavy smoker and lived in the same area, to be collected each morning, taken to work and returned in the evening. She said her husband complained to her that the car was full of smoke for the duration of both journeys but that he did not want to complain to the driver in case he withdrew his offer of transport to and from work.

Her husband, she said, had died recently of a serious case of lung cancer, caused by passive smoking. He had not smoked, but his friend, who was a heavy smoker, had caused his death. Perhaps that was unknown to the driver, but it is nevertheless the fact. Some honourable members may think this is unusual legislation. But, when I checked what is happening in other jurisdictions, I found that in California a bill was introduced to outlaw smoking in cars or trucks in which children are travelling. The bill being considered in the State's Assembly would allow police to stop vehicles if a child appears to be exposed to smoke from a pipe, cigar, cigarette or "any other plant". The Californian bill has the support of the American Lung Association, which points to research showing second-hand smoke can cause cancer, respiratory infections and asthma.

Assemblyman Marko Firebaugh, a Democrat and author of the bill, referred to a survey by State health officials that found 29 per cent of young people in the State had been exposed to second-hand smoke in the preceding week. I was encouraged to learn of that report. I have had telephone calls from a number of other persons. One woman rang to say her husband was in a car when the driver dropped hot ash onto his lap and vigorously tried to brush it away. He lost control of the vehicle, the car crashed and her husband was killed. Therefore smoking in vehicles is a road safety issue. Though a vehicle may be equipped with a cigarette lighter, the driver must remove the lighter from the socket to light a cigarette. This is yet another distraction for the person driving and it can lead to an accident. Obviously, smokers must get rid of cigarette ash as they drive, either into the ashtray in the vehicle or by flicking the ash from the cigarette out the window—again, a distraction from concentration on the road driving priority.

All honourable members are aware of current debate about drivers using mobile phones and sending SMS messages whilst driving. That has now been proved to be a major factor in a number of car accidents. Cigarette smoking must be just as distracting while driving. I have mentioned already the potential risk of bushfires resulting from cigarette smoking by motor vehicle drivers. In bushfire seasons in particular many of our country roads have to their sides very dry material, whether grass or other growth. I know many councils endeavour to keep the areas close to roads clear of vegetation and rubbish, but there will always be grass growing beside country roads. If the grass becomes dry, as it is currently in many drought-affected areas, a cigarette butt thrown from a window can start a serious bushfire that will cause a great deal of damage, destruction and harm to those living in country regions, as well as to the State and nation's economy.

Many honourable members would know the impact of passive smoking on those who do not smoke. The *British Medical Journal* recently reported on the risks of passive smoking. Researchers from London's St George's and Royal Free hospitals found passive smoking increased the risk of coronary heart disease by 50 to 60 per cent. The team, which studied 4,792 men over 20 years of age, said earlier studies, which had found a 25 to 30 per cent increased risk, focused on people living with smokers. It said those studies did not take account of exposure at work and other places. Doctors at the British Medical Association conference in June 2004 called for a workplace smoking ban. Previous research had linked passive smoking to increased risk of heart disease and stroke.

Professor Peter Whincup of St George's Hospital and colleagues examined the links between a blood marker of smoke exposure, called cotinine, and the risk of heart disease and stroke in more than 4,500 men. The men were aged between 40 and 59 years and came from 18 different towns across the United Kingdom. They were monitored for 20 years. Professor Whincup's team found the men with the highest levels of cotinine in their blood, and therefore the highest exposure to passive smoke, had the highest risk of heart disease. Higher cotinine levels were linked with a 50 to 60 per cent greater risk of heart disease. Previous studies that looked at the risk posed by living with a smoker estimated a 25 to 30 per cent increased risk of heart disease.

All this recent research indicates that the dangers of passive smoking may have been underestimated. I believe that is a fact. The risks were particularly high when the team looked over a short timescale, which suggests the link between cotinine levels and heart disease declines with time. This means previous studies that looked at years of data could have further underestimated the risk. Professor Whincup went on to say in his report:

> The true effects of passive smoke may have been underestimated by concentrating on partner exposure.
>
> What we have here is a measure of overall passive smoking exposure.
>
> The effects of passive smoking are likely to be bigger and more widespread. This adds weight to the argument that we should do everything we can to minimise passive smoking exposure.

Dr Tim Bowker, Associate Medical Director of the British Heart Foundation, said:

> The need for a ban on smoking in public places in the UK has never been better illustrated than by this potentially pivotal study.
>
> The evidence is now compelling. The government should not delay any further in introducing legislation to protect non-smokers from this unnecessary risk.

The object of the bill is to protect motor vehicle passengers, but especially children. It is quite normal for mothers and fathers who are heavy smokers to have their children in the back seats of their cars, and thus exposed to passive smoking. Studies have been conducted of the effect of passive smoke on both children and unborn babies. Where a pregnant woman who is not a smoker inhales second-hand smoke in a vehicle driven by her husband, who is a smoker, this can cause serious harm to the unborn child. A new research study in the United States of America, conducted by the Columbia Center for Children's Environmental Health, reported by the National Institute of Environmental Health Sciences, found that children of mothers exposed to second-hand smoke during pregnancy have lower scores on tests for cognitive development at age two, when compared to children from smoke-free homes. The impact on poorest families is hardest, says the study. Children exposed to smoke whose mothers lived in substandard housing or had inadequate food and clothing had still lower results, and were less likely to compensate for their cognitive harm during the first few years of their life. Anne Jones, Chief Executive of Action on Smoking and Health [ASH] Australia, said:

> These findings show the compound harm suffered by children exposed to both secondhand smoke and poorer living conditions. They suffer avoidable harm that can persist into early childhood and beyond.
>
> The study is especially disturbing for women working in very smoky workplaces such as pubs and clubs—as well as in family homes where smoking still persists indoors.

I would add: and where smoking occurs in a car in which children or pregnant women are passengers. Anne Jones also said:

> Pregnant women and their unborn children are the most vulnerable—with work safety authorities turning a blind eye to their legal rights to a safe, smoke-free workplace under OHS and discrimination law.

I am very encouraged by correspondence I have received from a number of organisations in support of the bill. They include the Non Smokers Movement of Australia, which wrote to me on 10 May and said:

> Dear Rev. Nile
>
> I understand that you have called on the NSW Government to protect children from secondhand tobacco smoke in private vehicles.
>
> I wrote to two Government Ministers earlier this year regarding smoking in vehicles. I enclose copies of the correspondence to date. I have only received acknowledgment so far and no answers to my questions. I will copy the replies to you as soon as I receive them.
>
> I understand that the Western Australian branch of the Australian Medical Association is also calling for smoking bans in private vehicles, for the protection of children from the well-known hazards of secondhand (environmental) tobacco smoke. I will also send copies of my correspondence to them.

Mrs Margaret Hogge, President of the Non-Smokers Movement of Australia, concludes:

> Smoking in vehicles is a serious health and safety matter on many levels, as my letter and newsletter point out in detail. We call for urgent legislation to ban smoking in cars altogether to ensure safer conditions for passengers and for safer driving standards.

I was encouraged by their support. Their bulletin, the "Non-Smokers' Update", in issue No 51 of April 2005, lists a number of points in support of my bill:

> If children or disabled people are in the vehicle they will then no longer be subjected, in confined spaces, to secondhand tobacco smoke. Unfortunately, the Cancer Council message, "Car and Home Smoke-free Zone" still hasn't reached some diehard smokers who continue to subject their young passengers to physical child-abuse similar to dropping poison in their milk-bottles.

The bulletin goes on to say:

> Other road users will be safer, as drivers who smoke won't have the distractions of the smoking process. We have asked the NSW Government, "*Would a driver be considered to be in full control of a vehicle while carrying out the following actions*:—
>
> **A. Removing a cigarette from a packet, or rolling a cigarette, or filling a pipe?**
>
> **B. Lighting a cigarette, either with an inbuilt lighter, a match or a regular lighter?**
>
> **C. Holding a cigarette, smoking it and disposing of the ash?**
>
> **D. Extinguishing and disposing of the cigarette, cigar, or putting the pipe away?"**
>
> **In addition, we have asked if the driver would be in full control of the vehicle if he or she were carrying out any normal smoking actions during an emergency. Similarly, how would a new, inexperienced driver cope?**

The bulletin concludes:

> Smoking is a complex operation, and the potential for disaster in the case of a smoking driver is enormous. If you drop your mobile phone in your lap, it's a nuisance—think of what can happen if you drop a lit cigarette into your lap!!

I am encouraged by such strong support from that organisation. There has been a great deal of evidence of the effect of passive smoking, particularly on children. A study conducted by the National Health and Medical Research Council dealing with middle ear disease states:

> The scientific literature does not show a clear relation between exposure to ETS and the occurrence of acute otitis media. However, the evidence is stronger for chronic disease (otitis media with effusion or glue ear). Positive signs have been reported by studies in different populations, using different measures of exposure and adjusting for a range of observed and plausible confounding factors. There is evidence that exposure to ETS is related to the development of glue ear, and not just its detection and surgical treatment. This finding is an important one in terms of public health, as surgical treatment of glue ear is one of the most common causes of admission to hospital in childhood. Moreover, children who suffer otitis media with effusion in early life may experience long-term impairment in speech and mental function.

A report from Action on Smoking and Health on passive or second-hand smoke states:

> Whilst the relative health risks from passive smoking are small in comparison with those from active smoking, because the diseases are common, the overall health impact is large. Professor Konrad Jamrozik, formerly of Imperial College London, has estimated that domestic exposure to secondhand smoke in the UK causes around 2,700 deaths in people aged 20-64 years and a further 8,000 a year among people aged 65 years or older. Exposure to secondhand smoke at work is estimated to cause the deaths of more than two employed persons per working day across the UK as a whole (617 deaths a year), including 54 deaths a year in the hospitality industry. This equates to about one-fifth of all deaths from secondhand smoke in the general population and up to half of such deaths among employees in hospitality trades.
>
> **Risk to young children**
>
> Almost half of all children in the UK are exposed to tobacco smoke at home. Passive smoking increases the risk of lower respiratory tract infections such as bronchitis, pneumonia and bronchiolitis in children. One study found that in households where both parents smoke, young children have a 72 per cent increased risk of respiratory illnesses.

One of the reasons I introduced the bill is my experience. When I was a child I suffered from asthma, and I continue to suffer from it, but not as seriously as I did when I was a boy. Both my parents smoked. My father was a very heavy smoker. The article continues:

> Passive smoking causes a reduction in lung function and increased severity in the symptoms of asthma in children, and is a risk factor to new cases of asthma in children.

As I said, I suffer from asthma, as does my wife, because, we believe, we were brought up in an environment where there was a great deal of passive smoking. Until the laws were enforced, passive smoking occurred in Parliament House. The article continues:

> Passive smoking is also associated with middle ear infection in children as well as possible cardiovascular impairment and behavioural problems.
>
> Infants of parents who smoke are more likely to be admitted to hospital for bronchitis and pneumonia in the first year of life. More than 17,000 children under the age of five are admitted to hospital every year because of the effect of passive smoking.

We must include in that passive smoking in a vehicle. The article continues:

> Passive smoking during childhood predisposes children to developing chronic obstructive airway disease and cancer as adults. Exposure to tobacco smoke may also impair olfactory function in children. A Canadian study found that passive smoking reduced children's ability to detect a wide variety of odours compared with children raised in non-smoking households. Passive smoking may also affect children's mental development. A US study found differences in reading and reasoning skills among children even at low levels of smoke exposure.

This scientific information has been made available only in recent years. We may have had suspicions about the effect of passive smoking. People who smoke probably believe there is no danger to those around them who do not smoke. Smokers take a risk when they smoke. As we now know, the effect of passive smoke on non-smokers is just as serious as the effect of smoke on smokers. I know some people may be concerned about the practicality of enforcing such a law. However, I do not envisage it being implemented in a draconian fashion. It is another measure I call the schoolteacher legislation, the education-type legislation: The Parliament expresses its view on a health issue, safety issue or road safety issue by passing legislation and then advising the community, through education programs, that this is now the policy of the Government of New South Wales. They will know it is against the law to smoke in a vehicle. I hope it will apply in every other State. The majority of people will obey the law. When we introduced the compulsory wearing of seatbelts many thought that people would break the law, but the observance rate of that law is nearly 99.9 per cent. If people are not wearing a seatbelt it is usually because they have forgotten to put it on because they are in a hurry. My knowledge and experience is that people take seriously the wearing of seatbelts. They belt up, which has saved many lives.

This legislation will have a similar educative effect on the community. When a cigarette is lit by a father while driving the family car perhaps his children will say to him, "Dad, you cannot smoke in the car. It is against the law", or perhaps a wife will say to her husband, "Dear, you know you are not allowed to smoke in the car." This measure may help to reduce household disputes or marital discord. One partner to a marriage may feel that something has to be said because smoking in the car is upsetting, but mentioning the matter to their spouse could cause an upset. With this legislation, car passengers will be able to draw attention to the driver who is smoking that there is a law against that practice. I believe that in those circumstances the majority of responsible parents will stop smoking in the car out of concern for the welfare of their children and other passengers.

I ask members to give serious consideration to this legislation so that it may be passed when it comes before the House later in the year, after the winter recess, and thereby enable New South Wales to remain at the forefront with health and safety legislation that will serve as an example to other States and countries. I commend the bill to the attention of the House.

Debate adjourned on motion by the Hon. Don Harwin.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by the Hon. Patricia Forsythe agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 9 in the Order of Precedence, relating to the Legislation Review Amendment (Family Impact) Bill, be called on forthwith.

Order of Business

Motion by the Hon. Patricia Forsythe agreed to:

That Private Members' Business item No. 9 in the Order of Precedence be called on forthwith.

LEGISLATION REVIEW AMENDMENT (FAMILY IMPACT) BILL

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

Second Reading

The Hon. PATRICIA FORSYTHE [3.12 p.m.]: I move:

That this bill be now read a second time.

This bill is one of the least complex the House will have to deal with, yet in principle it represents one of the most important that we should address. Put simply, the bill proposes that the Legislation Review Committee be given the added requirement of reporting to both Houses of Parliament on whether a bill or regulation impacts on families and making recommendations following consideration of that issue. Currently section 8A of the Legislation Review Act 1987 requires the Legislation Review Committee to consider and then report to the House on whether, among other things, a bill by express words or otherwise trespasses unduly on personal rights and liberties. Under section 9 in relation to regulations the committee must report to the House on whether, among other things, a regulation unduly trespasses on personal rights and liberties and adversely impacts on the business community. In other words, importance is given to personal rights and liberties and to business.

The reports that the committee provides to the Parliament at the beginning of each sitting week provide a useful oversight of the impact of bills and regulations. As a Liberal, I endorse the importance of acknowledging the issue of personal rights and liberties. The House will recall that in relation to the Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Bill the committee reported extensively on the potential impact on personal rights of restricting the appeal rights of proponents and third parties in relation to decisions of the Minister made under the new critical infrastructure project clause. So personal liberty and business are adjudged as capable of being impacted by government actions and decisions, and that impact is quantified by the committee. What is missing from the list, and what this bill seeks to redress, is the issue of the potential impact on families by government Acts and regulations.

I gave notice of this bill in May 2004 with the enthusiastic support of the Liberal-Nationals party room. I hope the House, and the Government in particular, will give this bill similar enthusiastic support. It is an undeniable fact that some Government actions impact positively and some impact negatively on families, and that both should receive similar consideration by the Legislation Review Committee. The House should keep that in mind when it is considering legislation and regulations. The term "Families" is mentioned in the budget, in Budget Paper No. 2, page 2-27, where the Government outlines how the budget assists families. Table 2.6 is titled "Major Service Improvements in Support of Children and Families". However, "Families" are not defined in the budget papers, nor are they defined in the bill. This is not an attempt by me to avoid the issue but it is recognition that families have different configurations.

According to the 2001 Australian census, 47.8 per cent of families in occupied private dwellings were families with children and 15.5 per cent were one-parent families. The statistics for New South Wales are very similar. According to the Australian Bureau of Statistics, 42 per cent of the New South Wales population currently has the responsibility of caring for a family member. The most likely family impact will be the cost of the increased cost of dependency services. Care and dependency are not necessarily the same thing. Family impact is expressed and assessed most directly through children's services regulation, child protection legislation

and parental responsibility legislation, but also through the regulation of care and support of people with a disability. In the latter case, dependency would extend beyond that of minors. Consideration of dependency may go further, for example, when costs for transport, water and energy services change and that change can be quantified and expressed as an impact on families.

Working hours and working conditions as well as public holiday changes are other examples of impact; the list will be broad. Tax changes that add to families' costs are as legitimate an issue for the committee to advise upon as is the impact of regulation changes upon business costs. Families are central to our social capital. The Legislation Review Committee acknowledges the importance of financial capital through its work: the bill is recognition that our social capital is equally vital. I do not believe that adding these functions to the role of the Legislation Review Committee will be unduly onerous or create an unrealistic cost burden. It is a sensible reform that recognises the value of the legislation review process. I look forward to the House giving the bill positive consideration. I commend the bill to the House.

Debate adjourned on motion by the Hon. Peter Primrose.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by the Hon. Henry Tsang agreed to:

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

Precedence of Business

Motion by the Hon. Henry Tsang agreed to:

That Government Business take precedence for the remainder of this sitting.

WORKPLACE SURVEILLANCE BILL

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [3.18 p.m.]: I move:

That this bill be now read a second time.

The Workplace Surveillance Bill will create a sensible and practical system for regulating workplace surveillance by employers of employees. I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

Before I go into the detailed provisions of the Bill, I think it would be useful to briefly remind honourable members of its history. In 1998 this Government introduced the *Workplace Video Surveillance Act 1998*, which established a new system of regulation for video surveillance in the context of employment. The *Workplace Video Surveillance Act 1998* arose out of a number of industrial disputes over video surveillance by employers and was the result of extensive consultations between employee and employer organisations. The Act was the first of its kind in Australia.

The *Workplace Video Surveillance Act 1998* essentially prohibits video surveillance in the workplace unless certain notice requirements are satisfied, or a Magistrate has authorised covert video surveillance to establish whether employees are involved in any unlawful activity.

In 2003 submissions to the statutory review of the *Workplace Video Surveillance Act 1998* were received from both industrial organisations and employer groups, and none identified significant deficiencies in the *Workplace Video Surveillance Act 1998*"s operation. The Workplace Surveillance Bill, which I am introducing, was therefore modelled on the *Workplace Video Surveillance Act 1998*.

The Bill repeals and replaces the *Workplace Video Surveillance Act 1998*, which applied only to video surveillance. In general it takes the *Workplace Video Surveillance Act 1998* as a template and extends its provisions in a number of ways.

In June 2004 I tabled an exposure draft Workplace Surveillance Bill to provide unions, employees and the owners of small and large businesses the opportunity to have input into the development of a comprehensive commonsense solution to new workplace

surveillance issues. A large number of submissions were received and the exposure draft Bill has been amended to take into account numerous concerns of stakeholders.

As the use of technology has grown, it has become apparent that the provisions of the *Workplace Video Surveillance Act* were not wide enough to protect employees from intrusive acts of covert surveillance. People are concerned that what they considered to be essentially private communications by way of email, may end up being intercepted and read by employers. Technological advances allow small tracking devices to transmit movements outside of the traditional workplace, and the capture of every word typed into a computer.

This Bill ensures that employees are made aware of any such surveillance. It extends to computer surveillance (surveillance of the input, output or other use of a computer by an employee) and tracking surveillance (surveillance of the location or movement of an employee). It restricts and regulates the blocking by employers of emails and Internet access of employees at work. It extends beyond the traditional workplace to any place where an employee is working.

In common with the *Workplace Video Surveillance Act 1998* the Bill creates a general prohibition on surveillance by employers of their employees at work unless employees have been given notice of the surveillance in accordance with the Bill, or unless the surveillance is carried out under the authority of a covert surveillance authority issued by a Magistrate. Covert surveillance authorities can only be issued for the purpose of establishing whether or not an employee is involved in any unlawful activity at work.

The Bill regulates the carrying out of surveillance under a covert surveillance authority, and the storage, use and disclosure of covert surveillance records.

It does not create an enormous burden on employers. While it is true that the notification regime seeks to ensure that employees are made aware of any surveillance being conducted by an employer, notification is not itself an onerous requirement. Essentially, the Bill promotes transparency in the workplace, obliging employers to be open about surveillance practices.

I turn now to the major provisions of the Bill.

Part 1 contains preliminary matters such as definitions. It defines 'covert surveillance' to be any surveillance by an employer of an employee while at work for the employer that is not in compliance with the notification requirements in Part 2. In effect this creates a presumption that surveillance is covert unless the notification requirements are met. An employee is considered to be 'at work' when they are at a workplace of the employer, or if they are anywhere else while performing work for the employer.

'Surveillance' is defined to cover 'camera surveillance', 'computer surveillance' and 'tracking surveillance'. In each case there must be 'surveillance', as that term is commonly understood.

'Camera surveillance' is surveillance by means of a camera or other electronic device that monitors or records visual images of activities on premises or in any other place. This includes 'still' photographs.

'Computer surveillance' is surveillance by means of software or other equipment that monitors or records the information input or output, or other use, of a computer. It includes the sending and receipt of emails and the accessing of Internet websites. It is important to note that this does not mean that all monitoring or recording of the use of a computer is 'computer surveillance'. The Bill requires there to be 'surveillance', as that term is ordinarily understood.

The definition of 'computer surveillance' therefore does not cover normal business practices such as back-ups of hard drives, network performance monitoring, software licence monitoring, computer asset tracking, computer asset management or the normal saving of documents, because these are not normally considered to be "surveillance" activities. However, if back-ups, for instance, were to be used to conduct surveillance to facilitate the reading of somebody's emails, that would need to be notified to employees, otherwise it would be considered to be covert surveillance.

This is a common sense approach to the issue of computer surveillance. There are obviously many functions of a computer that require the recording of activities. This has been acknowledged. Only surveillance activities, such as reading emails, or watching every web site a person goes to, or logging individual keystrokes, or covert observation of everything an employee does on their machine, require notification.

I will return later to the issue of computer surveillance as it has generated the most comment in submissions to the draft exposure Bill.

'Tracking surveillance' is surveillance by means of an electronic device the primary purpose of which is to monitor or record geographical location or movement. This has been amended from the exposure draft to focus on things such as Global Positioning System (GPS) devices which allow real time tracking of an object's location. This is to ensure that 'tracking surveillance' does not capture things like mobile phone or credit card records that may incidentally show an employee's location.

The definitions of 'employer' and 'employee' take their meaning from the *Industrial Relations Act 1996* and include people performing voluntary work and people working under labour hire contracts.

Part 1 also spells out that requirements imposed by or under the *Occupational Health and Safety Act 2000* do not limit or otherwise affect the operation of this Bill. This is to remind employers not to use occupational health and safety issues as an excuse for conducting covert surveillance. Should an employer believe they need to urgently conduct covert surveillance for occupational health and safety reasons, they should use the existing occupational health and safety consultation regime (under Part 2, Division 2 of the *Occupational Health and Safety Act 2000*) to get agreement for any surveillance. Clause 14 of this Bill makes it clear that such an agreement will ensure that any such surveillance will not be considered covert, notwithstanding that none of the notification requirements of Part 2 have been met.

Part 2 outlines the notification requirements for surveillance not to be considered covert. Essentially, employees must be given written notice 14 days prior to any surveillance commencing. This notice, which can be sent via email, must indicate the kind of surveillance to be carried out; how the surveillance will be carried out; when the surveillance will start; whether the surveillance will be continuous or intermittent; and whether the surveillance will be for a specified limited period or ongoing. An exemption applies in the case of camera surveillance of an employee working somewhere that is not their usual workplace. This is to ensure that large employers, with many workplaces, are not required to notify individual employees each time they happen to go to a different workplace to usual, for instance to attend a meeting.

Each of the three types of surveillance also has additional requirements. For 'camera surveillance' cameras used for the surveillance (or camera casings or other equipment that would generally indicate the presence of a camera) must be clearly visible in the place where the surveillance is taking place. Signs must also notify people that they may be under surveillance in that place and must be clearly visible at each entrance to that place. These mirror the requirements under the *Workplace Video Surveillance Act 1998*.

For "computer surveillance" the surveillance must be carried out in accordance with a policy of the employer on computer surveillance. The policy must be notified in advance to an employee in such a way that it is reasonable to assume that the employee is aware of and understands the policy.

For "tracking surveillance" there must be a notice clearly visible on the vehicle or other thing that is being tracked, indicating that the vehicle or thing is the subject of tracking surveillance.

As previously mentioned in relation to occupational health and safety issues, clause 14 allows an exemption from these requirements where employees (or a body representing a substantial number of employees) have agreed to the use of the surveillance for a purpose other than surveillance of the activities of employees and the surveillance is carried out in accordance with that agreement. For instance, employees may agree that a workplace be the subject of camera surveillance under an industrial agreement.

Part 3 outlines prohibitions on surveillance. Clause 15 prohibits surveillance of employees in change rooms, toilets, showers or other bathing facilities at a workplace. Clause 16 prohibits the continuation of surveillance when an employee is not at work, except computer surveillance of the use by the employee of equipment or resources provided by or at the expense of the employer (such as laptops, internet accounts, email accounts, network resources, information systems). This will ensure, for instance, that employers will not be prevented from conducting computer surveillance of work laptops, to ensure that pornography is not being downloaded.

Clause 17 provides that an employer must not prevent the delivery of emails or block access to Internet websites unless this is in accordance with a policy that has been notified in advance to an employee in such a way that it is reasonable to assume that the employee is aware of and understands the policy. Employees must also be notified of any blocked emails, unless an exemption applies. The exemptions extend to emails that are believed to be spam (as defined by the *Spam Act 2003* of the Commonwealth), or believed to contain viruses, trojan horses, or offensive and harassing material.

However, an employer's policy cannot provide for the blocking of email or access to a website merely because the content relates to industrial matters. The final part of clause 17 states that an employer's policy on email and Internet access cannot provide for preventing delivery of an email or access to a website merely because:

(a) the email was sent by or on behalf of an industrial organisation of employees or an officer of such an organisation, or

(b) the website or email contains information relating to industrial matters (within the meaning of the *Industrial Relations Act 1996*).

This provision is to meet concerns that employers could otherwise deliberately block emails sent by industrial organisations. However, it is not the case that this will require employers to provide email access to employees, nor that this will require employers to provide Internet access to particular websites. The key phrase here is "merely because".

For example, if an employer has a policy of not allowing access to any external Internet sites on its computers, there will be no compulsion to provide access to websites containing information relating to industrial matters. This is because Internet access to the website containing industrial matters is being prevented on the basis that all access to external websites is blocked.

Similarly, if an employer operates a "white list", that is, a list of Internet websites that access is provided to, the employer will not be forced to add websites containing industrial matters to the "white list".

An employer will however be prevented from adding Internet websites containing industrial matters to any "black list", that is, a list of Internet websites that are blocked, unless there is a reason for doing this other than the fact that the website contains industrial matters. For instance, if a website containing industrial matters also contained content that was considered to be harassing or offensive, an employer would be able to block access on that basis.

Part 4 provides the regulatory framework for covert surveillance of employees at work. These provisions have been based on those in the *Workplace Video Surveillance Act 1998*.

It will be an offence for an employer to carry out, or cause to be carried out, covert surveillance of an employee while at work for the employer unless the surveillance has been authorised by a covert surveillance authority. Covert surveillance authorities may only be issued for the purpose of establishing whether or not one or more particular employees are involved in any unlawful activity while at work for the employer. They do not authorise the covert surveillance of an employee for the purpose of monitoring an employee's work performance, nor in any change room, toilet facility, shower or other bathing facility.

There are exceptions for law enforcement agencies, correctional centres, casinos and legal proceedings. These mirror the exceptions in the *Workplace Video Surveillance Act 1998*.

It will not be an offence for an employer to carry out covert surveillance solely for the purpose of ensuring the security of the workplace or persons in it. This will apply if there was a real and significant likelihood of the security of the workplace or persons in it being jeopardised if the covert surveillance was not carried out and the employer has notified employees of the intended surveillance. This mirrors the provisions in the *Workplace Video Surveillance Act 1998*.

Applications for covert surveillance authorities are to be made to Magistrates. Applications must include the following information:

(a) A statement of the grounds the employer has for suspecting that particular employees are involved in unlawful activity, together with the names of those employees (unless it is not practicable to name them). This is needed to justify that the authority should be issued. The employer must have some evidence to substantiate any suspicions.

(b) A statement as to whether other managerial or investigative procedures have been undertaken to detect the unlawful activity and what has been their outcome. This is necessary to ensure that covert surveillance is not always the first and last option considered by an employer. There may be other, simpler and less intrusive ways to deal with suspected crime in the workplace in the first instance.

(c) The names of the employees or (if it is not practicable to name them) a description of the group or class of employees who will regularly or ordinarily be the subject of the covert surveillance. This is to help the surveillance supervisor be aware of who will be subject to the covert surveillance, so that any covert surveillance does not extend beyond reasonable bounds.

(d) A description of the premises, place, computer, vehicle or other thing that will regularly or ordinarily be the subject of the covert surveillance.

(e) A statement as to the kind of covert surveillance (camera, computer or tracking) that is proposed to be conducted.

(f) The dates and times during which the covert surveillance is proposed to be conducted. This is to control the operation of the authority and ensure that the surveillance is not conducted as an open-ended operation.

(g) A statement as to whether any previous application for a covert surveillance authority has been made in respect of the proposed covert surveillance and a statement as to the results of the application and of any covert surveillance conducted under a covert surveillance authority issued as a result of the previous application.

(h) In the case of an application made by an employer's representative, verification acceptable to the Magistrate of the employer's authority for the person to act as an employer's representative for the purposes of the covert surveillance operation.

The Magistrate can require further information, and applications are to be dealt with in closed court. The Magistrate must not issue a covert surveillance authority unless satisfied that there are reasonable grounds to justify its issue. In making such a determination the Magistrate will take into account matters such as the strength and seriousness of the employer's suspicions, what other actions the employer has taken to investigate these suspicions and the invasion of privacy that employees will suffer as a result of the surveillance. The Bill sets a tougher test if an employer wishes to place a recreation room, meal room or any other part of a workplace in which employees are not directly engaged in work under surveillance. This mirrors the *Workplace Video Surveillance Act 1998*.

The *Workplace Video Surveillance Act 1998* contained a requirement that a person holding a Class 1 licence issued under the *Security (Protection) Industry Act 1985* (since repealed by the *Security Industry Act 1997*) oversee the conduct of authorised covert video surveillance. Class 1 licences were issued, amongst other things, to people employed to install electronic equipment designed to provide security or watch property. A similar licence requirement has not been included in the Bill.

Instead, a Magistrate must be satisfied that the person designated to act as a surveillance supervisor under a covert surveillance authority has qualifications or experience that suit the person to be responsible for overseeing the conduct of the surveillance operations.

It is important to note that the requirements of the *Commercial Agents and Private Inquiry Agents Act 1963*, the *Commercial Agents and Private Inquiry Agents Act 2004*, and the *Security Industry Act 1997* are not affected by this Bill. People will still need to obtain the appropriate licences required under these Acts for activities covered by these Acts. Simply having a covert surveillance authority will not absolve someone from any other legal requirement to hold a private inquiry agents licence or security industry licence when conducting surveillance or installing surveillance equipment.

Covert surveillance authorities will be in the form prescribed by the regulations. They will specify information relevant to the covert surveillance, such as the type of surveillance, the names of the people suspected of unlawful activity, the dates and times during which the surveillance is authorised, the places and things that are to be subject of the surveillance, the name of designated surveillance supervisors, the period the authority remains in force, the period for which the authority remains in force and the conditions to which the authority is subject.

Covert surveillance authorities remain in force for a period not exceeding 30 days, as specified in the authority. They are subject to conditions, mirroring the conditions in the *Workplace Video Surveillance Act 1998*. In brief these require that:

- Surveillance supervisors can only give employers access to those portions of surveillance records relevant to establishing the involvement of employees and others in unlawful activity;

- Surveillance supervisors must erase or destroy all parts of a surveillance record, not required for evidentiary purposes, within three months of the expiry of the authority;

- Employees must be provided with access to covert surveillance records that are to be used in taking detrimental action against the employee.

Contravention of a condition of a covert surveillance authority, or causing the contravention of a covert surveillance authority, is an offence.

Covert surveillance authorities can be varied or cancelled by a Magistrate, who must keep a record of all relevant particulars of any issue, variation or cancellation of an authority. Again, this mirrors the conditions in the *Workplace Video Surveillance Act 1998*.

A report must be given to the Magistrate on the use of a covert surveillance authority, within 30 days after the expiry of the authority. Failure to provide a report will be an offence. The report must set out briefly the result of the surveillance and specify other details as required, including any reasons why an employee who was the subject of the surveillance should not be informed of the surveillance. The Magistrate may then make such orders as considered appropriate with respect to the use or disclosure of any surveillance record, including that the record be delivered up to the Magistrate or that the surveillance record be given to a particular person or body. A Magistrate must make an order informing a person who was the subject of the surveillance unless there is good reason not to. In determining this, the Magistrate is to consider whether the surveillance was justified and whether it was an unnecessary interference with privacy.

Covert surveillance records must be properly stored and protected against loss or unauthorised access or use. Failure to do so will be an offence.

Covert surveillance records must only be used or disclosed for a relevant purpose. Other uses or disclosures will be an offence. Where covert surveillance has been authorised, the Bill makes it clear that it is acceptable for the records to be used:

- as authorised or required under the conditions of the covert surveillance authority;

- to establish whether or not an employee is involved in unlawful activity while at work for the employer;

- to take disciplinary action or legal action against an employee as a consequence of alleged unlawful activity while at work for the employer;

- to establish security arrangements or take other measures to prevent or minimise the opportunity for unlawful activity while at work for the employer of a kind identified by the surveillance record to occur while at work for the employer;

- to avert an imminent threat of serious violence to persons or of substantial damage to property;

- to disclose to a law enforcement agency for use in connection with the detection, investigation or prosecution of an offence; and

- for purposes related to the taking of proceedings for an offence or for taking any other action required or authorised under the Bill.

This is to ensure that covert surveillance records are not used for frivolous, vexatious, or any other irrelevant purposes.

Where covert surveillance of an employee has not been authorised, use or disclosure is only allowed for a purpose related to the taking of proceedings for an offence or by and to law enforcement agencies for any purpose in connection with the detection, investigation or prosecution of an offence.

Part 5 contains miscellaneous provisions. It includes that appeals are to be heard by judicial members of the Industrial Relations Commission; that the Minister is to report to Parliament each year on covert surveillance authorities issued during the year; and that regulations may be made by the Governor. Schedule 1 includes savings and transitional provisions, including that surveillance records and information obtained before commencement are not subject to clause 36 (concerning use of covert surveillance records for relevant purposes only).

I wish finally to return to computer surveillance. Numerous concerns have been raised about the intention to cover computer surveillance. I will therefore pay particular attention to this aspect of the Bill.

There is an urgent need for a new system of regulation for the surveillance of computer communications, which strikes a fair balance between an employer's right to limit use by employees of a computer network provided in the workplace, and the employees' reasonable expectations of privacy. Some blocking of electronic communications by employers is clearly desirable, for example to prevent employees from receiving spam, viruses or offensive material. However, there have reportedly been cases where employers have caused messages relating to trade union activities to be blocked.

Consistent with the general scheme contained in the Bill, it will be an offence for an employer to monitor an employee's use of e-mail and the internet unless certain notice requirements are satisfied, or a covert surveillance authority is obtained from a Magistrate.

The notice requirements for computer surveillance are not onerous. They do not require notices on computers nor a notice each time an employee logs onto a computer. During consultation employers indicated that prescribing such requirements would be costly, especially for small business. Some employers indicated they already had in place suitable, but different, notification systems for ensuring that employees were aware of their computer, Internet and email surveillance policy.

The Bill places an obligation on employers to ensure employees are notified of any computer surveillance and email and Internet access policy in such a way that is it reasonable to assume that the employee is aware of and understands the policy. This is surely best practice and should not trouble employers. An example of such a system for a larger employer is one including induction and training courses and regularly emailed reminders. An example for a small business is individual discussion of the employer's policy with each employee and placing the policy on a work noticeboard.

Employers will also be required to give notice to an employee on any occasion when an e-mail message sent by or to the employee is blocked (that is, prevented from reaching its intended recipient). Such notice is not required if the email has been blocked because it was spam, contained a virus, or was harassing or offensive (for example, if it is pornography). It will be unlawful for an employer to block an e-mail message, or access to a website:

- otherwise than in accordance with the employer's stated policy on e-mail and internet use; or
- solely because the message or website includes information relating to industrial matters.

While employers needs to be able to monitor emails received by their employees, indiscriminate use of such technology can result in breaches of employee privacy. What we are seeking is for these competing interests to be addressed in a sensible and workable manner.

A number of amendments were made to the exposure draft Bill to take account of concerns raised in submissions on the draft Bill. These amendments:

- introduce more flexibility into notification procedures;
- ensure that use of anti-virus and anti-spam software is not affected;
- make it clear that an employer only has to give notice of their computer surveillance policy and not notice of every individual act of computer surveillance;
- allow accepted business practices; and
- address the use of work computers at home.

In conclusion, the Government considers, as it did with the *Workplace Video Surveillance Act 1998*, that this Bill provides an appropriate balance between workers' expectations of privacy and the genuine concerns of employers to protect their workplaces from unlawful activity by regulating the use of covert surveillance of employees at work.

I commend the Bill to the House.

The Hon. GREG PEARCE [3.19 p.m.]: This bill replaces the Workplace Video Surveillance Act 1998, which applied only to video camera surveillance. The bill prohibits the surveillance by employers of their employees at work except by surveillance of which employees have been given notice, or surveillance carried out under the authority of a covert surveillance authority issued by a magistrate for the purpose of establishing whether or not an employee is involved in any unlawful activity at work.

The bill restricts and regulates the blocking by employers of emails and Internet access of their employees while at work. The Opposition and a number of Independents consider that that is a somewhat controversial matter. The bill provides also for the issue of covert surveillance authorities by magistrates and regulates the carrying out of surveillance under a covert surveillance authority and the storage of covert surveillance records. The Opposition also has some concerns about those provisions. The bill restricts the use and disclosure of covert surveillance records. The bill applies only to camera surveillance and, unlike the former bill, computer surveillance—that is, the surveillance of the input, output or other use of a computer by an employee—and to tracking surveillance, which is the surveillance of the location or movement of an employee.

In 2001 the Labor Council of New South Wales began a program to push for the introduction of legislation of this nature. Its argument was that employers were preventing their workers from accessing union emails and web sites. According to a survey conducted last year by the New South Wales Chamber of Commerce, 55 per cent of employers have free and open access to email and the Internet for their employees and only 13 per cent of the companies surveyed had the technological means to—and I use an unhappy word—spy on their employees. The most common reason for using the technology was the protection of intellectual property rights. From my experience prior to coming to this place I certainly know that the issue of protecting intellectual property rights and other confidential or commercial information such as client lists is of genuine concern to many businesses.

In 2004 the Government introduced the Workplace Surveillance Bill, a draft exposure bill. I am happy that that draft exposure bill has been redrafted and some of its objectionable provisions have been removed. The Opposition intended to oppose the 2004 draft exposure bill. The Opposition will not oppose the 2005 bill, but will move some amendments in Committee. It is our understanding that the industry is generally prepared to live with this bill, but we have been advised that some sections are of real concern. The first concern relates to computer surveillance. The definition of "computer surveillance" could easily include information on data created by workers that is logged or recorded in data backups or computer performance monitors. That information can be later retrieved to ascertain computer or systems performance, and may include records of computer use that can be linked to individual employees.

The Opposition believes that the bill needs to clearly state that data backup and computer system analysis can be conducted without risking a breach of the bill. The intention of that activity is not to spy on a particular employee, but it could be argued that base programs from many servers or systems make that possible. The bill should be amended to ensure that this form of activity is not considered a form of computer surveillance. In Committee I will move an amendment to that effect. The Attorney in the other place, in his speech in reply, addressed that issue to an extent. He indicated that he was aware that a number of people had read the definition to mean that all monitoring or recording of the use of a computer could be computer surveillance; he said that that was not the case. The Attorney said that the bill requires surveillance to be as that term is ordinarily understood.

The Attorney said further that the definition of "computer surveillance" therefore does not cover normal business practices such as backups of hard drives, network performance monitoring, software licence monitoring, computer asset tracking, computer asset management or the normal saving of documents. He said that those practices are not normally considered to be surveillance activities. That being a partial answer to the Opposition's concerns, we still believe that the bill should be amended to make it clear that those matters are not covered in the definition of "computer surveillance".

Another issue of particular concern to the Opposition relates to what are known as white lists and the potential for blocking industrial content. The context of this bill is that the union movement does not want employers spying on employees while they read their union emails or industrial advice or access industrial content on the Internet. The bill forces employers to allow their employees to freely access that information on the Internet and on their email systems. The bill also prevents employers from blocking industrial content, that is, making union web sites inaccessible by black-listing them and not allowing an Internet server to allow an employee to access them. However, some employers use white lists, which contain a limited list of Internet sites that employees can access for work purposes. All other web sites are then disallowed.

Under the bill it is unclear whether employers will be able to exclude web sites of industrial content from their lists. Often employers allow limited but high-speed access to a few specific web sites to allow employees to conduct their work. It must be stressed that all web sites are blocked under a white list system, save a few specific task-related sites. Again, the Opposition believes that the bill should be amended to ensure that employers are not forced to proactively add web sites of industrial content to their white lists when using that mechanism for perfectly legitimate purposes.

Again the Attorney, in his speech in reply in the other place, partially addressed that issue in relation to an employer that operates a white list. He said that an employer will not be forced to add web sites containing industrial matters to its white list and that an employer will be prevented from adding Internet web sites containing industrial matters to any black list; that is, a list of Internet web sites that are blocked. Notwithstanding that partial response to our concerns we believe the legislation, when enacted, should be clear and that this issue should be addressed by way of amendment. I will move an amendment to that effect.

Reverend the Hon. Dr GORDON MOYES [3.27 p.m.]: The Christian Democratic Party supports the Workplace Surveillance Bill. The objects of the bill are to prohibit the surveillance by employers of their employees at work, except in certain specified circumstances; to restrict and regulate the blocking by employers of emails and Internet access by employees at work; and to provide for circumstances in which covert surveillance may be undertaken. The bill applies only to certain forms of surveillance: camera surveillance, computer surveillance and tracking surveillance. The Christian Democratic Party commends the bill to the House. However, I hold reservations about some aspects of the bill, as I will explore.

Technological advances in the past decade or so have caused a metamorphosis in the way work is done on a daily basis within businesses. Prior to the advent of the Internet and email technology, the paper trail

phenomenon characterised the typical workplace. Businesses were required to invest time and money into storage and handling of hard-copy documents. Data access and information exchange were also costly, time consuming and labour intensive activities. However, current workplace practices are no longer dominated by paper-based communication. Electronic means of communication have taken centre stage. For businesses, this change has translated mainly into improved productivity, ease of transactions and, therefore, lower costs. For the environmentally aware, that has translated into a measurable improvement in the sustainability of paper-producing natural resources. Also there is no doubt that productivity in globo has accelerated in the past decade across the workplace, due to technological advances surfacing in the form of better computer capability and, more significantly, the Internet-email revolution.

We are living in a technological age that has given all players involved ease of communication and improved effectiveness in the workplace. The advent of the technology era has phased in immense benefits for employers and employees alike. However, the untold benefits accruing from advances in technology are also fraught with risks. Technology as a whole has brought us the ability to do things more effectively. However, at the same time, aspects of technology have brought vulnerability. It is in this vein that the bill has been introduced.

As was stated in the second reading speech, the Workplace Surveillance Bill aims to create a sensible and practical system for regulating of workplace surveillance by employers of employees. Whether this system proves to be sensible and a practical solution to catering for employer and employee concerns is yet to be seen. Surveillance presents us with a constant ethical dilemma. It is "useful but harmful; welcome but offensive, a necessary evil but an evil necessity"—see Sewell and Barker, *Neither Good nor Bad but Dangerous: Surveillance as an Ethical Paradox (2001) 3 Ethics and Information Technology*, as quoted in Johnston and Cheng's *Electronic Surveillance in the Workplace: Concerns for Employees and Challenges for Privacy Advocates*.

The bill follows legislation introduced by the Government in 1998 in the form of the Workplace Video Surveillance Act. This 1998 Act essentially prohibits video surveillance in the workplace unless certain notice requirements are fulfilled or a magistrate endorses covert surveillance. The immediate bill is loosely modelled on the 1998 Act but is informed by submissions from stakeholders. Obviously, the 1998 Act is restricted in its scope as it is limited by the use of videos for surveillance. However, a need has been perceived, and rightly so, to regulate the use by employees of Internet and email technology, and the use by employers of software that monitors employees' activity.

In its report "Business Use of Information Technology", the Australian Bureau of Statistics indicated that, as of June 2003, 83 per cent of Australian businesses used computers, compared with 49 per cent 10 years previously. Also, between June 1998 and June 2003, the proportion of businesses with Internet access grew from 29 per cent to 71 per cent. The Allen Consulting Group found that 74 per cent of Australian businesses surveyed provided more than half their staff with access to email. That is quoted in "Workplace Surveillance", a report produced by the Parliamentary Library. Given the prevalence of the use of computers by employees it is clear that such use must occur within a regulatory framework. As computers are networked it is easy to see that activities carried out on the computer may be monitored. Other technology, which allows employers to track the whereabouts of employees, is also available and accessible to employers.

Before I address the legal aspects of the bill I acknowledge preparation in this field for me by Linda Munoz, a legally trained legislative adviser in my office. I would like to speak about the interests that will be affected by the bill. There is no doubt that this bill is controversial and important and, in my opinion, much-needed. It seeks to define a delicate balance between the rights of employers and employees. On the whole I am of the opinion that the bill has struck a reasonable balance, but certain aspects of it need to be developed. I will briefly set out the principal considerations held by employers and employees about workplace surveillance as a backdrop to discussing the content of the bill itself.

One of the main reasons touted by employers for carrying out surveillance of employees is to ensure employee security. Obviously, if video surveillance equipment is available to capture what is going on in the workplace, any criminal activity may be monitored and measures might be taken to address this activity. Video surveillance is clearly helpful in providing evidence to attest to the incidence of any criminal activity. In my own case, we gave approval for video surveillance of one worker who was consistently stealing significant quantities of food in the early hours of the morning from an aged persons nursing home. When the police eventually searched the home of that staff member from the catering department, they found more than $20,000-worth of food that was stolen from the old people. The staff member and a relative of his were using it to run a

wedding catering service. Video surveillance provided clear proof of the goods being taken from the kitchen and the storerooms and placed in the man's car in the early hours of the morning.

We also know from recent news that Qantas has been involved in a baggage handling debacle, prompting Qantas to seek changes to laws so it can legally install covert surveillance equipment to monitor baggage handlers and other staff. On 13 May 2005 an article under the heading "Qantas push for cameras" appeared in the *Australian*. Qantas security came under scrutiny in mid-May after the Australian Federal Police linked a cocaine smuggling operation to baggage handlers at Sydney airport. The head of security requested a holistic Australia-wide solution because it was suggested that video cameras be installed in aircraft that travel from State to State. At the same time there is a risk of video surveillance equipment being misused. On 9 April 2005 the *Daily Telegraph* reported the use of video surveillance equipment by security camera operators to spy on members of the public rather than for monitoring criminal activity. It reported:

> An audit of street cameras installed in Cronulla Plaza has found bored operators are using the cameras to follow people, especially women, down the street … The guidelines for the StreetSafe program state the cameras would be operated 'with due regard to the privacy and civil liberties of individual members of the public'.

This incident is one of many examples of video surveillance equipment being used for improper purposes. Clearly then, the possibility of undertaking surveillance using videos lends itself to misuse in the employer-employee context. Regulation must be effective and effectively enforced to curb any misuse of such equipment. There is another concern at the fore of any employer's mind, and that is whether his or her employees are using employer resources for work purposes. Employers want to know that employees are not idly spending time playing games on their computer or sending excessive messages for personal or private business purposes. Spending time on non-work purposes is known in some circles as "cyber bludging". Electronic monitoring then becomes an effective tool to detect such things as whether employees are using computers for personal and/or recreational purposes and whether employees are in the habit of arriving at work on time by noting the times at which they log on to their computers. As indicated by the Parliamentary Library's report on workplace surveillance, some surveys have been conducted to quantify the extent of personal use of emails and Internet at work. These surveys have mostly been carried out by companies that sell computer monitoring software, and mainly in the United States of America. For example, in its July 2000 "cyber bludging" report, SurfControl estimated that non-work related Internet use cost Australian businesses $300 million a year.

Employers also want to know whether employees are meeting performance targets or requirements. This becomes relevant where employees are engaged to do data entry work. The Law Reform Commission's interim report on surveillance, report No 98, indicates that software can track the number of keystrokes per minute, the error rate, the time taken to complete each task and time spent away from the computer. Most of us would have encountered at some time or other when making a phone call to a major company the following voice prompt, "This phone call may be monitored for quality assurance purposes." Similarly, email messages may be monitored for the same purposes to ensure that employees are performing their tasks appropriately and in the best way possible. It is of interest to note that the final report on surveillance by the Law Reform Commission has been finalised. It is anticipated that the Attorney General will table the report in coming weeks.

The Parliamentary Library's report suggests that avoiding legal liability is another reason given by employers for workplace surveillance. It has been indicated that inappropriate use of email and Internet by an employee may expose an employer to liability from claims by other employees in relation to sexual harassment, discrimination or defamation. A report of a case in the United States of America indicates that the world's most expensive email is "25 reasons why beer is better than women". This email cost the United States resources company, Chevron, $2.2 million in a 1995 harassment settlement.

On a less costly note, the New South Wales Law Reform Commission interim paper on surveillance points out that in the United Kingdom an issue arose between corporate employers when Western Provident Association brought defamation proceedings against Norwich Union following the appearance of messages on Norwich Union's internal email system that falsely suggested that Western Provident Association was in financial difficulty. The case was settled, with Norwich Union paying $450,000 and making a public apology.

From an employee's perspective, workplace surveillance may represent a very real and potential threat to dignity and autonomy. The argument about surveillance being a threat to dignity stems from the idea that an employee ought not to be treated simply as a commodity—as a non-human—to be monitored solely for work purposes. In a number-crunching world it is easy to dissociate the emotional from the emotionless, and to see people at human capital to be utilised to better the bottom line. There may be a tendency for employers to see their employees in a non-human context because of the nature of employer-employee interaction: the employer

gives instructions and the employee tries his or her best to follow those instructions. An employee's life outside work may rarely enter the employer's mind.

To see employees solely as work-producing machines negates the fact that employees are human, with rights and responsibilities outside the workplace. Importantly, we are also living in a day and age when the strict divide between work and home is not as clear cut as it once was. People are spending more and more time at work. This is attributed to a number of variables, including increased work demands and pressures, the perceived need for more financial prosperity, and the desire for career elevation and acceleration. Hand in hand with spending more time at work is the fact that employees will need to carry out in the workplace activities that are usually carried out at home. The blurred divide between work and home ought not to be neglected when surveillance activities are carried out. There is also the argument that an employee's autonomy is affected by workplace surveillance. As pointed out by the Parliamentary Library's report on workplace surveillance:

> … covert computer monitoring … can result in employers monitoring and recording their employees 'engaging in very personal and private behaviour of the type that they would not ordinarily choose to reveal'.

An article by M. Paterson entitled "Monitoring of Employee Emails and Other Electronic Communications", which appeared in the *University of Tasmania Law Review*, is a great insight into the psyche surrounding workplace monitoring. Paterson argues that:

> … systematic covert surveillance amounts to a gross infringement of informational privacy—the right of individuals to control how much of their personal lives they wish to share with others.

Overt monitoring also affects the extent to which employees communicate personal information. As stated in the report by Johnston and Cheng:

> … with every new development in information technology, there is a correspondingly greater risk that the information that we might be happy to share with our family, friends or colleagues may also be shared with what American legal academic and journalist Jeffrey Rosen calls *a less understanding audience of strangers*.

The Parliamentary Library's report suggests that the types of personal information about an employee that can be captured by monitoring emails and Internet browsing include information about relationships, sexual orientation, financial state, physical and mental health problems, drug or alcohol problems and political views. Religious affiliation or spending habits also come to mind. Another general argument is that workplace surveillance poses a risk to the health of employees. There is a potential for employees to overperform in an attempt to appear productive beyond their capacity. Of course, if employees are straining themselves beyond their capacity, this will prove to be detrimental to their health in the long term.

I turn now to some salient legal aspects of the bill. "Surveillance" refers to computer surveillance, camera surveillance or surveillance by means of a tracking device. The term "employee" in the bill extends to a person working as a volunteer, and "employer" extends to an employer that is "related" to the employee's immediate employer. It is also important to note what is meant by an employee being "at work" for the purposes of the bill. An employee is deemed to be "at work" when the employee is at a workplace of the employer, whether or not the employee is performing work at the time, or at any other place while performing work for the employer. This means that surveillance may take place while the employee is working from home.

The bill establishes two categories into which surveillance may fall: overt surveillance and covert surveillance. Overt surveillance may occur when an employer has given written notice to an employee of surveillance taking place. It may also occur when a magistrate has given an authority to an employer to undertake covert surveillance. Part 2 indicates that employees must be given written notice 14 days prior to any surveillance commencing. In his second reading speech, the Attorney General assured employers that this "does not create an enormous burden on employers". For example, notice may be given by email or through an induction or training course. The notice must indicate the kind of surveillance to be carried out, how the surveillance will be carried out, when the surveillance will start, whether the surveillance will be continuous or intermittent, and whether the surveillance will be for a specified, limited period or ongoing.

Certain provisions cater specifically for each type of surveillance. For example, in the case of camera surveillance, the camera must be visible, and clearly visible signs must notify people that they may be under surveillance. In relation to computer surveillance, the surveillance must be carried out in accordance with a policy of the employer on computer surveillance of employees at work. However, in this context no objective standard is established for the reason for surveillance. There is no requirement for surveillance to be undertaken if it is, for example, deemed "reasonably necessary" for certain work-related purposes. It is not improbable that

an employer's policy may be so widely framed that monitoring may occur constantly and for no particular reason. It would be useful to have a generic binding code to govern overt surveillance—such as the principles recommended by the New South Wales Law Reform Commission—enshrined in the regulations. This would at least provide a reasonable benchmark for employers to follow. I urge the Government to consider this.

The Australian Privacy Foundation has some pertinent views in relation to overt surveillance. First, it appears that there is no regulation of overt surveillance beyond the requirement to meet the definition of overt surveillance. Consequently, there is a real danger that in the event of the misuse or unfair handling of personal information no specific redress will be available to the employee. The bill provides that the employee must have been notified of the policy in such a way that it is reasonable to assume that the employee is aware of, and understands, the policy.

Covert surveillance, or surveillance undertaken in secret, is generally prohibited by the bill unless the surveillance is authorised by a covert surveillance authority. A presumption is created that the surveillance is covert unless notification requirements are met. A magistrate issues a covert surveillance authority when it is suspected that unlawful activity is being undertaken. Certain other requirements must be fulfilled in order for an authority to be given. Clause 20 of the bill creates exceptions from the requirement for a covert surveillance authority for law enforcement agencies, correctional centres, casinos and camera surveillance of legal proceedings.

It is concerning to note that a defence with regard to covert surveillance exists when such surveillance is necessary for the security of the workplace. This will apply if there is a "real and significant likelihood" of the security of the workplace or persons in it being jeopardised if the covert surveillance is not carried out and the employer has notified employees of the intended surveillance. In order to establish that this defence applies, the employer must also show that a substantial number of employees in the workplace were notified in writing of the intended surveillance for security purposes before it was carried out. Thus if an employer is able to establish that a camera was needed for security reasons, the employer may escape the notification requirements. However, there are risks that the camera may be misused, as we saw with the "perv cam" incident at Cronulla Plaza. The Australian Privacy Foundation points out that there is no protection for employers in some instances. For example, when a home owner who uses a closed-circuit television [CCTV] system to protect his or her home against robbery neglects to provide written notice of the existence of the CCTV system to a plumber or a nanny, for example, before that person commences work, the home owner may be liable to penalties for undertaking covert surveillance.

Part 3 deals specifically with prohibited surveillance. Thus, in no uncertain terms, surveillance is prohibited in those circumstances whether overt or covert, and an employer will be subject to a maximum penalty of $5,500. For example, surveillance of employees in change rooms, toilets, showers or other bathing facilities at a workplace is prohibited. However, surveillance of individuals in a context apart from the workplace arena appears feasible on the face of those provisions, unless other New South Wales legislation provides protection. Surveillance of employees when they are not at work is also prohibited, unless the employee is using equipment or resources provided by or at the expense of the employer.

Clause 17 provides that an employer must not prevent the delivery of emails or block access to Internet web sites unless in accordance with a policy that has been notified in advance to an employee. Notifications must take place in such a way that it is reasonable to assume that the employee is aware of and understands the policy. I encourage the Government to consider the issues I have raised. However, overall, the Christian Democratic Party commends the bill.

The Hon. JON JENKINS [3.51 p.m.]: I support the Workplace Surveillance Bill, but I foreshadow that I will move an amendment to it at the Committee stage. The amendment will be proposed in parts and I will ask the Committee to deal with them seriatim. Recently I had an interesting discussion with a senior legal counsel about this bill, matters relating to privacy and how the modern world will cope with crime and terrorism. We both came to the conclusion that we will have to sacrifice some of our liberties and freedoms in order to maintain our society. The one reservation I have about the bill is addressed in it, but I will restate it for the record. I am concerned that surveillance measures may be used in performance monitoring and, therefore, in ways that were not intended by the drafters of the bill. The primary intention of the bill is, and must be, the detection and elimination of criminal activity within the workplace, not to monitor an employee's work performance.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.52 p.m.]: I support the Workplace Surveillance Bill but without much enthusiasm. Should one support a bill that does one-tenth of what is needed,

or should one oppose it and get nothing of what is needed? I have decided, therefore, to support the bill. The growth of surveillance in our society has been very rapid, fuelled by an increase in violence—certainly a rising level of the perception of violence; a desire for security, that is to say, freedom from burglars or terrorists in buildings; a desire to catch shoplifters in shops; a desire to discourage mugging in laneways and taxis; and a desire to monitor assaults on railway platforms or outside nightclubs.

When Chris Puplick was the Privacy Commissioner—it is significant that the Government has done so little about the office of the Privacy Commissioner—he pointed out that if one simply conducted one's normal business walking around the central business district, one would be photographed in sequences about 50 times a day. It is possible to monitor whether one is having a business lunch with an associate. If face-recognition software is further developed, people will be able to be tracked going about every aspect of their lives unless they move outside areas not monitored by cameras—which are becoming fewer and fewer. Into this environment comes the Government looking at workplace surveillance.

I support the bill because anything that is done, no matter how small, is better than nothing at all. However, I suggest that the bill will do far less than the Government should do. It implements a variety of recommendations from the 2001 Law Reform Commission report on data surveillance. It offers protection for employees. However, the Australian Democrats are concerned about who will be responsible for the operation and review of the legislation. We want this legislation in the hands of an independent body, such as the Privacy Commissioner or the New South Wales Ombudsman, not a Government Minister.

The bill is not clear about who will have ultimate responsibility with regard to certain provisions: the Commonwealth or State governments. We do not want the Federal and State governments buck passing on this issue, as they do with health, transport, disability and many other services. Specific issues arise concerning the inclusion of data surveillance within the scope of the proposed legislation. On the technical side of things, the Law Reform Commission noted that specific issues arise concerning the inclusion of data surveillance within the scope of the proposed legislation. It stated:

> Whether or not that legislation will provide sufficient privacy protection has been significantly debated. If the proposed surveillance legislation were to apply to the type of data surveillance covered by the New South Wales Privacy Act and the Commonwealth private sector legislation, the result would be that database managers would be required to comply with two regulatory regimes in relation to the collection, use and storage of the same data. This would not only be confusing, but would do little to enhance the privacy of the people who supplied the information. The Commission considers, therefore, that the collection, retrieval and matching of information on computer databases is more appropriately dealt with by way of data protection legislation rather than surveillance laws.

Recommendation 6 stated:

> The random or overt collection, retrieval or matching of information on computer databases should be excluded from the scope of the proposed Act.

While this bill is concerned with camera surveillance, email and Internet use, it may well have implications for database operators. On our reading of this bill, it does not specifically include the above recommendation, and we fear that may cause confusion. I have been approached by information and technology experts concerned that this bill sets a worrying precedent by endorsing the surveillance of employees by employers, and permitting employers to establish themselves as moral guardians of their work force. The question has to be asked: Why is the State sanctioning the surveillance of its citizens by anyone other than a law enforcement agency pursuant to a duly issued warrant?

I am reminded that a couple of years ago representatives from the Eros Foundation wanted to discuss with me the Internet hosting of erotic sites. Before I met them I attempted to look up the Eros Foundation on the Internet to learn something of an organisation that was lobbying me about a piece of legislation. I discovered by accident, however, that my computer in Parliament House could not access the web site because of Net Nanny or some other similar software. The Parliament had been included in a public service memorandum detailing what web sites public servants were and were not permitted to access. At my request that obstacle was removed with the caveat that I was responsible for what everyone in my office looked at on the Internet—which I assumed was the case in any event. I am not sure that the obstacle has been removed for all politicians.

The bill creates two classes of surveillance: covert and notified. It regulates the use of covert surveillance, but provides employers open slather on notified surveillance. To qualify for the notified surveillance loophole, all that an employer needs to do is to notify the surveillance. An employee does not have to be personally notified, as long as the body representing "a substantial number of employees" has agreed to the surveillance. Employees are given no compensation if they wish to terminate their employment as a result of the surveillance, and could even be liable if they leave their employment. I pity the poor folk who agree to an employment arrangement and on the day before starting receive a surveillance notification.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

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BULLDOGS RUGBY LEAGUE CLUB SEXUAL ASSAULT ALLEGATIONS INVESTIGATION

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Justice, representing the Minister for Police. Has the Minister for Police failed to rule out whether the source of leaks to the media on the Canterbury Bulldogs players' telephones being tapped came from the office of the Commissioner of Police? When will the Police Service announce whether an investigation is under way, and which personnel are being investigated?

The Hon. JOHN HATZISTERGOS: The Minister was asked a similar question in the other House, and I refer the honourable member to the answer given there.

ILLEGAL BACKPACKER OPERATORS

The Hon. AMANDA FAZIO: My question is addressed to the Minister for Emergency Services. Can the Minister inform honourable members of the New South Wales Government's plan to stamp out illegal backpacker operators?

The Hon. TONY KELLY: As honourable members would be aware, the backpacker industry brings in about $800 million to the New South Wales economy each year. However, illegal backpacker hostel operators are putting backpackers' lives at risk by not having essential fire safety measures in place. In those places where there are little or no safety features, like smoke alarms and fire exits, backpackers would be trapped if there were a fire. The Government will not sit back and let this happen. That is why last week the Minister for Tourism, Sport and Recreation, Sandra Nori, and I announced that the Government would establish a working group to examine a range of possible measures.

The working group, which will include representatives from local government, New South Wales Fire Brigades, Tourism New South Wales, the Backpacker Operators Association of New South Wales, the Department of Fair Trading, and the Department of Infrastructure, Planning and Natural Resources, will be chaired by former South Sydney Mayor Vic Smith and will investigate: laws to prevent illegal backpackers advertising for business in shops, public places, bus stops and newspapers; prescribing the maximum number of people who can be accommodated under a lease for a residential building at one time using local environmental plans to impose conditions to discourage the use of residential buildings as backpacker accommodation; and changes to the Local Government Act to enable local councils and New South Wales Fire Brigades to enter and inspect an illegal backpacker operation.

The Hon. Catherine Cusack: Is he going to Byron Bay?

The Hon. TONY KELLY: This will be a statewide operation.

The Hon. Catherine Cusack: Including Byron Bay?

The Hon. TONY KELLY: Everywhere. The backpacker industry has worked hard to develop a good reputation. Illegal operators are a blight on the New South Wales tourism industry. They do not comply with fire safety standards, occupational health and safety standards, planning regulations or sanitation standards. They breach local planning rules and destroy the quality of life for local residents by bringing extra noise and inconvenience to neighbours. They also operate as cash only businesses, avoiding paying GST and other taxes. The New South Wales Fire Brigades work closely with local councils to monitor the safety of shared accommodation premises, such as backpacker hostels and boarding houses, to ensure the occupants are protected against fire. They have reported examples of operators without adequate fire escapes and no smoke alarms, giving backpackers little hope of surviving a fire.

We have all seen in recent weeks just how devastating house fires can be when no smoke alarms are fitted. What chance would a backpacker in an overcrowded illegal hostel have? But these illegal hostels not only risk the safety of their customers, they also deliberately breach council rules. Legitimate backpacker operators get permission from their local council before they open. This ensures that they are located in designated areas of the community. These illegal backpackers do not. They take over ordinary suburban homes or flats, they

stack in a bunch of bunk beds, and then they open up their doors. As Minister for Emergency Services, and Minister for Local Government, I wish Vic Smith and the working group well in their efforts to stamp out illegal backpacker operators in New South Wales. I look forward to hearing the recommendations from the working group and stamping out once and for all these illegal backpacker operators.

SCUBA DIVING FEE

The Hon. DUNCAN GAY: My question without notice is directed to the Minister for Primary Industries. Is it a fact that the Minister is proposing a new tax of $20 per day for divers? What is the Minister's response to claims that the move is a smokescreen to ban all activities in marine parks? Does the proposal permit only licensed or commercial tour operators to take divers to those sites? Will the Minister immediately review this unjustified tax on divers, who have little impact on marine parks? How much will this new tax prop up the State's coffers, and is this yet another revenue raiser to compensate for the $10.5 million cut to the Department of Primary Industries in this year's State budget?

The Hon. IAN MACDONALD: I thank the honourable member for his question. In fact, it was to be the subject of my dorothy dixer, so someone will have to tear up a question! Boosting protection measures for the grey nurse shark population in New South Wales has been one of the priorities of the State Government.

The Hon. Duncan Gay: Answer the question.

The Hon. IAN MACDONALD: I am going to answer it my way. Today, there are fewer than 500 of the sharks left along the New South Wales coast. Without urgent intervention, the species could become extinct here within the next 20 years. The State Government has long recognised the urgency of the situation. In 2002 it created 10 critical habitat sites along the New South Wales coastline, from Julian Rocks at Byron Bay, in the north, to Montague Island, off the coast of Narooma, in the south. Those are well-known aggregation sites for sharks. Because of the friendly nature of the species, and the fact that we now know they are not a threat to humans—

The Hon. Duncan Gay: About as friendly as Jan!

The Hon. IAN MACDONALD: —these 10 sites have become extremely popular with recreational scuba divers. They are very friendly sharks.

The Hon. Michael Gallacher: Tell that to the people who have been attacked by them.

The Hon. IAN MACDONALD: I have swum with them, as I think have Mr Ian Cohen and other honourable members.

[*Interruption*]

I would be happy to feed the Deputy Leader of the Opposition to these sharks—because I know they would not do much to him! To limit the impact on the sharks, the State Government has introduced a number of compliance measures for divers who choose to dive in those areas. For example, scuba diving is banned between sunset and sunrise at all 10 critical habitat areas. Divers are not allowed to touch or chase the sharks to feed them, use underwater shark-repelling devices, or block the entrances to caves or gutters when the sharks are present. A number of other protection measures are also in place.

The Hon. Duncan Gay: What about the tax?

The Hon. IAN MACDONALD: I will get onto it in a minute. Set line and bottom bait fishing are banned at the habitat sites, and indeed the catching and retaining of a grey nurse shark is a criminal offence. In addition, there are 800-metre buffer zones offering further protection outside the critical habitat areas that limit the types of fishing most likely to impact upon the shark.

The Hon. Duncan Gay: Point of order: Madam President, I request that you draw the Minister back to the question at hand. When I reminded the Minister about the question, he said he would get to it. Though the Minister is some one and a half minutes into his answer, he has not attempted to answer the question.

The PRESIDENT: Order! I remind the Minister that his answer must be relevant.

The Hon. IAN MACDONALD: The State Government recently announced a world-first artificial breeding program. The State Government is also carrying out tagging programs. In fact, the latest tagging program will begin tomorrow, Wednesday, in Byron Bay, where Department of Primary Industries scientists and a team of researchers from Sea World will carry out 24-hour monitoring of two grey nurse sharks. These types of programs have a certain cost to them. It is only reasonable that groups benefiting from the protection of the grey nurse shark should be asked to make a small contribution to the ongoing costs. Yesterday I announced a proposal to introduce a small fee for scuba divers who wish to dive in the 10 critical habitat areas. The money raised from the fee will go directly back into research and protection programs for the grey nurse shark. In this way, those community groups who benefit from the protection measures—by enjoying the experience of a close encounter with a grey nurse shark—will also help fund conservation measures.

At this stage it is still just a proposal. The Government will, of course, carry out extensive consultation with diving operators and other industry stakeholders about the proposal. A date for its implementation has not been set, nor has the cost been determined. In fact, no firm decisions will be made until this consultation process is completed. The New South Wales Government is not the first jurisdiction to explore a scheme of this type. In fact, the Great Barrier Reef, the Cayman Islands, the Red Sea and Mexico are among popular diving centres to have introduced a similar fee. I can reassure the House that the State Government fully recognises the importance of the recreational diving industry in many coastal communities. This fee, if introduced, will be dedicated to saving this species of shark.

POLITICAL ACTIVISM IN SCHOOLS

The Hon. DAVID OLDFIELD: My question is directed to the Minister for Education and Training. Does the Minister recollect naming Ian Hale, Edward Gavin and Alan Laughlin in an answer she gave to a question I asked on 25 May? Is the Minister aware that these names appear in *Hansard* only because I had them reinstated? Is the Minister aware that immediately following my question to her on 25 May a member of her staff contacted the Hansard office to make sure the names would not appear in *Hansard*? Was the staff member in question following the Minister's instructions when he or she had Hansard inappropriately alter the record? Are the Minister and her staff conversant with the rules relating to alterations to *Hansard*, or is the Minister and her staff under the impression that she and her staff may simply alter the public record at will?

The Hon. CARMEL TEBBUTT: I thank the Hon. David Oldfield for his question and the opportunity to correct the public record, so to speak, with regard to the comments he has made. I did respond to a question on 25 May and two teaching staff from the Department of Education and Training were mentioned in my answer. I was advised by my staff that they had sought advice from Hansard as to whether it was appropriate to include their names in the *Hansard* record because of privacy concerns. The original advice, as I understand it, from Hansard was that it was not appropriate to include their names. This was subsequently clarified by Hansard, who then advised that it was, in fact, correct and the names should be included because that was the answer that I had given. That was the advice that I was provided by my staff. I was not aware at the time my staff originally contacted Hansard that they had any concerns, but they were simply seeking to resolve some privacy issues. We followed Hansard's instructions on all occasions, and when Hansard advised that it was appropriate to maintain the names in the public record my office accepted that and I accepted that.

The Hon. DAVID OLDFIELD: I ask a supplementary question. I am somewhat confused by the chronology of the Minister's answer. It seems that she is suggesting that she simply went along with what Hansard said. Is she not aware that Hansard had deleted those names, and that they were only reinstated after I complained and went to the Clerk of this House to speak to Hansard to have it sorted out?

The Hon. CARMEL TEBBUTT: I only became aware of the matter after the Hon. David Oldfield had complained to the Clerk, and it was then drawn to my attention. As I understand, the Clerk made a ruling that the names should remain and the names did remain in the record. As I also understand, the record that the Hon. David Oldfield is referring to is only a draft record and it was not the final record of *Hansard*.

SCHOOLS JOINT FUNDING PROGRAM

The Hon. CHRISTINE ROBERTSON: I address my question without notice to the Minister for Education and Training. What benefits will schools receive through projects announced last week under the State Government's Joint Funding Program?

The Hon. CARMEL TEBBUTT: The partnership between the New South Wales Government, parents and citizens associations, and school communities generally is one of the most rewarding in the

Education portfolio. It is a robust, but highly, fruitful relationship. It provides me with advice about what parents want and about their views on what is happening in schools. It is also a great forum for change and improvement in our schools. Last week was an example of this. I had the pleasure of visiting the Central Coast to announce an additional $3.5 million funding to public schools through the Government's Joint Funding Program, which provides capital works projects in schools under cost-sharing arrangements. This additional funding will benefit 166 schools across the State, which have applied for funds for minor capital works. This is in addition to the 207 schools that already receive funding under the 2004-05 Joint Funding Program. This announcement brings the Government's total spending on joint funding for 2004-05 to $7 million. This Joint Funding Program has facilitated more than $14 million in building projects in schools.

Under the program the Department of Education and Training matches dollar for dollar the contribution of school communities towards minor capital works projects nominated by them. The department may contribute up to $300,000 for any one joint funding project. Projects that will be considered for inclusion in the Joint Funding Program must be consistent with the department's current school facility standards. Some of the projects funded under the latest round include Orange High School, which will establish a new performing arts centre by converting current facilities at a total cost of more than $430,000. Bateau Bay Public School, which I visited, has received additional funding for a special programs room at the school at a total cost of almost $63,000. Grafton High School will construct a new covered outdoor learning area [COLA] with more than $154,000. COLAs allow teachers to conduct outdoor lessons and activities while protecting students from the weather. COLAs are very popular under the Joint Funding Program because they provide a multipurpose space for the school. A project at Miller High School will result in the cricket nets being relocated and a new storage facility being provided.

Penshurst Public School will upgrade the playground at a cost of more than $40,000. A new stage area at Marsden Road Public School worth more than $22,000 has also been funded. As honourable members can see, the types of projects that schools nominate are wide ranging and will provide significant facilities for the benefits of students, staff and the school community. I am pleased to say that since 1995 the Government has allocated more than $39 million to the Joint Funding Program. The department and school communities together have contributed close to $76 million to capital works projects, which provided enhanced teaching and learning environments in New South Wales government schools. The Government recognises the fundraising activities of school communities and their commitment to public education. Communities work together to raise funds for projects of the school's choice by various fundraising activities, such as fetes and raffles. This latest round of funding is about the Carr Government recognising the hard work of local parents and citizens associations, school councils and school communities. I congratulate all schools and their parent communities on receiving a share of the additional $3.5 million funding.

BICYCLE NETWORK FACILITIES

Ms LEE RHIANNON: I direct my question to the Minister for Roads. The Minister can get on his bike with this one. Considering that the Roads and Traffic Authority [RTA] has drastically cut its expenditure on its fully funded bicycle network facilities projects for the coming financial year, while the overall RTA budget has increased 12 per cent, how can the Minister justify cutting this proportionately insignificant expenditure on bicycles? Does this and the abolition of the senior executive service position of General Manager, Bicycles and Pedestrians, unmask him as a Minister committed to entrenching New South Wales as a car-worshipping State at the expense of cyclists and pedestrians?

The Hon. MICHAEL COSTA: The honourable member probably does not realise that we have well over 3,000 kilometres of cycleways ways in New South Wales, which probably is enough to ride from here to Perth. When we are looking at expenditure on our core businesses, which happens to be roads, I certainly make no apology for looking at savings that focus on core business. The core business of the RTA is the provision of roads through a range of funding mechanisms.

Ms Lee Rhiannon: But cyclists use roads. Can't you acknowledge that?

The Hon. MICHAEL COSTA: Have you finished?

Ms Lee Rhiannon: Do you want to drive them off roads?

The Hon. MICHAEL COSTA: It would make it a lot easier if she got some of those Greens in public housing to come out of public housing and allow us to have more resources to focus on these things. But while

members of the Greens party still live in public housing and receive large salaries she is not in a position to make comments about budgetary measures. In terms of motor vehicles, the honourable member has to get it into her head that more than 90 per cent of journeys on any particular day are by road and, therefore, we have a need to provide road infrastructure.

The PRESIDENT: Order! I call the Hon. Michael Costa to order.

NARDY HOUSE RESPITE CARE FACILITY

The Hon. JOHN RYAN: My question without notice is directed to the Minister for Disability Services. Did Faye Lo Po', the Minister formerly responsible for Disability Services, promise on ABC radio on 29 November 2000 that the Carr Government would provide ongoing funding to Nardy House in Bega. Is it true that Nardy House is now completely vacant and is unable to provide respite services to any families because the Carr Government broke this promise and continues to refuse ongoing funding?

The Hon. JOHN DELLA BOSCA: I thank the Hon. John Ryan for his question, which is framed in very similar terms to a question that was asked in the other place. I am aware of the situation at Nardy House. As the Hon. John Ryan has stated, it is located about 20 minutes from Bega and its remote location poses problems for the model of service delivery and the client group that the committee proposes to serve. In that regard, the Hon. John Ryan suggested in the course of his question that there was a need for "respite service", or something to that effect. That is an important point because service delivery and the client group that the committee proposes to serve does not necessarily fit into that category. The Department of Ageing, Disability and Home Care has proposed alternative models of care, but the local committee so far has declined to enter into negotiations. The funding agreement that the Nardy House committee signed on 25 November 2002 states clearly that the Government's funds would be used for capital—that is, to build the Nardy House centre.

The Hon. John Ryan: So we build it, but we will not staff it?

The Hon. JOHN DELLA BOSCA: The Hon. John Ryan should listen to the answer. The committee would provide the ongoing services and maintenance through other sources of funding, the use of volunteers and donated goods and services.

The Hon. John Ryan: What respite cottage in this State is funded by volunteers?

The Hon. JOHN DELLA BOSCA: It is not a respite cottage. The Hon. John Ryan should take care or he will get himself into trouble. Given that the committee has been unable to meet the terms of the agreement, the department has proposed that Nardy House be utilised as a special purpose facility for other respite services in the region to use at peak times, or to provide an extended break for families providing care, or for giving families access through individual flexible respite funds. The Government has made available flexible respite funds to the Nardy House committee to assist it to get started on this model of care. I repeat that to date the committee has not accepted this offer.

The Department of Ageing, Disability and Home Care is continuing negotiations with the Nardy House committee about these options. For 2005-06, the New South Wales Government has allocated a record $1.549 million to help more than 178,000 people with a disability, the frail aged and their families and carers. The funding represents an increase of 11.8 per cent over the 2004-05 budget and a four-year enhancement of $221 million.

EXCEPTIONAL CIRCUMSTANCES DROUGHT ASSISTANCE

The Hon. TONY CATANZARITI: My question is addressed to the Minister for Primary Industries. I understand that a team from the Federal Government will be visiting New South Wales this week to re-assess a number of areas that have not been able to apply for exceptional circumstances income support since December. Will he update the House on the purpose of the visit and what it means for rural New South Wales?

The Hon. IAN MACDONALD: I thank the Hon. Tony Catanzariti for his question. A team from the National Rural Advisory Council [NRAC] is visiting New South Wales this week and it will stop in each district that was denied a rollover of exceptional circumstances income support on 8 December last year. Yesterday the team arrived at Dubbo and Coonamble and today visited Walgett and Moree. Over the next few days the team will travel to the other districts, including Coonabarabran, Armidale, Mudgee-Merriwa, northern New England,

and parts of the south-western slopes and plains, Wagga Wagga and the Riverina and eastern Riverina districts. The Federal Government's flawed decision not to extend exceptional circumstances income support has left up to 18,000 farmers in New South Wales unable to apply for welfare support.

The Hon. Melinda Pavey: What are you giving them?

The Hon. IAN MACDONALD: We have given them a lot.

The Hon. Duncan Gay: You have given them nothing, absolutely nothing.

The Hon. IAN MACDONALD: In fact, my policy was the extension of household support into the areas.

The Hon. Duncan Gay: You are lying. You are a liar.

The Hon. IAN MACDONALD: No, I am not—totally not. The NRAC visit follows six months of intense lobbying by the State Government and local farming organisations to convince the Federal Government to reverse its position. What about the $4.2 million worth of waived fees for the Lachlan? Is the Deputy Leader of the Opposition saying that that is no good, either? The provision of a welfare safety net to Australia's farmers is quite clearly the responsibility of the Commonwealth.

[*Interruption*]

It is $18 million, and that is not the end of it. The Federal Government should uphold its obligation to provide welfare support for farmers during severe droughts, such as the current one. It is ironic that just a few days before NRAC's visit, parts of New South Wales received their first decent rainfall in months. For some areas, it was the first decent rainfall in over a year. One can only hope that a little rain does not cloud the judgment of NRAC officials or the Federal Minister. It should be quite obvious that an isolated rain event will not break this drought.

The total storage capacity of our network of key regional dams increased by less than one percentage point over the past two weeks, up from 27.8 per cent on 6 June to 28.5 per cent on 20 June. While the rain provided a short-term morale boost and enabled farmers in some districts to plant additional winter crops, the long-term prospects are still unknown. For our winter crops to be successful, our farmers will need soaking rains in late July or early August to see the crops through the winter. Even if those follow-up rains fall and our reduced plantings are successful, it will be December before farmers actually see any cash in their pockets. Because many crops were planted so late in the season, yields are expected to be reduced. Our livestock producers will also continue to face difficulties.

The State Government is currently spending $400,000 a week on transport subsidies to help to provide fodder and water for livestock. Without extensive follow-up rains, pastures will continue to deteriorate, producers will rely on hand feeding, and demand for the Government's transport subsidy scheme will continue. The Australian Bureau of Agricultural and Resource Economics [ABARE] forecasts that the Australian sheep flock will fall by a further two million head because of the dry conditions. Eastern States such as New South Wales will be among the hardest hit. This State's farming sector has lost $2 billion each year for the past two years. Forecasts already indicate further losses—in the order of $1 billion this year. The fact is that our farmers need income support now.

I hope that the Federal Government will make its rollover decision based on the broader realities of drought, not on a single rain event. Even if the Commonwealth Government grants an extension of exceptional circumstances income support, individual farmers must still meet eligibility criteria to help to make sure that only those who are in real need receive assistance. The State Government has provided, and will continue to provide, any and all information it has to assist NRAC and the Federal Minister as they make their decision. Senior officials from the New South Wales Department of Primary Industries travelled to Canberra just 10 days ago to gain more insight into how the Commonwealth evaluates rollover submissions. The Federal Government still has not supplied a formal written list of criteria. Despite that, we will assist NRAC throughout its tour of regional New South Wales and provide additional climatic data in the forthcoming weeks—to show the Federal Government again just how hard it is for our farmers.

PORT MACQUARIE SPEED LIMITS

The Hon. JOHN TINGLE: My question without notice is directed to the Minister for Roads, Minister for Economic Reform, Minister for Ports, and Minister for the Hunter. Is he aware that the Roads and Traffic

Authority [RTA] changed the speed limits on three main and arterial roads in Port Macquarie from 60 to 50 kilometres an hour earlier this month, without prior warning, and without consulting Hastings Council? Is it a fact that there was no prior announcement of this change, nor any announcement that it had been made, but that within eight days of the first speed sign being changed, police started booking motorists who were unaware of the change? Is it also a fact that the police bookings started on the long weekend, which would, presumably, mean double demerit points? Given the circumstances of the RTA's action, will the Minister investigate whether people who have been booked on these roads within such a short period after the speed change might have their traffic penalties forgiven?

The Hon. MICHAEL COSTA: I will answer the last part of the question first. Really, this is not a matter for the Roads and Traffic Authority [RTA]; once speeds are posted, it is really a matter for the police who have a role in enforcing traffic regulations. But in terms of the broader issue of whether there is an appropriate speed, I do not have information in front of me but I can only assume that it is part of the longstanding policy, which predates my administration, for the RTA to have 50 kilometres an hour zones in urban areas. If it is not, I will examine the matter while we are engaged in a process of reviewing speed limits to ensure consistency. I am happy to put this matter on the list. People know my position on these matters. I think we have to be sensible about maintaining a balance between consistency of speed and road safety outcomes.

The Hon. Duncan Gay: What about the 50 kilometres an hour on the Great Western Highway?

The Hon. MICHAEL COSTA: That is an example of some of the ones we are looking at. We are also looking at the 40 kilometres an hour zones and speed cameras. I have already announced that. We have taken action in regard to one speed camera. In response to the question, I will certainly request the RTA to examine why that speed zone went to 50 kilometres an hour and ascertain whether that is the appropriate speed.

SCHOOL STUDENTS LITERACY LEVELS

The Hon. CATHERINE CUSACK: My question without notice is directed to the Minister for Education and Training. What action is she taking to address the 12 per cent of year 7 students who failed to achieve the national reading benchmark, the 21.8 per cent of students who failed to achieve the national literacy benchmarks, and the 54 per cent of indigenous students who have failed to achieve national literacy benchmarks? Why has she refused to provide special education initiatives for boys, given that boys' results were worst in all subjects at all stages?

The Hon. CARMEL TEBBUTT: I thank the Hon. Catherine Cusack for her question. I must correct an error of fact in the question she has asked. It is simply not true to say that I have refused, or that the department has refused, to provide additional support for boys or additional resources for boys. The department has recognised the special needs of boys' education.

The honourable member referred to certain benchmark figures that were released some time ago as part of the national benchmarking exercise. Clearly, lifting the performance of New South Wales students in numeracy to the same world-class standard as literacy is a key priority for the Government. We have had a rigorous focus on literacy standards over the past 10 years and that has produced outstanding results. According to an OECD study in December 2003, 15-year-old students in New South Wales are among the best in the world, with only students from Finland significantly outperforming students in New South Wales in reading literacy.

That is a great tribute to students, teachers and parents from schools in New South Wales. We want to build on that success; we want to make sure that our students are world class in numeracy as well as in literacy. I have already announced that an independent expert will be appointed to examine student assessment and to investigate how to produce better results. The review will examine all assessments but it will have a particular focus on improving numeracy results. It will also examine the support given to students in their crucial transition from primary school to high school. It is no accident that poorer results in national benchmarking data occur in year 7 when students are making the often difficult transition from the more sheltered and cloistered environment of a primary school to the very different environment of a high school.

The review has been prompted in part by the recent release of the 2003 national benchmarking data, to which the honourable member referred. It showed that 73.9 per cent of year 7 students met the national benchmark for numeracy. I make it clear that the Government has concerns about the reliability of that benchmarking data. Recently the Department of Education and Training commissioned the Australian Council

for Educational Research to carry out a further assessment. Preliminary data from that assessment, involving 750 students from 30 government schools doing the 2004 literacy and numeracy national assessment, or LANNA, earlier this month, suggested that standards for year 7 numeracy for New South Wales students are higher than those indicated in the national benchmark.

I point out also that the 2003 national benchmark results for year 7 students are inconsistent with strong numeracy results in years 3, 5 and 8. For example, the trend in international mathematics and science study, or TIMSS, showed that New South Wales year 8 mathematics students are ranked first in the country on numeracy, with 91 per cent meeting the international minimum benchmark. We are getting very good results in years 3, 5 and 8, but we are concerned that year 7 performance in the national benchmark is not as good. The New South Wales Government raised this matter with the Commonwealth Government and expressed concern about the process for developing 2003 national benchmarks for year 7 numeracy. Nonetheless, we are not leaving anything to chance.

We want to ensure that students have every opportunity to do their best in the area of numeracy as well as literacy, which is why we are undertaking the review. That review will examine State-based assessments and the national benchmarking process but it will have a particular focus on mathematics. It will also investigate the important transition between primary school and high school. [*Time expired.*]

The Hon. CATHERINE CUSACK: I ask a supplementary question. The Minister delivered her entire response without referring to literacy standards for Aboriginal students. I ask the Minister to elucidate her answer by referring to that issue.

The Hon. CARMEL TEBBUTT: I ran out of time before I had an opportunity to address that issue. On many occasions in this House I have spoken about Aboriginal educational outcomes and pointed out that the Government believes to be unacceptable the gap between the outcomes for indigenous and non-indigenous students, not just in year 7 but in all years. The Government has given a clear commitment to closing that gap over 10 years and it will strive to do that. This is not just rhetoric. The Government has backed up its commitment by providing in the recent budget $53 million over four years to implement the recommendations of the Aboriginal education review. I have already made it clear that a significant part of that funding will support the establishment of community schools in areas where there are significant numbers of indigenous students.

Another outcome of the Aboriginal education review was that principals and senior staff in the education department are to be responsible for the specific results of Aboriginal students. In addition, schools should develop a detailed learning plan with the parents of each Aboriginal student to help lift their academic performance. I indicated previously that the funding allocated in this year's State budget is to close the gap between indigenous and non-indigenous students. The targeted schools would have increased flexibility to recruit staff, improve transition to school for preschoolers and develop individual learning plans for all students. It is my view that we are well along the path towards implementing reforms that will improve outcomes for indigenous students.

I turn now to that part of the question relating to boys' resources that I did not have time to address in detail. The Government has a strong and detailed policy in place to ensure that boys and girls achieve comparable high outcomes in education. In regard to the booklet that was referred to, the department's view is that the booklet did not adequately addresses gender equity goals. [*Time expired.*]

MOTOR VEHICLE ACCIDENTS LIFETIME CARE AND SUPPORT PLAN

The Hon. KAYEE GRIFFIN: My question is addressed to the Minister for Disability Services. Will the Minister inform the House about the Government's plan to assist people who have suffered catastrophic injuries following a motor vehicle accident?

The Hon. JOHN DELLA BOSCA: I am happy to do so. Today the Premier released details of the Government's plan for a major overhaul in the care of people catastrophically injured in motor vehicle accidents. The Premier and I were joined by Doogie Herd from the Disability Council of New South Wales; Deborah Curnow from the Brain Injuries Association; and Judie Stephens who cares for her grandson, Jackson. Jackson has brain and spinal cord injuries following a car accident in which both his parents died. The $280 million plan outlined today rewrites the book on how people who have suffered the most serious of injuries are to be supported. The plan gives each person a care co-ordinator, to bring together all available services and support including home care, medical, rehabilitation, education, community activities and pharmaceutical expenses.

The plan is about easing the pressure on families and making sure that the catastrophically injured receive the care and support they need throughout their life. The lifetime care and support plan covers injuries including paraplegia, quadriplegia and traumatic brain injury. The Government will consult with disability groups, medical and legal professionals, motoring groups and the public on the final structure of the plan. Lump sum payments for pain and suffering and economic loss will remain unchanged. Patients will receive lifetime care and support instead of medical and care components of damages actions. The Government will also approach the Commonwealth to propose an agreement on medical costs and to apply for a GST exemption on the $20 lifetime care and support levy on green slip insurance.

The lifetime care and support plan will guarantee medical treatment and rehabilitation, daily personal and nursing care, aids such as wheelchairs, respite care and domestic services, home and transport modifications, assistance with community access, educational and vocational services to help people enter or remain in school or the work force, and the appointment of a life care co-ordinator to help people regain functioning and independence. Currently compensation under the New South Wales motor accidents scheme is available only when another motor vehicle owner or driver caused the accident. The new scheme will cover all people catastrophically injured in a car accident in New South Wales from 1 January 2007, regardless of who caused the accident. Of the 125 people catastrophically injured in motor vehicle accidents every year, approximately 60 people are considered at fault and therefore not entitled to any compensation.

As Doogie Herd said today, a husband should not have to sue his wife—and wait for years—to learn whether he will have the required medical and rehabilitation support to last a lifetime. Research commissioned by the New South Wales Motor Accidents Authority shows that 40 per cent of claimants who currently receive lump sum compensation payouts are eligible for social security payments within 17 years. Even those who are entitled to compensation eventually fall back on the Commonwealth welfare system in a relatively short time; many people receive their injuries when they are very young. These major enhancements of benefits have been made possible through the stability of the motor accidents scheme and the real reduction in premiums since 1999.

The green slip premium for a sedan based in Sydney has fallen by $205 in real terms. That is a real advantage for New South Wales families. As this plan was launched today it was observed that the plan would provide vital assistance to people who do not know yet that they need it. I look forward to informing the House about the progress of the scheme and introducing this important legislation later this year.

BULLDOGS RUGBY LEAGUE CLUB SEXUAL ASSAULT ALLEGATIONS INVESTIGATION

The Hon. Dr PETER WONG: My question without notice is directed to the Minister for Justice, representing the Minister for Police. In light of the findings of the Police Integrity Commission from Operation Vail that investigations into the Bulldogs pack rape case were compromised by players becoming aware that their phones were being tapped, does the Minister retain confidence in the outcome of that case? Will the Minister undertake an independent review of the case to ensure that the confidence of the public and the complainant can be maintained in the ability of NSW Police to properly fulfil its functions?

The Hon. JOHN HATZISTERGOS: I understand that the Commissioner of Police made a statement about that matter last week. I refer the honourable member to that statement.

QUEANBEYAN AND JERRABOMBERRA TRAFFIC MANAGEMENT

The Hon. MELINDA PAVEY: My question without notice is directed to the Minister for Roads. Will he undertake to work with the Australian Capital Territory Labor Government to solve the traffic nightmare for Queanbeyan and Jerrabomberra residents who commute to Canberra every day?

The Hon. MICHAEL COSTA: I was asked this question last week.

The Hon. Melinda Pavey: No you were not; it was another one.

The Hon. MICHAEL COSTA: It was a similar question to do with the Queanbeyan central business district. As I understand it, the question I have been asked is whether I would work—

The Hon. Duncan Gay: Point of order: The House was not sitting last week.

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

The Hon. MICHAEL COSTA: It could have been a journalist who asked me. On the last occasion I was asked this question I said I was happy to sit down with the Commonwealth Government and discuss matters to do with road funding. If that is what the honourable member is proposing I am always happy to do that.

HAIL-DAMAGED MOTOR VEHICLES CONSUMER PROTECTION

The Hon. GREG DONNELLY: Can the Minister for Fair Trading provide information as to any action being taken by the Office of Fair Trading concerning the rights of consumers purchasing vehicles that have been damaged by hail, and any response to such action?

The Hon. JOHN HATZISTERGOS: I inform the House that the Office of Fair Trading—

The Hon. Duncan Gay: I have been to Bathurst and the ambience is very different.

The Hon. JOHN HATZISTERGOS: Whenever I reflect on the Government's decision to establish a wind farm at Crookwell I am reminded of the fact that the honourable member lives there. The Office of Fair Trading has been investigating the conduct of a car dealer who failed to advise purchasers of new and demonstrator vehicles that their cars had been damaged in a hailstorm. In December 2004 a tempest of hail hit Sydney and damaged more than 50 vehicles belonging to this dealer. Apparently the damage was repaired and many of the vehicles were subsequently sold without the dealer telling customers. During the investigation Fair Trading investigators identified 22 vehicles that had been sold without the dealer advising customers of the hail damage.

Initially the Office of Fair Trading asked the dealer to contact customers and advise them of the damage. However, the dealer was not prepared to do so. As the dealer was aware that the Office of Fair Trading intended to contact customers, the dealer finally wrote to them. I am advised that the dealer did not make any offer of redress, claiming that the Motor Trades Association had taken the matter to the courts seeking a definition of hail damage. Fair Trading investigators have also written to owners and informed them of the commissioner's position. If it were not for the Office of Fair Trading these customers might never have known that their vehicles were hail damaged.

Under the Motor Dealers Act 1974 a dealer is required to declare any prescribed damage that has occurred to a new or demonstrator vehicle prior to its sale. This declaration is via prescribed documentation known as form 13, which the customer signs and receives a copy. This ensures that customers can make an informed decision when shopping around for a new motor vehicle, and negotiate an appropriate price. The Office of Fair Trading has consistently advised motor dealers that they must disclose hail damage and repair to new or demonstrator vehicles prior to sale, otherwise they are likely to be in breach of requirements in the Motor Dealers Act and prohibitions in the Fair Trading Act on misleading or deceptive conduct.

This dealer, who is a member of the Motor Traders Association, is disputing that consumers need to be advised about the damage. In fact, the Motor Traders Association is now championing this dealer's cause by instigating legal action against the Commissioner for Fair Trading in the Supreme Court. The association is seeking declarations in the Supreme Court that the Motor Dealers Act and regulations do not apply to certain circumstances involving the repair of dents to body part panels caused by hail damage. A related issue is the fact that repairs were carried out using paintless dent repair technology. The dealer claimed that the vehicles did not require to be resprayed and therefore there was no requirement to declare the damage.

The position of the Office of Fair Trading is that irrespective of how the damage has been repaired the customer is entitled to know about the vehicle's history prior to its sale. Other dealers in the same area have done the right thing by their customers, informing them that their vehicles have suffered hail damage and conducting what are known as hail sales. The Office of Fair Trading will continue to work with affected consumers towards achieving appropriate outcomes and redress in this matter, and it will reaffirm the right of consumers to be informed if they are purchasing hail-damaged motor vehicles.

PRISONERS TREATMENT

The Hon. PETER BREEN: My question without notice is directed to the Minister for Justice. Is he aware of an article by Richard Ackland published in the *Sydney Morning Herald* on 17 June relating to inconsistencies in the Government's treatment of prisoners Bronson Blessington and Matthew Webster based on the attitudes and responses of the victims' families? Does he agree that the Government is exploiting the

emotional turmoil of victims' families, coming down hard on perpetrators where families support harsh punishments and treating more leniently the perpetrators whom the families are willing to forgive? What steps will the Minister take to remedy the inconsistent and unfair punishment regimes he has set in place? What will the Minister do to rectify what Mr Ackland describes as legislative monstrosities in pursuit of his populist policies?

The Hon. JOHN HATZISTERGOS: This question would be more appropriately directed to the Attorney General. The role of the Department of Corrective Services is to administer the orders of courts. I will refer the matter to the Attorney General.

FALL ARREST SYSTEM SAFETY COMPLIANCE

The Hon. GREG PEARCE: Can the Minister for Commerce, and Minister for Industrial Relations confirm that in 2003 WorkCover determined that a fall arrest system, or safety net, proposed by a Victorian firm for introduction in New South Wales, did not comply with relevant provisions in Occupational Health and Safety Regulation 2001? Can the Minister now confirm that, despite that decision by WorkCover's hazard management group, the company was allowed to advertise the product in issue No. 60, the March to May issue, of *WorkCover News*?

The Hon. JOHN DELLA BOSCA: I will make some inquiries about the matters the honourable member has raised and provide him with an answer as soon as practicable. The honourable member is probably aware that from time to time people come forward advocating all sorts of safety methods and measures. They ask for opinions about whether those measures conform with various regulatory provisions, in particular the Occupational Health and Safety Act, and WorkCover gives the appropriate advice at the time. To use the honourable member's example, when WorkCover indicates that the fall arrest system, or some other safety device or system, does not conform to regulations, significant or appropriate changes are made. Subsequently, those methods become acceptable. I cannot state whether that is what has happened in this case, but I would not be surprised if that is what has happened. Nonetheless I will ascertain full details for the honourable member and get back to him as soon as possible.

HOUSE FIRE DEATHS AND SMOKE DETECTORS

The Hon. IAN WEST: Can the Minister for Emergency Services inform members of the Government's plans to help prevent more deaths in house fires?

The Hon. TONY KELLY: No-one can dispute that the events at the start of winter have been incredibly distressing. The loss of 13 lives, including seven children, in home fires in just over a fortnight in late May and early June is a terrible toll. Obviously one death is one death too many. The Government has pledged to work with fire services to find ways of helping to prevent any more house fire tragedies. Last week, after meeting with two fire commissioners to discuss a range of proposals, the Premier announced that the Government would introduce new laws making the installation of smoke alarms compulsory in all existing homes. This initiative has the strong support of both Commissioner Mullins from NSW Fire Brigades and Commissioner Koperberg from the Rural Fire Service. All existing homes and other buildings where people sleep, including flats, boarding houses, motels, hotels, hostels, and manufactured and mobile homes, must be fitted with either battery-operated or hardwired smoke alarms by 1 May next year.

Landlords will be required to install smoke alarms in their rental properties as a term of all rental tenancy agreements. Of course, this is a tax-deductible expense for investment property owners. People selling their homes will also be required to state that smoke alarms are installed. These reforms are the centrepiece of a major fire safety campaign that will include reinvigorated community education campaigns and new media advertisements. The NSW Fire Brigades Smoke Alarm Battery Replacement for the Elderly [SABRE] Program will be expanded to other at-risk groups in the community, including people with disabilities and those from non-English speaking backgrounds.

A smoke alarm can mean the difference between life and death. NSW Fire Brigades statistics show that in the decade to 1999-2000, 88 per cent of fire deaths occurred in dwellings with no smoke alarms. Almost 59 per cent of deaths occurred between 9.00 p.m. and 6.00 a.m. The elderly have a disproportionately high fire death rate compared with the rest of the population, with those aged 65 years and older accounting for 25 per cent of victims. Since the mid-1990s all new homes and those undergoing major renovations have been required to be fitted with hardwired smoke alarms. Smoke alarms have also been installed in all 130,000 New South

Wales public housing homes since 1996, and concerted community education campaigns by the fire services have encouraged all home owners and occupants to install these devices. As a result of that education program, the percentage of homes with smoke alarms installed has increased from 28 per cent in the early 1990s to 72.7 per cent in 2004.

While it is clear that the majority of people have heeded this vital fire safety message, the Government is now moving to speed up the installation of these devices by the remainder of the community. It is estimated that this will apply to about 670,000 dwellings in New South Wales. We want to see 100 per cent compliance, and we believe the package of measures that the Government is introducing well help achieve that outcome. Maximum penalties of $550 will apply, although fines will be a last resort. The Government intends instead to promote compliance through community education, encouraging residents to install smoke alarms as a means of improving their home and family fire safety, rather than through the fear of sanction. Many retail outlets sold seven to 10 times as many fire alarms last week as they sold the week before, so the public are responding appropriately.

As I outlined earlier, compliance will be assisted through community education programs, media advertisements, and the targeting of at-risk groups in the community. Today's edition of the *Daily Telegraph* contains an excellent lift-out on home fire safety, produced in conjunction with NSW Fire Brigades as part of its ongoing communication campaign. I also thank the various television and radio stations that have been running the smoke alarm community service announcement. Specific campaigns will also encourage people to change their smoke alarm batteries when they change their clocks for daylight saving. As I have said, these new requirements will take effect on 1 May next year. However, I strongly encourage all householders not to wait for this legislative deadline but to go out this week and buy and install a smoke alarm. They are relatively inexpensive—the battery-operated models retail for about $20—and easy to install. It is a small price to pay for peace of mind and greater fire safety for one's home and family this winter.

FUNERAL INDUSTRY

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question is directed to the Minister for Fair Trading. Why did the Office of Fair Trading conduct a week-long inquiry into the funeral industry from 27 May when the Legislative Council Standing Committee on Social Issues was already holding such an inquiry? Did this not create extra expense for taxpayers? Does the Office of Fair Trading not have sufficient records of complaints to take a position in its submission to the parliamentary inquiry?

The Hon. JOHN HATZISTERGOS: The Hon. Dr Arthur Chesterfield-Evans is a little delusional in framing a question on that basis. If he were following the issue a bit more closely than he now pretends in asking that question, he would know that Office of Fair Trading interest in the funeral industry dates back to 2003, when my predecessor raised the issue amongst jurisdictions at the Ministerial Council on Consumer Affairs, with a view to imposing an appropriate national regulatory regime. Minister Meagher found that interest was lacking in obtaining regulation on a national basis so she proceeded to examine this issue at a State level.

The premise of the Hon. Dr Arthur Chesterfield-Evans's question about an inquiry is spurious. The Office of Fair Trading has done a lot of work in this area, and I have told the committee that we are happy to co-operate with it. I am happy to give the committee any appropriate information to ensure that its deliberations ultimately benefit the people of New South Wales. We have made no attempt to hijack the inquiry. But the Hon. Dr Arthur Chesterfield-Evans should not expect the Office of Fair Trading to halt all its work in this area simply because he has suddenly acquired an interest in the matter.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I ask a supplementary question. Is the Minister seriously suggesting that the inquiry conducted by the Office of Fair Trading over one week bears no relation to the parliamentary inquiry?

The Hon. JOHN HATZISTERGOS: The Hon. Dr Arthur Chesterfield-Evans does not seem to understand what the Office of Fair Trading is doing. The Office of Fair Trading has done a couple of things. First, it has convened an interdepartmental committee, which has been meeting with other agencies, and second, it has been conducting consumer surveys. I do not know what the Standing Committee on Social Issues has done in terms of organising consumer surveys to obtain relevant information on this subject. Indeed, I understand that there is a dearth of information before the committee. That is not surprising, incidentally, because this industry deals with people at a most vulnerable time. The Office of Fair Trading has conducted some surveys to gather some information, which might ultimately assist the committee in its deliberations. If the Hon. Dr Arthur

Chesterfield-Evans does not want the information that we will get from the surveys, customer inquiries and focus groups that we will hold, that is fine; we will not give it to him. If the honourable member wants to operate on a basis that is totally tangential to the operations of the Office of Fair Trading, that is fine; we will consider that. There is no problem.

LOCAL COUNCIL AMALGAMATIONS

The Hon. PATRICIA FORSYTHE: My question is directed to the Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister for Lands. Will the Minister rule out any forced amalgamation of the Cooma-Monaro, Bombala and Snowy River shire councils in view of the agreement the councils have now signed to undertake a program of resource sharing?

The Hon. TONY KELLY: Could the Hon. Patricia Forsythe repeat the names of the councils?

The Hon. Patricia Forsythe: Cooma-Monaro, Bombala and Snowy River shire councils.

The Hon. Melinda Pavey: Doesn't Steve Whan talk to you about them?

The Hon. TONY KELLY: I just did not catch the names of the councils mentioned. I will not rule out any amalgamations because the Local Government Act 1993, for which Gerald Beresford Ponsonby Peacocke was responsible—which is very good legislation—contains a section that permits amalgamations by councils. So I will not rule out any amalgamation that he assumed might happen under that Act. However, since we introduced our reform program a little more than two years ago, a number of councils—which may or may not have been affected by past amalgamations or boundary changes—have done an excellent job working together. I refer not just to councils within New South Wales but to some with cross-border responsibilities. I asked the Hon. Patricia Forsythe to repeat the names of the councils she mentioned in her question because some councils in the area to which she referred have cross-border arrangements with Victorian councils. Those councils assume there is no border and work together, saving an enormous amount of money in the process.

I have particular statistics about Armidale-Dumaresq, Guyra, Walcha and Uralla councils. From memory, those councils have saved about $1 million in their first year of operation. About half that saving was in recurrent expenditure and the other half was in capital expenditure. Wellington, Cabonne and Blayney councils, in the area where I reside, have also saved more than $1 million in their first year of operation. The three councils saved $60,000 simply by making a combined tender to the Roads and Traffic Authority.

I know my local John Deere dealer had a whack at me one day. He complained that whilst the three councils put in a combined tender for tractors and saved $40,000, it meant that their successful tender lost him $40,000. Those councils have been doing a great job. I understand that in the Cooma-Monaro area the councils are still in their early stages, but an agreement has been signed and if they follow suit they will also do an excellent job. I understand that a seminar is being conducted in mid-July for all country councils to discuss the advantages of, and how to implement, cross-border agreements, and agreements to work together in a strategic alliance. I encourage all councils to do the same. On a future day I will talk about co-operatives in the Western Division that we are trying to promote.

The Hon. JOHN DELLA BOSCA: If honourable members have further questions, I suggest they put them on notice.

Questions without notice concluded.

TUNNEL AIR QUALITY

Production of Documents: Return to Order

The Clerk tabled, pursuant to the resolution of 7 June 2005, documents relating to tunnel air quality received this day from the Director-General of the Premier's Department, together with an indexed list of the documents.

Claim of Privilege

The Clerk tabled a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. The Clerk advised that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

WORKPLACE SURVEILLANCE BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.02 p.m.]: The poor people who agree to an employment arrangement and then, the day before starting, receive a surveillance notification will be most unhappy. There are no restrictions on what can be within the scope of notified surveillance, including examining employees' private email. Would the legislature endorse an employer opening an employee's private letters? The notified surveillance, if retained as a category at all, should only be permitted for specific purposes—perhaps only for the purposes for which covert surveillance is permitted, that is, where someone is suspected of unlawful activity. The definition of "at work" is also defective. It will include "at home", "on the train", and "waiting for the bus". If someone takes work home, the surveillance can follow them. I ask the Minister to address this question in reply.

The related corporation provisions "of an employee of the employer, or of a related corporation of the employer" may be defective. If a person is an employee of "A", and "B" is a related corporation of "A", it is arguable that these provisions do not prevent "B" from conducting surveillance of that employee because "B" is not the employer. This may revolve around whether "B" is an "employer" in an abstract sense, which in turn may rely on whether "B" has any employees. For example, "B" could be a service company with shareholders and directors but no employees. The provision that prevents misuse of information is wishy-washy. Why not exclude it absolutely, or have a stronger test such as the term "clearly outweighs"?

The bill also permits blocking of access to web sites and the sending or receipt of email if done in accordance with an Internet policy notified to the employee. The provision appears to permit any blocking mentioned in the policy except for a carve-out relating to "industrial matters". It completely ignores the fact that email sent by a non-employee to an employee will be intercepted without notice and without permission. The legislation endorses a right to block email and Internet access. It is potentially technically deficient in that it talks about a computer used by the employee. If there are intermediate store-and-forward computers, for example, proxies or caches that can be the subject of surveillance, the purposes of the bill could be avoided.

The bill endorses the position of the employer as guardian of the employee's morals, by permitting the employer to block material without telling the employee whether the material "would be regarded by reasonable persons as being, in all the circumstances, offensive". Why there should be no notification in this instance, or indeed in the harrassement exception, escapes me. The notices do not have to give any information about what was blocked. I cite again my discovery of the censorship of Parliament as an example of that. The Australian Privacy Foundation Chair, Ms Anna Johnston, has also expressed concern that bosses will be allowed to put workers under constant video surveillance, monitor all their emails, and even track their movements, just so long as the employees have been told this will happen, and the employer meets some signage and visibility requirements.

There is no requirement that the surveillance be necessary, or reasonable, or justified in any way. There is no requirement for employers to store material in a secure way to prevent its misuse. And there is nothing to stop the boss from embarrassing or humiliating workers by disclosing information they get through overt surveillance, whether from a personal email or from closed circuit television footage. The debate over covert surveillance of baggage handlers shows just how sensitive is this topic. While the bill sensibly allows covert surveillance with a magistrate's authority where there is a reasonable suspicion of some illegality, we are disappointed that it also allows an open-slather approach to overt surveillance. Many of theses issue need to be addressed, and unless they are addressed I cannot support the bill. As I said, it is doing a tiny bit of a great deal more that needs to be done.

Reverend the Hon. FRED NILE [5.06 p.m.]: I support the Workplace Surveillance Bill, which has been covered extensively by my colleague Reverend the Hon. Dr Gordon Moyes. I will respond to the Hon. Dr Arthur Chesterfield-Evans, who supported parliamentarians having access to pornography email sites and using parliamentary equipment for that purpose. I do not believe that that should be available. I support the policy of the Parliament in blocking the availability of those web sites. I do not accept the criticism of the parliamentary staff, through the Speaker and the President, of the policy. I support the policy of the Parliament. I note from the electoral returns in the Australian Capital Territory that the Australian Democrats received thousands of dollars from the Eros adult video association. It appears that the Australian Democrats represent their interests in this

Parliament. I know that in the Federal Parliament the Australian Democrats strongly opposed the efforts of the Coalition Government in trying to tighten up the regulations concerning email-internet pornography.

Ms LEE RHIANNON [5.08 p.m.]: The Greens believe this bill is a half-baked job. The Government has become expert at using smoke and mirrors to give the impression of protecting workers, but in fact it is failing workers. The bill does not deliver workers proper protection from unwarranted overt surveillance by employers. As the Australian Privacy Foundation has characterised it, the bill is a headache for employers, yet provides no pain relief for workers. The bill reveals a bevy of serious Government failures: a failure to deliver a workplace privacy bill, but rather a bill that gives the green light to overt surveillance as long as employers fulfil a few simple obligations; a failure to report on the review of the New South Wales Privacy Act; a failure to report on the review of the old Workplace Video Surveillance Act, on which this bill was built; and a failure to seriously consider the report on surveillance of the New South Wales Law Reform Commission.

Workers in this State would not need this bill if they had the protection of an adequate Privacy Act. This is another area where the Carr Government has failed us. Privacy experts described the New South Wales Privacy and Personal Information Protection Bill, when introduced by the Carr Government in 1998, as quite possibly the worst privacy bill ever submitted to any Parliament anywhere in the world. That is strong criticism. They say that even after its amendment the New South Wales Privacy Act remains seriously deficient. Despite the potential for its wholesale review, the Government has failed to act. New legislation, when first enacted in New South Wales, usually now includes a two-year or five-year review clause. The Minister has a year in which to review the legislation to determine whether the Act's aims and objects are being met. The Minister is then required by legislation to table a report of the review in Parliament. This allows us to check how the legislation is travelling, to consult with the community affected by it, and to make sure that we have got it right. This is an important and potentially very useful accountability mechanism.

The Attorney General's report on the review of the New South Wales Privacy Act 1998 was due to be tabled in Parliament on 30 November 2004. It is now almost six months overdue. The Greens asked the Attorney General to explain the delay. All he could say was that the issues are complex and submissions need to be carefully considered. Therefore, we are left suspecting that the Government might be working out how it can use this report as a backdoor route to abolish Privacy NSW or transfer its functions to an already overloaded Ombudsman, since it failed in its efforts to do this by legislation. So workers are unprotected by a strong Privacy Act in New South Wales, and the bill before us does nothing to change that situation.

That was by no means the first time the Government failed to meet its reporting deadline for a legislative review. The former police Minister failed to meet his obligations to report on a review of the Police Integrity Commission Act by a staggering two years and three months. Then there is the review of the Workplace Video Surveillance Act 1998. That is the Act which, the Attorney General tells us, he used as a template to create the bill before us today. The Attorney General is very nearly a year overdue in tabling his report of that review. The Greens are concerned why the bill is being introduced now, without a proper report on the old legislation. We have no idea how successful the first Act was. What baseline data was gathered to help us analyse workplace surveillance practices in New South Wales? How many prosecutions were there under the old Act? Who knows? The Attorney General has missed the opportunity to build a new Act on strong foundations. What the Attorney General may have hoped would pass for his report on this review would have been easily missed by interested individuals and organisations in his second reading speech on this bill. He lamely related:

> In 2003 submissions to the statutory review of the... Act were received from both industrial organisations and employer groups and none identified significant deficiencies in the Act or its operation.

The Attorney General made no attempt to elaborate on what unions and employer groups actually said about the operation of the bill and whether its objectives were being met. This is an insult to hardworking and busy unions, employer groups, government agencies like Privacy NSW, and non-government organisations, which would have put significant resources into preparing submissions to the review in good faith and in the expectation that the Government wanted to hear and consider their views.

The Attorney General missed another opportunity by failing to consider and implement the recommendations of the New South Wales Law Reform Commission's 2001 report on surveillance. The commission recommended introducing an all-encompassing surveillance Act to replace the Listening Devices Act and the Workplace Video Surveillance Act. If the Government had bothered to seriously consider the Law Reform Commission's recommendations, New South Wales would now have a broad-based system of regulation covering all sorts of surveillance—regardless of where it was conducted, or who conducted it—with personal privacy its paramount concern. Instead members have before them today a bill limited to workplace surveillance—and not a very good one at that!

Workplace surveillance intrudes on workers' rights to privacy, often justified by the view that "if you have done nothing wrong, then you should have nothing to hide". But surveillance at work often means that all workers are a potential suspect in yet-to-be-committed crimes. The very act of surveillance alters people's behaviour and their relations with each other. There has been a massive development in surveillance technology in recent years. Workplace surveillance is on the rise, if it is to be judged by the increasing number of complaints being made about it to Privacy NSW. Yet, as the Law Reform Commission says in its report on surveillance:

> … privacy, as a principle, and as a legislative touchstone, has not become less valuable simply because the means for its easy violation exist.

We need not only to tell employees that they are being monitored, as required by this bill, but also to make sure that surveillance is reasonable in the circumstances. If it is unduly intrusive, employers should not be doing it. Therefore, in Committee I will be moving amendments that provide principles for employers and workers on the proper conduct of overt surveillance. The amendments will also require the Attorney General to produce a code of practice. The Greens also will try to remove the ludicrous defence available to employers that allows them to avoid prosecution for covert surveillance if they believe it was necessary for the "security of the workplace or persons in it".

I have a number of outstanding questions, and I would appreciate the Minister representing the Attorney General answering them in his reply to the second reading debate today. I hope these points are taken seriously, because this House and the public in general are entitled to this information. My first question is: What action has the Minister taken on the case referred to him by the Industrial Relations Commission, presumably to encourage him to prosecute, where the Industrial Relations Commission found possible breaches of the Workplace Video Surveillance Act by the Government in the form of an area health service?

In this case it is reported that Deputy President Sams heard evidence that the Western Sydney Area Health Service engaged private parties to trail workers employed at Blacktown and Mount Druitt hospitals around Sydney, and photograph and videotape them illegally, before they were sacked for buying Chinese takeaways during their 12-hour shifts. In the end, the Industrial Relations Commission ordered the Western Sydney Area Health Service to reinstate and backpay nine security guards. In a 136-page judgment, Deputy President Sams said he had been "deeply troubled" by video evidence placed before the commission. He said it had been "clumsy, incomplete and inaccurate" and had had "the hallmarks of a Keystone Cops episode". Surely that criticism warrants the House being informed of the Government's response. Sams ordered that a copy of his decision be forwarded to the Attorney General's department to examine the failure of the health service, and the private security company, to comply with the terms of the Workplace Video Surveillance Act. Will the Attorney General to clarify whether we can expect the prosecution of the area health service; and, if not, why not?

My second question is: Given the very poor state of health of Privacy NSW, with an acting commissioner that the Australian Privacy Foundation has described as "asleep at the wheel", will the Minister representing the Attorney General clarify who will educate employers on their obligations under this bill and workers of their rights? Who will be in a position to enforce this Act? My last question is: What justification does the Minister have for making it harder under this bill than under the old Act to commence prosecutions for breaching the ban on covert surveillance, with clause 45 requiring the Minister's consent to the prosecution?

The Government is desperate to be tough on crime. We see that day in and day out. It is desperate to be tough on terrorism. But it closes its eyes to threats to fundamental human rights, like privacy, which help build a strong, stable and resilient community. Let us not forget that privacy is a basic human right. Australia is a party to the International Covenant on Civil and Political Rights, which includes articles 17, underlining the right to live in a way that does not involve arbitrary or unlawful interference with privacy. This bill is a lost opportunity when it comes to delivering a full response to the problem of workplace surveillance. The Greens' amendments, which I will move in Committee, hopefully will strengthen protections for workers. I look forward to discussing them in Committee.

The Hon. Dr PETER WONG [5.19 p.m.]: The Workplace Surveillance Bill will allow for greater trust and transparency in the workplace between a business or employer and an employee. Surveillance in the workplace has become more common and sophisticated, and must be regulated. Unauthorised workplace surveillance is not only ethically and morally wrong but it is also an invasion of privacy. If surveillance is used then it is only fair that employees are made aware of that fact. In preventing illegal surveillance of an employee by an employer without prior notification we are equally protecting the rights of every employee in this State. If there is any suspicion of unlawful activity on the part of an employee then the bill provides for a business or employer to obtain a covert surveillance authority from a magistrate.

Those who oppose the bill argue that it would allow employees unfettered access to electronically engage in union activities in the workplace. Businesses and employers also suggest that surveillance in the workplace can enhance employee safety, provide better quality training, and monitor performance and productivity. Some businesses argue that such changes are unnecessary and a costly imposition on operating costs that would disadvantage New South Wales businesses in relation to businesses in other States that allow spying on employees in the workplace. I strongly disagree with such assertions. There is no guarantee that surveillance of employees will prevent employees downloading irrelevant material, prevent theft and damage to property, or boost workplace productivity. Moreover, it is impossible to monitor every inch of floor space.

In fact, surveillance in the workplace can only strain relations and erode any trust between employer and employee. Results that monitor efficiency have shown that surveillance in the workplace causes increased stress, low morale, resentment, suspicion and tensions, which result in more industrial disputes and less productivity. We should remember also that people work longer hours today than ever before: They should be allowed to interact with their families and the outside world. Unhindered and unregulated surveillance in the workplace sets a dangerous precedent and is an imported phenomenon to the Australian way of life. In commending the bill to the House I reiterate that employers would be wise to verse themselves in the Federal communications Acts, especially when intercepting emails, because I believe that they may be technically intercepting communications, which carries considerable penalties.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [5.22 p.m.], in reply: A number of the issues raised will be dealt with in Committee. However, I will respond to Ms Lee Rhiannon's questions. The first question she raised relates to referral of a surveillance matter by Deputy President Sams in the Industrial Relations Commission. I can inform the House that this referral is currently under consideration. Ms Lee Rhiannon also raised the educative role of the Privacy Commissioner. I can inform the House that an educational strategy will be developed by the Attorney General's Department in conjunction with big business. In relation to consistency with the International Covenant on Civil and Political Rights, I can advise the House that I am advised that the bill protects against unjustified intrusion into a worker's privacy. I thank the House for their support and I commend the bill.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 and 2 agreed to.

The Hon. GREG PEARCE [5.24 p.m.]: I move Opposition amendment No. 1:

No. 1 Page 3, clause 3, line 30. Insert "not being monitoring or recording for the purposes of data back-up or computer system analysis," after "websites),".

As I said in the second reading debate, the Opposition has a couple of concerns that have come from people involved in the information technology industry. We think their concerns are sufficient to justify amending the bill. This amendment is designed to rectify concerns about the definition of computer surveillance and the possibility that a technician could pick up information or data created by workers that is logged or recorded in data backups and the computer performance monitors. As I indicated at the second reading stage, the Minister in the other place recognised this concern in his reply and stated that the definition of computer surveillance would not cover backups of hard drives, network performance monitors, software licence monitors, computer asset tracking, computer asset management or the normal saving of documents because they were not normally considered to be surveillance activities. Notwithstanding that, we understand that the definition is potentially a problem.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [5.26 p.m.]: The Government does not support the amendment, which proposes that computer monitoring for the purposes of data backup or computer systems analysis not be considered as computer surveillance. As outlined in the second reading speech by the Minister, the definition of computer surveillance in the bill does not cover normal business practices, such as backups of hard drives, network performance monitoring, software licence monitoring, computer asset tracking, computer asset management or normal saving of documents because these

are not normally considered to be surveillance activities. Therefore there is no need for an amendment to allow data backups or computer systems analysis to occur without notification to employees because the bill already provides for it.

However, the proposed amendment goes much further and will allow employers to use data backups or computer systems analysis for any surveillance purpose the employer wishes. This is opposed as it would defeat the whole purpose of the bill. For instance, it would allow employers to conduct data backups and then choose to read all of an employee's emails without notifying the employee. As presently drafted, if an employer uses data backups or computer systems analysis for surveillance purposes this should be notified to the employee. However, if an employer does not use data backups or computer systems analysis for surveillance purposes then no notification to employees is required.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 14

Mr Clarke	Mr Gay	Mr Pearce
Ms Cusack	Mr Lynn	Mr Ryan
Mrs Forsythe	Mr Oldfield	*Tellers,*
Mr Gallacher	Ms Parker	Mr Colless
Miss Gardiner	Mrs Pavey	Mr Harwin

Noes, 27

Mr Breen	Ms Hale	Mr Roozendaal
Dr Burgmann	Mr Hatzistergos	Ms Tebbutt
Ms Burnswoods	Mr Jenkins	Mr Tingle
Mr Catanzariti	Mr Kelly	Mr Tsang
Dr Chesterfield-Evans	Mr Macdonald	Dr Wong
Mr Cohen	Reverend Dr Moyes	
Mr Costa	Reverend Nile	*Tellers,*
Mr Della Bosca	Mr Obeid	Mr Primrose
Mr Donnelly	Ms Rhiannon	Mr West
Ms Griffin	Ms Robertson	

Question resolved in the negative.

Amendment negatived.

Clause 3 agreed to.

Clauses 4 to 8 agreed to.

Ms LEE RHIANNON [5.35 p.m.], by leave: I move Greens amendment Nos 1 and 2 in globo:

No. 1 Page 5. Insert after line 5:

9 Principles for surveillance of employees

The surveillance of an employee carried out or caused to be carried out by the employee's employer while the employee is at work for the employer, other than surveillance conducted in accordance with a covert surveillance authority, must be conducted in accordance with the following principles:

(a) the collection of information by way of surveillance may only be for a lawful purpose that is directly related to a function or activity of the employer, and must be reasonably necessary for that purpose,

(b) surveillance must only be conducted for purposes directly relevant to the employment of the employee,

(c) surveillance information should be protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse,

(d) surveillance information should only be lawfully and fairly used for purposes directly relevant to the employment of the employee.

No. 2 Page 21. Insert after line 1:

38 Destruction of surveillance record

(1) An employer who carries out or causes to be carried out surveillance of an employee of the employer while the employee is at work for the employer (not being surveillance authorised by a covert surveillance authority) must ensure that any surveillance record of that surveillance is destroyed within 21 days after the record is made.

Maximum penalty: 20 penalty units

(2) A Magistrate may, on the application of the employer, order that a surveillance record not be destroyed in accordance with subsection (1).

(3) An order under subsection (2) may require that records not be destroyed for such time and subject to such conditions as the Magistrate thinks fit.

This bill essentially allows overt surveillance provided that employers are open with workers about their surveillance practices and put up requisite signs, et cetera. This bill gives no choice about whether or not employees want to be subject to surveillance. Workers will be in no position to protest. While there may be legitimate reasons to monitor workplaces—for example, because of occupational health and safety concerns—it is important that it is done for legitimate reasons; otherwise, it is the lack of targeting that has been said to be like fishing with a fine mesh net, whereby everything within range is caught, whether relevant or not.

Unlike covert surveillance, there is very little regulation of why and how overt surveillance occurs. There is no requirement for the surveillance to be necessary, reasonable or justified, and no guidance given on how information collected should be stored so that it is secured and protected from misuse. Privacy NSW recognises that uncontrolled overt surveillance can contribute to stress and a sense of powerlessness. Industrial researchers have shown that surveillance can lead to a sense of insecurity, loss of trust, inhibition, stress and discontent. It means that private activities, such as adjusting clothing and practising regular religious observance, may be monitored. There are reports that it is just plain bad for business when workers are feeling harassed. Because of the inadequacies of existing information on privacy laws in this area, employees are virtually powerless to prevent from occurring or to seek redress for any misuse or unfair handling of their personal information that has been gathered by overt surveillance.

The Greens amendments insert into part 1 principles to be applied for overt surveillance of workers. The principles are based on the New South Wales Law Reform Commission's recommendations from its 2001 surveillance report, an International Labour Office's code of practice on the protection of personal data and a relevant section from the New South Wales Privacy Act. The principles are clear and straightforward. They may be summarised as follows: overt surveillance of workers must be conducted in accordance with the collection of surveillance information being restricted to a lawful purpose only, that is, a purpose that is directly related to the function or activity of the employer, and must be reasonably necessary for that purpose; the surveillance must be conducted only for purposes directly relevant to the employment of the employee; surveillance information should be protected by taking such security safeguards as are reasonable in the circumstances against loss or unauthorised access, use, modification or disclosure, and against all other misuse; and surveillance information should only be lawfully and fairly used for purposes directly relevant to the employment of the employee.

Greens amendment No. 2 requires surveillance records to be destroyed within 21 days after the record is made. The amendment is based upon a Law Reform Commission proposal. Employers will be able to apply to a magistrate for an order that the records not be so destroyed—for example, that the evidence be retained in a way specified by the order, such as by the police. This will cover the situation where it is reasonably believed that the material contains useful evidence or can aid in investigations that are relevant to either civil or criminal proceedings. The amendments are based on solid recommendations from bodies of great integrity, and they provide a system that will give greater protection. Surely Government and Opposition members will see their way clear to support these amendments.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.39 p.m.]: I support the amendments, and I hope other members see their way clear to support them as well. Amendment No. 1 will embody a real statement of principle, and it is quite important that the real purpose of the surveillance be made clear. There may be surveillance for safety purposes—for example outside a nightclub or in an unsupervised hallway, or other place where there is a danger of assault—or to deter shoplifting from a store. If that is the stated purpose for the surveillance and no assault or shoplifting takes place, the surveillance is reasonable. It would also be reasonable, however, that if shoplifting or assault did not occur the surveillance record be destroyed after a reasonable time.

The amendments should be supported by the Government. I am concerned that the Government has been so cavalier as to not appoint a privacy commissioner, given the amount of surveillance that is carried out at present. Obviously it should not be the purview of anyone with sufficient resources to install surveillance equipment to simply record whatever he or she likes and do whatever he or she likes with it. The Government must provide some degree of protection in this regard.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [5.41 p.m.]: The Government does not support the amendments moved by Ms Lee Rhiannon. Amendments Nos 1 and 3 aim at imposing restrictions on the use of non-covert surveillance by employers. That would impose additional restrictions on the operation of surveillance by employers. Those amendments are opposed on the basis that the Workplace Surveillance Bill is based on the Workplace Video Surveillance Act, which has operated successfully for a number of years placing reasonable notice requirements on employers who wish to conduct surveillance of their employees. There is no convincing evidence that placing further restrictions on employer surveillance of employees would achieve anything other than an increased compliance burden on employers.

It is proposed also that clause 21 be removed on the basis that the employer will simply use the clause as an excuse to conduct covert surveillance. There is no evidence of that. The Workplace Video Surveillance Act has been in operation for a number of years with a similar provision in section 7, and there have been no indications that employers are abusing that defence. In any case, clause 21 requires employers to notify employees of any surveillance intended to be conducted for the purposes of ensuring the security of the workplace. So there is no chance of an employer suddenly making up an excuse that clause 21 would apply.

The Hon. PETER BREEN [5.42 p.m.]: Clause 21, which deals with covert surveillance, allows the employer who undertook covert surveillance to defend its action on the grounds, as stated in the bill, of "the security of the workplace or persons in it". That is almost an open cheque given to the employer to circumvent the objects of the bill and to pursue unlawful surveillance by merely claiming that it was for security reasons. The object of the bill is to enable employers to find out whether the activities undertaken by employees are lawful. To have this defence begs the question whether the activity was lawful. On that basis I propose that clause 21 be struck out.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 5

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

Noes, 28

Ms Burnswoods	Mr Gay	Mrs Pavey
Mr Catanzariti	Ms Griffin	Mr Pearce
Mr Clarke	Mr Hatzistergos	Ms Robertson
Mr Colless	Mr Jenkins	Mr Tingle
Mr Costa	Mr Lynn	Mr West
Ms Cusack	Reverend Dr Moyes	Dr Wong
Mr Della Bosca	Reverend Nile	
Mr Donnelly	Mr Obeid	*Tellers,*
Mrs Forsythe	Mr Oldfield	Mr Harwin
Miss Gardiner	Ms Parker	Mr Primrose

Question resolved in the negative.

Amendments negatived.

Clause 9 agreed to.

Clauses 10 to 16 agreed to.

The Hon. GREG PEARCE: I move:

No. 2 Page 9. Insert after line 17:

(5) Subsection (4) does not prevent an employer's policy on Internet access limiting Internet access by permitting access only to specific web sites.

I indicated earlier that we continue to be concerned about whether the bill effectively prevents white lists being utilised. It is difficult to understand why the Government will not accept this amendment. Clause 17 (4) clearly states that an employer's policy on email access cannot provide for preventing delivery of an email or access to a web site merely because the email was sent by or on behalf of an industrial organisation of employees or an officer of such an organisation, or the web site or email contains information relating to industrial matters within the meaning of the Industrial Relations Act 1996. The Attorney said in the other place that this provision was inserted to meet concerns that employers could otherwise deliberately block emails sent by industrial organisations. We believe the position is not clear and, accordingly, propose this amendment to ensure employers will not be deprived of the opportunity to quite properly use white lists. In his reply to debate at the second reading of the bill the Attorney acknowledged that employers could operate a white list and said the legislation was not intended to prevent employers using such lists. If that is the case, the Government should accept the amendment and clarify the position.

The Hon. JOHN HATZISTERGOS: This amendment is opposed on the basis it is redundant and it would encourage the inclusion of any number of redundant clauses. The amendment is directed at ensuring that employers can operate white lists allowing employees access to a limited number of specific Internet web sites. However, clause 17 already allows this, as outlined in the second reading speech. I will repeat some of the words stated by the Attorney General in the other House for the benefit of those opposite. Clause 17 (4) meets the concerns that employers could otherwise deliberately block emails sent by industrial organisations. However, it is not the case that this will require employers to provide email access to employees, nor is it the case that this will require employers to provide Internet access to particular web sites. The key phrase here is "merely because". If an employer operates a white list—that is, a list of Internet web sites to which access is provided—the employer will not be forced to add to the white list web sites containing industrial matters. For instance, if the employer has a policy that Internet access is to be restricted to particular sites that relate to work, thereby preventing access to a web site containing information relating to industrial matters, there is no breach of clause 17 (4). This is because access has been prevented on the basis that only a limited number of web sites are to be made available through work computers. Access is not being prevented merely because the web site in question contains information relating to industrial matters.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 14

Mr Clarke	Mr Lynn	
Ms Cusack	Mr Oldfield	
Mrs Forsythe	Ms Parker	*Tellers,*
Mr Gallacher	Mrs Pavey	Mr Colless
Miss Gardiner	Mr Pearce	Mr Harwin
Mr Gay	Mr Ryan	

Noes, 27

Mr Breen	Ms Hale	Mr Roozendaal
Dr Burgmann	Mr Hatzistergos	Ms Tebbutt
Ms Burnswoods	Mr Jenkins	Mr Tingle
Mr Catanzariti	Mr Kelly	Mr Tsang
Dr Chesterfield-Evans	Mr Macdonald	Dr Wong
Mr Cohen	Reverend Dr Moyes	
Mr Costa	Reverend Nile	*Tellers,*
Mr Della Bosca	Mr Obeid	Mr Primrose
Mr Donnelly	Ms Rhiannon	Mr West
Ms Griffin	Ms Robertson	

Question resolved in the negative.

Amendment negatived.

The Hon. JON JENKINS [6.02 p.m.]: I move Outdoor Recreation Party amendment No. 1:

No. 1 Page 9. Insert after line 17:

(5) An employer's policy on email and Internet access must:

(a) allow employees to specify an email address, and to allow delivery of email to and from that email address, and

(b) allow an employee to access websites that are specifically requested by the employee.

18 Prohibition on reading emails

An employer must not read, or cause or permit to be read, an email addressed to an employee without the consent of the employee.

Maximum penalty: 50 penalty units.

Outdoor Recreation Party amendment No. 1 has two parts that I shall speak to separately. Because the parts are of a different nature I will ask the Committee to vote on them seriatim. The first part of the amendment concerns the insertion of subclause (5) (a) and (b) of clause 17. The second part of the amendment relates to the insertion of clause 18, "Prohibition on reading emails". The first part relates to the fact that employees may wish to send and receive emails from a variety of sources during a normal day in much the same way as they would use the telephone to check on a sick child at school or at home, pay a bill, or leave an important message for a family member.

Email is now a predominant form of communication in western societies. The first part of the amendment allows an employee to specify an email address or web site—they are effectively the same thing; the distinction between email addresses and web sites is artificial—that they have a particular need or desire to access. The bill currently states that industrial organisations are a special case and that the employer cannot block them. In other words, the Government refuses employers permission to block union web sites and emails. But I can guarantee absolutely that the majority of employees would find access to many other web sites and emails just as critical, if not more so, in performing their normal daily functions.

When I am in Sydney I often communicate with my children's school. That is the sort of essential communication that many parents would like to make during a working day. There is no valid reason for the Government to oppose the first part of my amendment. It simply allows employees to specify an email address or a web site that they believe is vital. If there were legislation before the Legislative Council that attempted to restrict an employee's telephone calls to specific numbers, there would be an outcry and claims of discrimination or invasion of privacy. Yet there appears to be no concern that a similar restriction is being applied to email communication—which also travels along the telephone line, I might add.

I urge both the Opposition and the Government to support this part of the amendment, which would allow employees to access a "white list" containing communication channels that they believe are important. I acknowledge that there are valid arguments on both sides of the debate. Some employers block telephone calls to employees at the front desk—telephone calls usually pass through a central reception area. There may be an argument for blocking emails in a similar manner; I understand that. That is why I have split my amendment into two parts.

For the first time in 18 months in this place I will call for a division on the second part of Outdoor Recreation Party amendment No. 1. Regardless of whether an employer is able to block certain emails and web sites, the employer should not in any circumstances be able to read the contents of an employee's email. The very emails and web sites that cannot be blacklisted under this legislation may be monitored, read and placed in an employee's performance file. In other words, monitoring a conversation between an employee and his or her union may become standard practice on the grounds of security—which is the catch-all phrase in clause 21 of the bill. I inform the Committee that I would have supported Greens amendments Nos 2 and 3 but I could not do so because they were moved in globo with amendment No. 1.

If an employer were to listen in on an employee's telephone conversation or to open an employee's private mail, that employer would be charged and imprisoned. They are actionable offences under both Federal and State legislation. It is illegal—and it should be. Why should emails, which travel over the very same telephone line, not have the same protection as a telephone conversation? When an employer allows an email to enter the premises—it has not been blocked at the front gate, so to speak—there is no reason why that employer

should be allowed to read the contents of that private email. There is absolutely no logic, no rationale and no support for allowing an employer to access a private email that is sent to an employee in the same way as there is no legal provision for an employer to listen to a private telephone conversation, regardless of whether the telephone or email conversation occurs using the employer's equipment.

I will never forget standing outside an information technology [IT] manager's office at a university where I worked and seeing some emails posted on a noticeboard. One of the emails was a private communication between two employees in the organisation about a liaison between the two the previous night. Some smart-alec IT people whose job it was to read the emails of university employees had stuck the email on the noticeboard as some sort of voyeuristic joke. That sort of thing could happen under this legislation. Even if the Government will not support the first part of my amendment, I ask it to reconsider and support the second part, which simply states that an employer must not read an email. An employer can block an email but not read the contents of that email.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [6.09 p.m.]: The Government does not support either part of the amendment moved by the Hon. Jon Jenkins. The amendment restricts an employer's ability to sensibly control the use of email and Internet resources provided by the employer. For instance, allowing employees to access web sites that they specifically request would allow them to nominate *www.sex.com* as a web site to be accessed from work. I think that would be considered inappropriate in most workplaces. Further, allowing employees to specify an email address from which they can receive emails would allow them to specify pictures at *pictures@sex.com* as an email address from which they may be allowed to receive emails.

The first part of the amendment could enable an employee to access unlawful web sites such as those involving child pornography, which is clearly unacceptable. The Government cannot support that part of the amendment and it almost beggars belief that it is being proposed. The second part of the amendment aims to require employers to gain employee consent to read any email addressed to an employee, which is unbalanced. It would allow employees to receive email pornography with impunity. It would prevent employers accessing important work documents that are being sent by email if an employee was inclined to disrupt the work environment.

Under this part of the amendment employees would be able to hide the use of workplace email for unlawful purposes, for example, emails organising criminal activity such as fraud from their employer. Accordingly, the Government cannot accept that part of the amendment. The bill already requires that employers have a policy on the surveillance of employee emails and that employees are informed of that policy. That is perfectly adequate to ensure that employees are aware that their work email may be subject to surveillance.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.12 p.m.]: The Government's approach to this amendment is that if people are likely to do something bad they should not be allowed to do anything. It is the view of the Government that if employees access a pornography site it is up to employers to stop them. If an employer does not dictate what morals an employee should have presumably that employee should not waste the time of the company. If employees are wasting the time of a company they should be disciplined or counselled, as they would be for the non-performance of any other duty. If employers inform employees that their emails might be censured it gives them an opportunity to say, "I want to receive emails from my mother if she gets crook", or whatever other innocent explanation they might give. If employees specify an email address to get through a policy loophole they are saying in effect, "For goodness sake let me have my tiny bit of space."

If employees specified some dastardly address, as was suggested by the Minister, it would be on the table and known to all and those employees would be judged in a broader context rather than just having the penalty of prohibition imposed on them. I assume there is a *www.sex.com* pornographic web site to which the same penalties would apply. If employees are wasting a lot of time looking at web sites that in the view of employers are immoral, are they wasting time for which they are being paid? In essence, that question is separate from whether an employee's work is satisfactory and whether an employer has the right to do more than just necessary surveillance. The idea that an employer must not read an email is entirely consistent with the idea that an employer must not read other mail. Email is a technological improvement and a convenient way of sending messages between people—messages that at least should be privileged.

The second part of the amendment states that an employer must not read, or cause or permit to be read, an email addressed to an employee without the consent of that employee. The Government could oppose the

second part of the amendment on the basis that many emails are sent to employees while they are performing their work. If an email is addressed to a person who is not in attendance one day and that email relates to the work of a company or organisation in general, it might be convenient for an employer to read the email as it could relate to an order or a job to be done. If that were the case it could be agreed that mail from workplace customers to employees could be read. I find offensive the concept that an employer should be able to read all emails to employees. If the Government has any regard for privacy it ought to support this amendment.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [6.15 p.m.]: The Minister referred to employees being able to access the *www.sex.com* web site but I would like to refer to something that was drawn to my attention. An employer installed Net Nanny software to prevent pornography from entering a workplace. Over the weekend officers in a major Australian agricultural company told me that the cleansing software installed by that company to remove pornography viewed my surname as falling into that category and it no longer receives my press releases. Sometimes proposals such as this go too far.

The Hon. JON JENKINS [6.17 p.m.]: I respect the Minister for Justice, as he is one of the better Ministers in this Labor Government. However, with due respect to him, it is very silly for him to say that an employer should become a policeman and monitor and read the content of emails to establish what is pornography and what is not. It is not the responsibility of an employer to read employees' private email and decide whether or not its content is appropriate or legal. It is not reasonable to ask employers to do that.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [6.17 p.m.]: In deference to the Hon. Jon Jenkins I reiterate what I said earlier when I responded to his proposal. This bill requires employers to have a policy on the surveillance of employee emails and employees have to be informed of that policy. That is the context in which this bill has to be read and understood.

The Hon. JON JENKINS [6.18 p.m.]: There is no reason for employers to read employee emails. I accept the argument that an employer can block emails, but once employees have been permitted to receive emails an employer should not be allowed to read them.

Question—That part 1 of the amendment be agreed to—put.

The Committee divided.

Ayes, 7

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

Noes, 27

Mr Breen	Mr Gay	Mr Pearce
Ms Burnswoods	Ms Griffin	Ms Robertson
Mr Catanzariti	Mr Hatzistergos	Mr Roozendaal
Mr Clarke	Mr Lynn	Mr Ryan
Mr Colless	Reverend Dr Moyes	Mr West
Mr Costa	Reverend Nile	
Ms Cusack	Mr Obeid	*Tellers,*
Mr Donnelly	Mr Oldfield	Mr Harwin
Mrs Forsythe	Ms Parker	Mr Primrose
Miss Gardiner	Mrs Pavey	

Question resolved in the negative.

Part 1 of the amendment negatived.

Part 2 of the amendment negatived.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [6.26 p.m.]: I move Government amendment No. 1:

No. 1 Page 9. Insert after line 17:

18 Restrictions on use and disclosure of surveillance records—notified surveillance

An employer who carries out or causes to be carried out the surveillance of an employee of the employer while the employee is at work for the employer, not being covert surveillance, must ensure that any surveillance record made as a result of that surveillance is not used or disclosed unless that use or disclosure is:

(a) use or disclosure for a legitimate purpose related to the employment of employees of the employer or the legitimate business activities or functions of the employer, or

(b) disclosure to a member or officer of a law enforcement agency for use in connection with the detection, investigation or prosecution of an offence, or

(c) use or disclosure for a purpose that is directly or indirectly related to the taking of civil or criminal proceedings, or

(d) use or disclosure that is reasonably believed to be necessary to avert an imminent threat of serious violence to persons or of substantial damage to property.

Maximum penalty: 20 penalty units.

This amendment imposes commonsense restrictions on the use or disclosure of non-covert surveillance records by employers. Essentially it requires that employers may only use or disclose non-covert surveillance records for legitimate purposes. The Liquor and Hospitality Division of the Australian Liquor Hospitality and Miscellaneous Workers Union, New South Wales Branch, was concerned that there is no regulation of who may view the product of notified surveillance, whether in real time or by viewing a recording. This amendment therefore is proposed to ensure that employees do not become the subject of private or public entertainment for the benefit of persons who have no reason to be using the surveillance record. For instance, this will prevent an employer viewing video surveillance at home, with a number of friends, for the general amusement of those watching. Employers will be able to use or disclose non-covert surveillance records for any legitimate purpose related to the employment of employees or legitimate business activities or functions of the employer. Disclosure will also be allowed to law enforcement officials for purposes related to the taking of civil or criminal proceedings and to avert imminent threats of serious violence or substantial damage to property.

Amendment agreed to.

Clause 17 as amended agreed to.

Clauses 18 to 20 agreed to.

Ms LEE RHIANNON [6.28 p.m.]: The Australian Privacy Foundation has pointed out that the defence set out in clause 21 undermines the basic rule that for covert surveillance the magistrate's authority must be obtained. It allows an employer to conduct covert surveillance without a magistrate's authority. An employer who is caught and prosecuted may fully justify the actions as necessary for the security of the workplace or persons in it. The employer can then avoid both the upfront justification before a magistrate and the post-reporting requirements for covert surveillance placed upon employers that the bill is predicated on. The foundation says that it is difficult to see why an employer would bother seeking a magistrate's authority at all. The Government's proposed defence suggests Premier Carr is happy for privacy to become the poor cousin of security in this State. The Greens' proposal, which unfortunately was voted down, would help resist this trend. We still believe that clause 21 has no place in the bill.

The Hon. PETER BREEN [6.29 p.m.]: I also think that clause 21 is a provision that contradicts the main objectives of the bill, which are to enable employers to have surveillance over their workplace and their employees. This provision begs the question as to whether there is illegal activity. It presumes that the employee is involved in illegal activity. For employers to be able to plead that as a defence contradicts the object of the bill and the provision ought to be removed.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [6.30 p.m.]: The Government opposes this amendment for the reasons I gave earlier in relation to an amendment moved by the Greens.

Clause 21 agreed to.

Clauses 22 to 45 agreed to.

Ms LEE RHIANNON [6.31 p.m.]: I move Greens amendment No. 3:

No. 3 Page 23. Insert after line 20:

46 Surveillance code of practice

(1) Within 12 months after the commencement of this section the Minister is to develop a code of recommended practice for the surveillance of an employee carried out or caused to be carried out by the employee's employer while the employee is at work, other than surveillance conducted in accordance with a covert surveillance authority.

(2) The Minister is to review the code of recommended practice at least every 3 years.

(3) In developing or reviewing a code of recommended practice, the Minister is to consult with the Privacy Commissioner and such industrial organisations of employees or employers and other persons as the Minister considers appropriate.

The amendment requires the Attorney General to develop a code of practice for overt surveillance at work within three years of the Act commencing. It asks that he develop a code with the Privacy Commissioner, unions, employer groups and others who consider it appropriate. It requires the review of the code at least every three years. An overt surveillance code was developed by the Department of Industrial Relations in 1996. This preceded the old Workplace Video Surveillance Act and arose out of a dispute between Franklins and the unions that cover its workers. Privacy NSW has been handing out this 1996 code to people and organisations who are concerned about video surveillance or who wish to follow best practice. Privacy NSW also refers to the code when investigating and seeking to conciliate formal complaints about overt surveillance. I trust the Government and the Opposition will support the amendment, because it is a sensible and useful initiative. The code would provide best practice guidelines to employers and workers. It would be a tool to help explain the Act, its principles and requirements in plain English, and flesh out in more detail such matters as when surveillance would be acceptable and how information collected should be stored and used. I commend the amendment to the Committee.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.32 p.m.]: I congratulate the Greens on this sensible suggestion. If technology is advancing then the practices of surveillance are being driven by forces, as I described earlier. Clearly, the privacy of people is considerably at risk and the Government must provide a counterbalance. This suggests a practice for employers, some of whom are being asked to develop a policy out of thin air, which is to be reviewed every three years and will mean changes in technology and practice can be taken into account. Obviously, this has to be done with the Privacy Commissioner because it is a balance between the need for security—which we have been obsessed with since our foreign policy is so belligerent—and therefore privacy. These things need to be reviewed. This is an excellent suggestion and I commend the amendment to the Committee.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [6.33 p.m.]: For the reasons I gave previously in relation to Greens amendments, this amendment is opposed by the Government.

Amendment negatived.

Clause 46 agreed to.

Clauses 47 and 48 agreed to.

Schedule 1 agreed to.

Title agreed to.

Bill reported from Committee with an amendment and report adopted.

Third Reading

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [6.36 p.m.]: I move:

That this bill be now read a third time.

The Hon. Dr Arthur Chesterfield-Evans asked whether the bill would regulate surveillance of employees conducted outside a workplace. I can advise the House that it is the intention of the bill that offsite surveillance is covered. The honourable member also asked whether it is the intention of the bill to cover surveillance of employees by a related employer organisation. I can advise the House that is the intention of the bill, as contained in clause 4, which adequately addresses and responds to the issues raised by the honourable member. For those reasons I seek support for the third reading.

Motion agreed to.

Bill read a third time.

[*The Deputy-President (The Hon. Patricia Forsythe) left the chair at 6.37 p.m. The House resumed at 8.10 p.m.*]

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Order of the Day No. 2 postponed on motion by the Hon. Tony Kelly.

BRIGALOW AND NANDEWAR COMMUNITY CONSERVATION AREA BILL

Second Reading

The Hon. IAN MACDONALD (Minister for Primary Industries) [8.12 p.m.]: I move:

That this bill be now read a second time

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

Leave granted.

Since 1995, the Carr Government has carried out Forestry Assessments in accordance with the national forest agreement between the Commonwealth and the States.

These assessments have produced historic regional forest agreements in four major coastal regions—the Eden area, southern NSW and on the upper and lower north coast.

In striking an appropriate balance between social, economic, environmental and cultural values, the Government's forest assessments have set a national benchmark for the involvement of all stakeholders and community groups.

They have resulted in a world-class conservation network that protects biodiversity, old-growth forests and wilderness, as well as providing secure access for the timber industry to timber resources and long-term certainty for the industry's future.

Over the past decade, the Carr Government has declared over two million hectares of new national parks and reserves. More than half of these gains have resulted from these forestry assessments and we have supplemented this with significant purchases of high conservation areas throughout the State.

We have now completed our fifth major forestry assessment—in the Brigalow and Nandewar regions of the central west. As a result we will make the single most important one-off addition to the reserve system in western NSW.

This Bill will permanently protect 352,000 hectares of high conservation value forests in new reserves, including public land that will change its tenure from productive forests to reserves and former private lands that have been purchased by the Department of Environment and Conservation in recent years.

It also introduces an entirely new land management tenure. To be known as a Community Conservation Area, this tenure was developed specifically for this part of western NSW.

Most importantly, the Government's new Community Conservation Area will provide an appropriate balance— between conservation and sustainable industries that will provide jobs in the timber, gas, minerals and apiary sectors. It will also be underpinned by strong community involvement.

The Government's decision follows five years of detailed scientific analysis and consultation with timber operators, conservation and Aboriginal groups, the minerals and gas industries and local communities.

The Brigalow and Nandewar regions have experienced over one hundred years of intensive development, including the clearing of approximately 70 percent of the original vegetation. These areas are the heart of what we call the sheep-wheat belt and they have contributed greatly to the State's—indeed, the nation's—economic development.

As a result of this massive clearing, however, this part of NSW has experienced a high rate of extinctions. Indeed, species decline in the region is amongst the worst in Australia. This is why the Commonwealth Government recently declared the Brigalow region as a "biodiversity hotspot", one of fifteen around the nation.

The creation of new conservation reserves is an essential part of reversing this trend. The public lands that will be permanently protected as a result of this Bill contain the highest quality habitat for the most endangered species. They contain the best of the region's remaining vegetation and biodiversity.

I'm also pleased that the forests of highest cultural significance to Aboriginal people will also now be permanently protected and managed to support Aboriginal cultural heritage and cultural practices.

Local Aboriginal communities will benefit from jobs set aside for Aboriginal people, as well as the inclusion of land in special areas that will permanently protect Aboriginal culture. They'll also fully participate in the future management of the public lands that make up the new Community Conservation Area.

Two of the Aboriginal communities' icons of traditional and cultural significance—the Goonoo and Terry Hie Hie forests—have been identified as areas that could be managed through Indigenous Land Use Agreements, based on the highly successful model of the Arakwal National Park at Byron Bay.

The forests in these regions contain 47 threatened fauna species and the new conservation reserves will provide permanent strongholds for these animals and birds, including the Turquoise Parrot, the Barking Owl, Mallee Fowls and the Swift Parrot.

The Government's decision will protect 60,000 hectares of endangered ecological communities and rare, vulnerable and endangered ecosystems.

Most importantly, it will ensure the continuation of a viable, sustainable and value added timber industry, with up to 57,000 cubic metres of cypress pine per year available to the Cypress industry in secure 20 year wood supply agreements.

This industry has provided a vital part of the region's economy over the past century, creating jobs and providing prosperity to small towns that have had little opportunity to diversify their economies.

In order to sustain and improve this industry the Government will provide an $80 million package to create new jobs, assist mills to exit the industry, compensate workers with either new jobs or generous redundancy packages and develop joint investment strategies to better use the timber resources and add value to the industry's products.

The provision of unprecedented industry assistance at a rate of two Government dollars for every one dollar of private investment will facilitate this investment in value adding processes.

Forests NSW will also source timber from outside the bioregions and dedicated resources will be committed to obtaining timber from private property and leasehold lands.

The previous timber supply zones for the region will no longer apply and timber will be made available from areas to the south, as well as from the west.

Haulage assistance will also be available as part of the Wood Supply Agreements to equalise any transportation costs associated in obtaining timber from non-traditional supply areas.

There will in fact be a net increase in the number of jobs as a result of the funding announced as part of this decision—both within the timber industry and in the new reserves created within the Community Conservation Area.

Some timber mills in both the cypress and ironbark industries have already nominated to exit the timber industry permanently.

In keeping with the Government's innovative forestry policies, these mills will receive generous assistance packages for business exit.

Some small ironbark operators will also exit the industry due to the Government's decision. A separate generous compensation package will be negotiated with these small operators.

The Government is also committed to reviewing the firewood industry and an exit package will also be available for this sector.

The Government has made adequate provision for mills that will cease operations. We've put aside up to $15 million for the business exit fund. The fund will provide generous business exit payments similar to the successful model used in the coastal assessments.

This fund will also include a special one-off redundancy payment of $72,000 to timber workers from the affected mills who wish to exit the timber industry.

There is, however, a special fund to create new jobs for any displaced timber worker who wishes to take up the Government's offer of alternative employment.

Workers who opt to take a new position created as a result of Government initiatives, will also receive a one off payment of $27,000—on top of their Award entitlements, as well as an amount of up to $45,000 for any required retraining and relocation expenses.

It's important to emphasise that the individual interests of every displaced timber worker will be carefully managed by the Government's highly successful Forestry Structural Adjustment Unit. The Unit reports to the Minister for Natural Resources and its recommendations will be made to the Ministers for the Environment and Primary Industries through the Community Conservation Council.

Provision has also been made for a special Transition Fund of $10 million over five years. This will ensure continuity of employment for timber workers in those mills that will continue to operate.

This Government is determined to assist the remaining mills to add value to their operations and will be investing jointly with these mills in a range of innovative industry initiatives. If any of these mills require extra assistance during the transition period this fund may be accessed to ensure that workers remain employed while these initiatives come on line and new jobs are established.

One of the most important aspects of the Government's policy is the provision of certainty to the industry. As with the previous forestry assessments, those cypress mills which are remaining in the industry will receive 20 year wood supply agreements.

In addition, the Government will invest over $50 million in the future of the region's timber industry.

At least $15 million will be provided for timber industry development with wide ranging initiatives to improve production and maximise value-adding in this important industry. Work on the value adding package has been undertaken in close consultation with the Forest Products Association and the Construction Forestry Mining and Energy Union.

We'll continue to work with the Association and the union on new projects for the region. The Government will work closely with industry to identify those ideas that will help to develop a strong value-added industry.

The industry has already developed some of those ideas in its Cypress Industry Strategic plan. The government looks forward to working with the remaining mills to consolidate and then build on these plans.

Another special fund will be used to create new jobs and improve the quality of white cypress forests to ensure the long-term viability of the timber industry. $12 million will be available to employ up to 50 workers in a major white cypress thinning program. This program will not be limited to areas within the Community Conservation Area but will be extended to private and Crown lease lands.

This program will optimise the growth rate and quality of white cypress trees and is an essential part of improving the productivity of the forests and ensuring a sustainable timber industry in the long term. This package also includes both dedicated permanent jobs for displaced timber workers and the Aboriginal community.

Parts of the Brigalow and Nandewar regions have high minerals and gas potential. Significant exploration activity has already occurred and is expected to expand rapidly over the next 10 to 20 years.

The Government's decision will preserve the full economic potential of the regions by ensuring the local coal and gas reserves can be accessed by the mining industry—including in reserve zone 3 which is the same as State Conservation Areas in the *National Parks and Wildlife Act* which permits exploration and extraction activities for gas and mining.

The job potential from these industries is considerable. It's predicted that more than $2 billion will be invested in these industries over the next 15 years. As a result hundreds of new jobs will be created.

Indeed, the first of these jobs are already in place, following the development by Eastern Star Gas of a $9 million natural gas-gathering system and electricity generating facility near Narrabri.

The Government's decision will also ensure that the regionally important apiary industry will continue to have full access to the forests for honey production. This industry will securely operate in all zones of the new Community Conservation Area.

The Government will also provide funding of $2 million over four years to assist with the acquisition and transitional arrangements that will arise from revocation of occupational permits, including annual permits allowing grazing in State Forests.

Compensation will also be provided to landholders for existing infrastructure on leased land that could be usefully retained and used in the management of a new reserve. These arrangements are consistent with those put in place following other forestry decisions.

An Occupational Permit Taskforce will be established by DEC based on the model effectively used in other forest assessments and will include representatives from the NSW Farmers Association and the Department of Primary Industries.

The taskforce will advise landholders of the revocation of occupational permits, identify capital works that may have taken place on the leased land, consider the effects of the loss of permits on landholders and manage transitional arrangements such as fencing and access issues in order to limit negative impacts. Permissive occupancies will also be considered.

An important part of this legislation is the proposal to create a Community Conservation Area.

This is an internationally recognised reserve concept new to Australia, and is based on recognised International Union for the Conservation of Nature (IUCN) Reserve categories. It's a different way of resolving forestry assessments by creating a framework for the coordinated management of *all* public lands.

It will achieve both permanent conservation outcomes and provide certainty to the various industries operating in the region.

The Community Conservation Area will have three statutorily defined conservation zones:

- Zone 1—a conservation and recreation zone that reserves certain former State forests, Crown land and land vested in the Minister administering the *National Parks and Wildlife Act 1974* as national parks under the *National Parks and Wildlife Act 1974*.

- Zone 2—a conservation and Aboriginal culture zone that reserves certain former State forests as Aboriginal areas under the *National Parks and Wildlife Act 1974*.

- Zone 3—a conservation, recreation and mineral extraction zone that reserves certain former State forests and Crown land as State conservation areas under the *National Parks and Wildlife Act 1974*.

No commercial extraction of timber can occur in these three zones.

Over the next five years $29 million in recurrent funding will be provided to the Parks and Wildlife Division of the Department of Environment and Conservation to manage these zones. This will eventually reach $8 million annually and will be supplemented by $9.5 million in capital funding to establish infrastructure in these zones.

Statutory responsibility for these three conservation zones will reside with the Minister for the Environment.

The fourth zone in the Community Conservation Area will provide for commercial timber extraction and mining. Statutory responsibility for this zone will reside with the Minister for Primary Industries. The usual Special Management Zoning system applied by Forests NSW will be established within zone 4.

Minor boundary adjustments to the zones will be required for roads, access and other operational matters. These adjustments must be in order to alter the boundaries of the land for the purposes of more effective management and to adjust boundaries to public roads.

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

The Director General of the Department of Environment and Conservation must have the agreement of the relevant ministers to make any changes. Adjustments must be made before 31 December 2005 or in the case of an adjustment of the boundary of land adjoining a public road, by 31 December 2011.

Clause 16 of the Bill provides that future additions to these zones may be made by proclamation. Clause 17 provides that land in Zone 1, 2 or 3 can only cease to be in that zone if its reservation as a national park, Aboriginal area or State conservation area is revoked by an Act of Parliament.

In other words, the conservation gains achieved by this decision are secure. It also provides that land in Zone 4 ceases to be in that zone if it ceases to be State forest.

Clause 19 of the bill provides that land in Zone 1, 2, 3 or 4 is not eligible to be identified or proposed for identification, or declared, as a wilderness area under the *Wilderness Act 1987* or the *National Parks and Wildlife Act 1974*.

Some of the State forest identified for addition to the conservation reserves has existing non-negotiable leases. This land will be vested in the Minister for the Environment under Part 11 of the *National Parks and Wildlife Act 1974* and held until the leaseholders voluntarily sell their interests.

If this occurs the land will be formally included in the appropriate conservation zone. $9 million will be provided over the next five years for the purchase of these leases and to buy high conservation value private land that might come onto the market in the future.

Any land within these regions that is later purchased for conservation by the Department of Environment and Conservation will be included in one of the three conservation zones, unless the land is more appropriate as a boundary rationalisation for an existing national park or nature reserve.

Management of the new Community Conservation Area will also link directly to management of the existing reserve system, including the icon Warrumbungles and Mt Kaputar National Parks and the Pilliga Nature Reserve.

While individual agencies will be responsible for managing each of the four zones, responsibility for overseeing the coordinated management of the Community Conservation Area will reside with the new Community Conservation Council. This Council will also be responsible for implementing other aspects of the Government's decision.

The Council will consist of the Directors General of the Premier's Department and the Departments of Environment and Conservation, Primary Industries and Infrastructure Planning and Natural Resources—or their delegates.

The Council will be subject to the control and direction of the relevant Ministers in the exercise of its functions and will report directly to the Premier.

The Council will also be responsible for developing a Community Conservation Agreement. The purpose of the agreement is to provide a coordinated management framework for the entire Area, which will ensure integrated and effective management across all zones, including for pest, weed and fire management.

The management principles that will apply in Zones 1, 2 and 3 will be developed in accordance with guidelines to be provided to the Council by the Minister for the Environment. The principles are not to be inconsistent with the relevant management principles in the *National Parks and Wildlife Act 1974* applying to national parks, Aboriginal areas and state conservation areas respectively.

The reporting framework for the three conservation zones will be the established *State of the Parks* system with further reporting as required by the Council.

The Council will also be responsible for providing recommendations to the Government regarding all aspects of the restructuring of the timber industry, including exit payments to mills and workers and timber industry development initiatives.

While the legislation will not commence in full until 1 December 2005, coordination and planning must commence immediately. Provisions of the Act that relate to funding and the Community Conservation Council will therefore commence on 1 July 2005.

The Council will be advised by three Community Conservation Advisory Committees which will include a wide representative membership, with priority given to local people. These community-based advisory committees around the three main groups of forests in the region: the Goonoo in the south; the Pilliga in the central area and the northern forests such as Bebo and Terry Hie Hie.

These advisory committees are central to the Government's decision. They'll bring together local communities and a range of social, scientific, conservation and economic interests. They'll also include local Aboriginal community representatives.

Agencies responsible for managing the public lands which make up the CCA's core areas will attend as observers. The Chairs of the relevant Catchment Management Authorities will also be members and this arrangement will link public and private land management issues.

The main work of the CCA advisory committees will be:

- To advise on the Community Conservation Area Agreement, with specific focus on those management issues that require coordination across all zones within the CCA, including fire and pests.

- To consult and ensure effective communication with local communities.

- To form partnerships with private land owners to implement landscape-wide policies.

- And to provide advice to the Director General of DEC on draft plans of management for CCA zones 1, 2 and 3.

The intention is that the Advisory Committees will attempt to reach consensus on the various issues they consider, and where this is not possible, the Council will be provided with the various views of the committee members.

In other words, this model will form the basis for establishing a co-operative management framework and community partnerships involving all interested stakeholders—including local CMAs, local councils, government land management agencies, tourism organisations, Aboriginal groups, landholders, conservationists, industries and scientific institutions.

I turn now to the source of funding to implement this decision.

The Bill will reform the Environmental Trust to combine the resources of the existing Environmental Trust Fund and the Waste Fund. The new Trust will therefore be larger and more flexible.

The *Forestry Restructuring and Nature Conservation Act 1995* will also be amended to allow funding to be provided for the purpose of implementing the forestry restructuring and assistance schemes in the Brigalow and Nandewar bioregions.

Section 7 of the *Environmental Trust Act 1998* will also be amended to allow funding to be provided for other key environmental initiatives including:

- Selected waste reduction, resource recovery and waste management programs. These programs are currently funded by the Waste Fund, which will now be combined with the Environmental Trust Fund.

- The purchase of water to enhance environmental flows for the State's rivers and restoring and rehabilitating major wetlands.

- The declaration of new marine parks.

- And the provision of funding support to community conservation groups.

The legislative amendments to the *Forestry Restructuring and Nature Conservation Act 1995* will enable the Environmental Trust to fund the proposed Brigalow and Nandewar outcomes. The Ministers for the Environment and Primary Industries will be jointly responsible for approving relevant spending on these programs.

I'm proud to introduce this Bill, which forms a crucial part of the Carr Government's continuing forest reform and internationally acclaimed conservation achievements.

I commend the Bill to the House and table for the information of Honourable Members, colour copies of a map that shows the land described in the Schedules to the Bill.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [8.14 p.m.]: The Opposition has very serious concerns about the implications of the Brigalow and Nandewar Community Conservation Area Bill. The reason for our opposition is obvious: in its current form the bill would sound the death knell of the communities of the Brigalow Belt South bioregions. This Labor Government's decision to reserve 348,000 hectares of forest will have serious socioeconomic consequences. The future of the timber industry in the central and north-western regions and the future of the small towns that rely on the industry are in serious doubt. In Committee the Opposition will move a series of vitally important amendments that seek to save some mills that are under threat because of Labor's decision. The amendments seek to ensure the future of the mills and the communities that rely on them.

In the Opposition frontbench reshuffle about three weeks before the Government made its decision the portfolios of Forestry and Mineral Resources were added to Agriculture and Fisheries. Consequently I came into this debate with little immediate background knowledge of this matter. I cannot overemphasise the assistance I have received from the former shadow minister, Andrew Fraser, and my parliamentary colleagues in this House, the Hon. Rick Colless in particular, and the Hon. Jennifer Gardiner and the Hon. Melinda Pavey. I acknowledge the assistance also of Emily Ritchie, who has the carriage of this bill in my office.

Last weekend, at the National Party annual conference, a packed town hall in Gunnedah agreed on a series of very important motions relating to the Brigalow. The following motion was moved by the Hon. Jennifer Gardiner on behalf of the Gunnedah branch of the National Party:

> That, with respect to the Brigalow Belt South bioregion, the conference:
>
> (a) condemns the Carr Labor Government for legislating to lock up renewable cypress pine forest, destroying hundreds of timber industry jobs in Gunnedah, Baradine, Bingara, Pilliga, Quirindi, Eugowra, Gwabegar, Gulargambone, Narrabri, Trundle and districts;
>
> (b) notes the devastation caused to the other businesses in those communities which provide goods and services to the closing and threatened timber mills and those which have developed using timber by-products;
>
> (c) condemns the Carr Labor Government for the deceitful way it has conducted the resource assessment process and for keeping secret the Sinclair report, which was part of that assessment process;
>
> (d) congratulates the NSW parliamentary Nationals and the NSW Opposition for the longstanding and continuing support for the widely-supported BRUS option, which struck a sensible balance between economic and conservation values;
>
> (e) calls on the so-called Country Labor members and all crossbenchers of the Legislative Council to vote against the bill when it is debated in the upper House next week;
>
> (f) notes the mischief caused by the so-called Independent MPs in the Brigalow debate to the detriment of the communities they represent; and
>
> (g) endorses the invitation extended by the Hon. John Anderson to Premier Bob Carr to urgently visit Gunnedah and other affected districts and take moral responsibility for the distress and dislocation caused by his decision to close the Pilliga and other forests and re-think this wrong-headed policy.

That motion was passed unanimously. Of most concern is that the timber industry will be unsustainable under the current compartment allocations. If the Government did the sums it would see that its decision will be harmful to the environment. The harvest rate will now be higher than the growth rate. The forest will be in decline. The forests of the Brigalow and Nandewar bioregion produce approximately 0.28 to 0.35 cubic metres of white cypress pine per hectare per annum. Approximately 470,000 hectares was supplying 70,000 cubic metres of sawlogs annually, with a previous harvest rate of 0.15 cubic metres per hectare per annum. Following the implementation of this disastrous legislation there will be 348,000 fewer hectares of harvestable forest, leaving just 122,000 hectares to produce the promised 57,000 cubic metres of sawlogs annually.

As my colleague the Hon. Rick Colless has pointed out in this House on many occasions, the future harvest rate is 0.47 cubic metres per hectare per year. The maximum production that can be expected from the forest is 0.35 cubic metres per hectare per year. The forest compartments that remain open for forest production either have very little cypress left on them or the compartments have been harvested over the past decade. This Labor Government will not be able to supply the 57,000 cubic metres each year from the allocated harvest compartments that it has so far specified. The harvest rate exceeds the growth rate. Industry leaders say only 23,000 cubic metres of white cypress pine is available, yet the Government is promising 57,000 cubic metres.

The bill in its current form fails the community it purports to assist because the legislation will not deliver sustainable forest production outcomes. The bill was trumpeted in the lower House as a saviour and it

was said that all the resources were available to implement it. But the Minister has returned to the House two or three times to extend the total allocation. If, as the Government claimed, the resource was there in the first place, why was the Minister forced to change the allocation twice—or maybe three times? Is it because the Government was lying? I believe it was, and I believe it is still lying. The resource was not there then and it is not there now. The office of the Minister for Primary Industries, the Hon. Ian Macdonald, assures me that if mills go broke due to a lack of timber under the 20-year wood supply agreements, mill operators will be able to sue the Government. That may be so but the New South Wales Labor Government and Minister Macdonald fail to understand that if that happens the small communities that rely on the mills will become ghost towns. What will happen to those towns? Who will look after those towns and communities? It will not be Bob Carr.

Throughout intensive discussions with industry representatives and stakeholders it has been made very clear that mills will not invest in the timber industry with the current allocation of harvestable timber. Tommy Underwood at Gwabegar has decided to exit. The Logans at Narrabri have decided to exit. The Laceys at Gulargambone have decided to continue if their concerns about timber resources are addressed. When I last spoke to the Ramiens at Dubbo they were undecided and waiting to see what would happen. Under the bill in its current form they would have insufficient resources to justify rebuilding. The Austins are undecided and the Pauls at Gunnedah also remain uncertain as of this afternoon. The Baradine mill is concerned about its future viability. Peter Turnbull at Bingara will exit, Mick O'Neill's mill could vanish and Ron Hay at Eugowra is undecided. Trundle is in the same situation, and many mills lack the confidence to invest because of insufficient resources. Mill operators and owners are facing a very difficult time. While I welcome the announcement by the Minister for Primary Industries that an extra 15,000 hectares will be made available for forest production—

The Hon. Rick Colless: It won't be enough.

The Hon. DUNCAN GAY: As the Hon. Rick Colless says, it will not be nearly enough to maintain the future viability of these businesses. The issue is plain and simple: more timber is needed, and the additional 15,000 hectares is just a drop in the ocean. We are far from convinced that the 57,000 cubic metres of cypress sawlogs that the Government has promised to the remaining sawmills will be delivered. It has been pointed out that compartments have had different projected productions for three years in a row. The Government is obviously faking the figures when compartments have double the capacity under this bill. To remain viable the mills within the region would need the following State forests: Trinkey, Bobbiwaa, Biddon, Moema, Couradda, Killarney, Etoo, Pilliga West, Merriwindi, Yarrigan, Wittenbra and Yearinan. Berrygill and Terry Hie Hie State forests must be managed as productive forests if the local Aboriginal councils so determine. The Lincoln and Eura forests, and the Biddon, Balladoran, Breelong and Beni State forests should also remain open for hardwood production in the Goonoo region. Those very small forests surrounding the Goonoo region would allow the vital hardwood industry that operates from the Dubbo end of the forest to remain open.

Under the bill in its current form the forest will be overcut. It will not regenerate sufficient timber to continue to provide millable timber to the industry and prevent environmental degradation. The bill that has been presented to the Greens has environmental vandalism at its heart. The legislation, along with Labor's plan for the Brigalow, is inadequate. The communities have been sold short and given a pretty raw deal. No-one should be in any doubt that the Liberal-Nationals Coalition believes the Brigalow Region United Stakeholders [BRUS] Group option is our preferred position because it will deliver 97 per cent of the conservation outcomes demanded, see timber mills remain operational and viable, and not degrade the forest.

It is almost hard to believe that the New South Wales Labor Government has ignored the wishes of 26 of the bioregion's 27 stakeholder groups, including the New South Wales Forest Products Association; the Construction, Forestry, Mining and Energy Union; the New South Wales Apiarists Association; the local Aboriginal land councils of Toomelah, Moree, Narrabri, Gunnedah, Gilgandra and Coonamble; the Pilliga Forest Aboriginal Management Committee; Gwabegar/Pilliga Community Link; the Baradine Progress Association; the Country Women's Association; chambers of commerce; the Goonoo Action Group; the Petroleum Exploration Society of Australia; the regional vegetation committees of Moree Plains, Narcoona and Inverell-Yallaroi; the New South Wales Farmers Association; Landcare; the rural lands protection boards; the New South Wales Shires Association; and the Newell Highway Tourist Association. The New South Wales Labor Government has favoured a lone group—the Western Conservation Alliance—which is set on shutting down the timber industry.

The Western Conservation Alliance held a dinner, on the night that the Hon. Ian Macdonald and Country Labor made their announcement, at which its members drank a toast to the death of the timber industry. That is the legacy that the Hon. Ian Macdonald, the Hon. Tony Kelly and Country Labor will leave to this

region. People in Baradine who attended that dinner were affronted by the fact that this group was drinking a toast to the death of the timber industry. The New South Wales Labor Government has failed to explain why it has not adopted the BRUS option. The BRUS stakeholders put years of hard work into formulating that option and the Government has thrown it back in their faces. The overriding principle of the BRUS alliance was to integrate, wherever possible, the interests of all groups, acknowledging priority areas for different groups and developing a position that optimised the synergies and minimised the conflicts.

The BRUS option sought to balance economic, social and environmental outcomes, and this bill fails to do that. The BRUS option allowed for the protection and enhancement of conservation values across all land tenures, the continuation of viable small communities, job security, the maintenance of existing industry, value adding, expansion into new industries and the enhancement of Aboriginal aspirations. The bill also fails in many of these objectives. It does not allow for the continuation of viable small communities or job security.

In recent weeks calls have been made by the Independent member for Tamworth for an assessment of the quality and quantity of timber available for forest production in the Brigalow and Nandewar region. But was that not what the Sinclair report was about? An independent, comprehensive, taxpayer-funded report already exists that outlines the quality and quantity of timber in the bioregion and also outlines the best option for the bioregion. But the Government has failed to release that report, almost certainly because it will support the BRUS option. You can bet your bippy that if the Sinclair report did not support the BRUS option, the Government would have released it.

But no matter what we have done and what we have asked, the Government has used every endeavour possible to hide that report. The Government has put it on the endless chain—that trolley that it wheels in and out of the Cabinet Office—along with almost every document in the public services these days, it seems, so that it can claim that such documents are Cabinet-confidential and, therefore, cannot be released. The Sinclair report, a community document that relates to a bill in this Parliament, and that cost thousands of dollars of taxpayers' money, has been hidden from the Opposition. Was that another case of Country Labor backing this decision?

[*Interruption*]

The Hon. DUNCAN GAY: Who was that?

The Hon. Rick Colless: The Hon. Christine Robertson.

The Hon. DUNCAN GAY: I will identify her. The Hon. Christine Robertson also supported the Western Conservation Alliance's toast to the death of the timber industry. She has one chance to redeem herself and that is to vote against this appalling bill.

The Hon. Christine Robertson: That's hardly likely.

The Hon. DUNCAN GAY: Hardly likely, because Country Labor has never voted against and is not likely to vote against the Australian Labor Party in this House. Country Labor is a poor apology for a party. It is gutless!

The Hon. Christine Robertson: There is nothing gutless about this issue.

The Hon. DUNCAN GAY: It is absolutely gutless. Throughout this process the Labor Government has claimed that it has consulted widely with various stakeholders and that its Brigalow decision represents a fair balance. However, it seems that the Government has failed to consult with a major exploration company developing billions of dollars worth of natural gas deposits in the Brigalow belt. The company, which will supply gas to an electricity generating plant in the Narrabri area, claims it was sitting on billions of cubic metres of natural gas deposits. Eastern Star, the company, claims also that there has been no consultation by the Government and that most of the information taken on board by the Government with regard to the Brigalow has come from third parties and the media.

The leases affected by this bill include the Denobollie, Timmallallie, Wittenbra and Yearinan State forests, which will become zone 1 national park, and the Cubbo, Ruttley and Goonoo State forests, which will become zone 3 State Conservation Areas. The Brigalow gas reserves are critical to reducing the State's greenhouse gas emissions and the future of New South Wales energy. The area has the potential to provide gas for Sydney for at least the next 20 years. Recently Premier Carr was busy talking up gas-fired power stations to

meet the looming electricity shortage, but with this bill he is potentially locking up some of the most prospective areas for natural gas in New South Wales. It is a prime example of Labor's lack of care and detailed planning. The Government has hastily jumped into a decision that will affect so many people and so many communities.

Zone 1 areas in the bill will automatically be excluded from gas exploration and production gas and minerals exploration. Production is ostensibly permitted in zone 3 areas. However, under the Petroleum (Onshore) Act 1991 the Minister for the Environment has to give his concurrence to any approval for gas or petroleum exploration in a State conservation area, agreed to by the Minister for Mineral Resources. This is a matter of real concern for Eastern Star Gas as there is no precedent for any mining or gas exploration being carried out in our State conservation areas anywhere in New South Wales. Another concern is that it is open to the Minister for the Environment to give his consent. In a joint media release on 9 June 2005 the Minister for Mineral Resources and the Minister for the Environment stated:

> Detailed studies were undertaken during the forestry assessment to establish which areas were required for exploration and extraction … [and that] all these areas have been included in zones within the new Brigalow Community Conservation Area that permit gas and mining activities.

That is not correct. Under this bill, Eastern Star Gas will have some of its leases taken from it, without right of appeal or consultation, and without even the courtesy of a letter. Those areas contain hundreds of petajoules of natural gas. Minister Hickey continued:

> The decision absolutely guarantees that the coal and gas reserves contained within the bioregion can be accessed by the mining industry.

Frankly, it does nothing of the sort. There is a possibility, maybe a probability, but there is no guarantee. As I have indicated previously, scientific evidence proves that the decision of the Labor Government in New South Wales is a catastrophe for the environment and for commercial interests. Yet when Premier Bob Carr made his decision public last month he said it was a decision for the environment and wildlife, but that is not the case. I have already outlined why the decision is not a win for the environment. Because the Government will lock away 350,000 hectares of forest, the harvest rate will exceed the growth rate.

The bill in its current form fails the communities it purports to assist because it will not deliver sustainable forest production outcomes. It will harm the environment because the area open for forest production will be overlogged. On top of that, several reports have found that timber harvesting in the Brigalow and Nandewar Bioregion has allowed for wildlife prosperity. Studies have found that biodiversity within the harvested managed areas is 50 per cent higher than in the non-harvested non-managed areas. A report studying barking and masked owls within the Pilliga forest found that both species are more likely to occur in productive habitat than in the rugged unproductive habitat in the Brigalow and Nandewar region. When we moved a motion of censure in the House on this and other environmental issues, I should have thought that at least the Greens would have challenged the validity of what we said.

The Hon. Rick Colless: They can't.

The Hon. DUNCAN GAY: Obviously they cannot. Instead the Greens directed a tirade of abuse and personal vilification at us for highlighting the fact that the Greens had been sold a bum steer and had signed off on a proposal that was bad for the environment. If Mr Ian Cohen were honest, he would acknowledge that his contribution on that occasion was poor and something for which he should be ashamed. The Premier made his announcement last month and promised that the provisions of this bill would save the koalas. A report has found that cypress pine harvesting has no effect on koala populations or breeding. Within unlogged areas koala reproduction was 67 per cent, whereas within logged managed areas their reproduction rate was 75 per cent. The slogan says "Save the koalas"—that fluffy little bear that is not a bear—but koalas do best in areas that are managed. The townspeople of Baradine—a town to which I know Mr Ian Cohen would not be game to go, because he might not be able to leave—know that there are koalas within their community in numbers that were not present 15 to 20 years ago.

A study into endangered woodland bird species found that harvested and thinned areas were very important for the survival of various bird species. Many endangered species within the Pilliga would not survive in an unmanaged forest because they are either seed eaters or they require open woodland. This bill will damage the biodiversity within the Brigalow and Nandewar Bioregions.

Serious concerns are rightfully held about fire management within the new community conservation areas. When the Labor Party came to power, New South Wales had only 13 national parks. There are now 330

national parks. The New South Wales Volunteer Firefighters Association claims the New South Wales Labor Government has got out of hand. The association says that no decent thought has been given to how the areas will be managed, and that adding to the fuel loading in the parks is unbelievable. The same will be the case here when the areas are not managed and thinned, there is a build-up of fuel, and there are fewer volunteers and others to fight the fires. The Volunteer Firefighters Association believes bushfire liability has been totally overlooked by the New South Wales Government. The association asked the important question, "Where are all the Conservationists or Green groups when the wildfires are burning and in the devastating aftermath of such fires—in other words, the dirty work?"

It is a fact that this bill reflects the Government's failure to implement or develop any responsible fire management strategies that take into consideration that people will be driven from this region and that there will be a build-up of fuel in the area, particularly in areas surrounding some of the smaller communities. The following letter, which appeared in the *Land* newspaper on 9 June 2005, demonstrates several issues that both the Labor Party and its fellow travellers the Greens are either blind to or have carefully chosen to ignore. The article states:

> It is interesting to see in The Land that Gallagher, which owns the Insultimber sawmill at Baradine, will switch to using steel and plastic as an alternative to the now available ironbark electric fence post droppers.
>
> We have already seen the vast increase in the use of steel for house and shed construction due to the lack of building timber caused by the closure of many sawmills in New South Wales.
>
> I would like to ask so-called environmentalist, Bev Smiles, if it's better to burn coal to produce steel or use good Australian hardwood which grows back by itself in about a 50-year cycle.
>
> Obviously, the greenies do not care about the environment at all, but are more interested in politics.

That is a rather interesting point to inject into the debate. A very positive story on ironbark came to my attention when I visited Mick O'Neill, who has a mill in Dubbo. Mick is not only a third or fourth generation miller there, has his family working in the mill and has employed numerous apprentices over the years; he is also a great craftsman and lover of fine ironbark. Honourable members would be impressed by his passion for crafting tables, chairs and kitchen furniture from ironbark. The results can only be described as stunning and outstanding. This brilliant craftsman uses a great product. No matter what happens, I hope the Minister will come with me to have a look at what Mick O'Neill is doing. This is a very positive story. Sadly, Mick O'Neill will be one of those who will be lost to the industry.

The communities affected by the bill joined forces and showed great community spirit when an estimated 2,500 people rallied in Gunnedah to protest against this bill. More than 75 per cent of Gunnedah businesses closed their doors for the rally, to signify their support for the rally and to allow their staff to attend it. The rally attracted community members and timber workers from the surrounding communities, including Baradine, Quirindi, Gulargambone, Gwabegar, Coonabarabran, Dubbo, Tamworth, Narrabri, Bingara and Pilliga. Noticeably absent was the Premier—who, I suspect, is single-handedly pushing this legislation with the passion of a manic. The Premier did not want to learn of the concerns of the communities that he is destroying. Equally noticeable by their absence were Labor members who were saying, "Don't blame us; it's Bob's idea." Included among those were the Minister for Primary Industries, the Hon. Ian Macdonald, and the Minister for the Environment, Mr Bob Debus. Nor did we see there the Minister for Local Government, the Hon. Tony Kelly, the Minister for Natural Resources, Mr Craig Knowles, or Bev Smiles of the Western Conservation Alliance—despite the fact that all were invited to address the rally. As is their practice, country people would have given them a fair hearing.

The Hon. Christine Robertson: Ha, ha! A fair hearing!

The Hon. DUNCAN GAY: Once again the Country Labor representative from Tamworth laughed when I said that the Gunnedah community would have given her a fair hearing. We will make sure they get *Hansard*.

The Hon. Christine Robertson: Fair hearing! You people set that up too. I have a long memory of events out there.

The Hon. DUNCAN GAY: They might have good reason not to like you, especially if you are not going to vote against a bill like this.

The Hon. Christine Robertson: That is what you have been aiming for, to try to get them not to like me.

The Hon. DUNCAN GAY: They would have a really good reason: you would not stand up for them. The Gunnedah area has battled through two coalmine closures, the closure of a major export abattoir, and the recent closure of a pet food factory. Closure of a timber mill would be another kick in the guts delivered by Labor. Gunnedah has also suffered floods, the worst drought on record and a reduction in water allocations. The Gunnedah community condemned Labor's decision and put the Government on notice. Rally-goers wanted Labor to know that "the bush is alive and we are sick of being kicked". Labor's decision was also described as "monumental contempt" for rural communities. The rally called on the Government to revert to the Brigalow Region United Stakeholders [BRUS] option for future management of forest regions, and asked the Government to honour its commitment to provide access to resources needed to maintain the viability of industries relying on the forest for their livelihood. Gunnedah Mayor Gae Swain told the rally:

> I have been attacked in the media by Mr Debus and Mr Draper for organising a "political rally" almost to the point of saying that I was trying to incite a riot.

Just as the honourable member opposite tried to do just now. Gae Swain continued:

> I strongly refute that assertion. Nothing could be further from the truth. I am standing up for the community, as I should. We are not here for politics, we're here for no reason other than to send a message loud and clear that the decision on the Brigalow is a bad decision, a decision not based on facts, but fallacies. It was a decision that the government wanted and nowhere were the people of the Brigalow given a leg-in on the outcome. This decision was all about politics.

She continued:

> I cannot believe the monumentally stupid comments that have accompanied this announcement. Does the government know anything about the timber industry that it is trying to shred? Does the government know anything about the life of a rural community and how we rely on each other? This is not just a rally for the timber industry, it is a rally for the survival of rural NSW. We must tell the government, any government that neglects our interests, that we will not lie down and accept decisions that impact our livelihood.

For the record, the community rally was not a Nationals stunt, and Mayor Gae Swain is not a member of The Nationals—despite what is said by the Labor Party and its fellow travellers. Again, Labor and the honourable member for Tamworth, Peter Draper, made fools of themselves and managed to get the majority of Gunnedah residents off side.

The Hon. Christine Robertson: I have been there before and I will go back when things are good.

The Hon. DUNCAN GAY: You will have to wait until we are in government, if you want to go back when things are good. I congratulate Gunnedah on its community spirit and I urge it not to give up the fight for the bush. Despite the successful rally and a strong opposition to this disastrous decision the New South Wales Labor Party and its fellow travellers, Country Labor, are pursuing this catastrophic bill. The honourable member for Northern Tablelands, Richard Torbay, should know as shadow forestry Minister that despite what he says I firmly oppose the bill in its current form. The honourable member sought clarification of our position during debate in the other place. I believe that where the Opposition stands on Brigalow has been clear throughout the entire five-year long debate. I would also like to point out that although Mr Torbay claims he is against the legislation and against Labor, more than 80 per cent of his contribution in the Legislative Assembly was directed against the Opposition. This bloke is supposedly attacking the Labor Party and the bill, but he spends 80 per cent of his time attacking us, the blokes who are trying to stop it.

The Hon. Melinda Pavey: And girls.

The Hon. DUNCAN GAY: And girls. Mr Torbay should direct his efforts against the New South Wales Labor Government and represent his electorate properly rather than attack us: We did not force this decision on the innocent Brigalow communities. The Coalition is disappointed with the antics of Mr Torbay, who Country Labor in this House is trying to defend, against the Paul family of Gunnedah Timbers. One would not find a finer family than the Pauls. In all our negotiations and conversations with the Pauls it is obvious that the only thing they want to do is keep their mills open. George, Paddy and the boys would tell us that they put $250,000 a month into the Gunnedah community. If they close $250,000 a month will come out of the Gunnedah community. We all know what would be the multiplier effect on those figures—three, four and fivefold as it goes through the community. In the other place and in the public arena Mr Torbay carelessly and recklessly attacked the Paul family. I can only wonder how this is helping the Gunnedah or other communities. Frankly, it is not.

It is commonsense that the Paul family would weigh up its options to determine whether its business would remain viable under Labor's appalling plan to lock up the Brigalow Belt South bioregion. The Pauls have

done nothing wrong. They are a fine family that the community and I stand behind. Mr Torbay should not think that leaking private emails between the Paul family and the media is helpful when it is not. It is cruel and vindictive and it shows Richard Torbay's true colours. It is a mongrel act. Mr Torbay should not attack the Paul family; instead he should direct his efforts against the Labor Government. Obviously, he cannot do that because he is part of it. George Paul responded to this frightful effort in a letter to the editor, which was printed in some of the community newspapers in the region, which states:

> Mr Torbay has in recent days made much of emails from my son Ian to his Independent State Member, Robert Oakeshott (not a legal firm as a stated by Mr Torbay).
>
> Copies of these emails were, with due authorisation, in turn, e-mailed to Mr Draper seeking his assistance in the matters detailed. These private e-mails were leaked (Mr Torbay's word) to Mr Torbay by persons unknown—

The Hon. Melinda Pavey: Guess who that was!

The Hon. DUNCAN GAY: We can only wonder who that was. The emails are already with Draper and Oakeshott but he said they were leaked to persons unknown.

The Hon. Melinda Pavey: The Independents.

The Hon. DUNCAN GAY: Exactly. The letter continues:

> These private e-mails were leaked … to Mr Torbay by persons unknown, enabling the latter to launch an attack on the integrity of the Paul family.
>
> What were these e-mails about?
>
> They were a request that the potential offer by the State Government, if the Gunnedah and Baradine sawmills were to close resulting from the Government's possible inability to provide sustainable wood supply, be extended to include the value of the mill buildings and machinery that would be rendered next to worthless if the mills closed and in addition the provision for redundancy.

It is obvious that the Minister is not interested in this matter. The letter continues:

> This uncertainty of log supply can be fairly laid at the feet of the State Government by its blatant attempt to appease the Greens.
>
> I find no fault in that situation if a shareholder strives to obtain the best possible deal from the State Government and I believe that any fair-minded person would agree.
>
> Ian goes on to mention that the workers at Baradine (85 per cent) want to close down and get the redundancy package on offer and that the best option would be to close down with all family, meaning he and his brothers (being all shareholders) in agreement.
>
> Mr Torbay does not understand, nor has he attempted to be informed, that Baradine Sawmilling Company and Gunnedah Timbers are separate companies with no similarity of shareholders or directors with staff of 14 and 31-35 respectively, and certainly not a total of 84 as stated by Mr Torbay.
>
> In his present flood of press releases, Mr Torbay considers that the wood supply agreements should be accepted because the State Government guarantees the quantity and quality for 20 years.
>
> I might remind him that both mills have existing contracts for wood supply with the same State Government and those agreements did not prevent both mills from incurring severe financial problems in the current financial year because of poor quality logs.

The Hon. Rick Colless: Thanks to the moratorium.

The Hon. DUNCAN GAY: Thanks to the moratorium. The letter continues:

> The legislation passed by the Lower House last week reduces the productive logging area of the Pilliga by 60 per cent. At the same time the Government states they will be able to supply 100 per cent to 114 per cent of the original allocation.
>
> Mr Torbay, that is why we are apprehensive of the Government guarantee that you so warmly endorse.
>
> I have been advised by numerous representatives and authorities to accept the agreement and then be prepared to sue the State Government if the quality of logs deteriorates.
>
> The mill owner [him] might be financially assured in such an event but what about the employers who have forfeited $72,000 each?
>
> I believe that Mr Torbay has deliberately personalised the whole debate on the Brigalow Belt South Bioregion to take scrutiny away from the current legislation and its impact on the economies of the towns and communities involved.

That statement, which was made by the proprietor of the Gunnedah and Baradine mills, George Paul, does not sound like a statement from someone who wants to escape from the community and place workers in jeopardy. That is because he is not doing that. George Paul is a decent fellow who wants to continue to be part of that community.

On behalf of the Government, its fellow traveller the honourable member for Northern Tablelands, Richard Torbay, decided he would use denigration to try to take the heat off the debate. I place on the record that the honourable member for Northern Tablelands, Mr Torbay, has made ridiculous claims that he brokered a special deal with the Minister for the Environment, Mr Debus, and the Minister for Primary Industries, the Hon. Ian Macdonald, to provide full-time jobs for all workers who are displaced by the closure of the Bingara cypress pine mill. Honourable members may recall that during question time in the previous sitting week of the Parliament, I directed a question without notice to the Minister for Primary Industries, the Hon. Ian Macdonald, asking whether there was a special deal for workers at Bingara and whether such a deal could be extended to workers in other areas. Quite rightly, the Minister told me that there was not a special deal for the workers at Bingara: that the same offer had been made to all workers.

I do not believe in relation to that matter that the Minister was misleading the House but, rather, he has placed the honourable member for Northern Tablelands, Mr Torbay, in the very delicate position of being well and truly hoist with his own petard. The honourable member for Northern Tablelands has been caught out misleading people who are in an invidious position. This is another pretty ordinary effort from the honourable member for Northern Tablelands, Mr Torbay, who is now regarded by many as very ordinary.

The Hon. Melinda Pavey: The leader of the Independents.

The Hon. DUNCAN GAY: As my colleague the Hon. Melinda Pavey says, the so-called leader of the Independents who has got into a lot of trouble by trying to save one of his colleagues. Another Independent member has been involved in this issue, the honourable member for Dubbo, Dawn Fardell.

The Hon. Melinda Pavey: What contribution has she made?

The Hon. DUNCAN GAY: It is interesting that the Hon. Melinda Pavey asks what contribution the honourable member for Dubbo has made. She has failed to represent her constituents on this issue. It is interesting to note that the honourable member for Dubbo, Dawn Fardell, did not even bother to speak during debate on the all-important Brigalow and Nandewar Community Conservation Area Bill in the Legislative Assembly. When the issue came before the lower House, the honourable member for Dubbo, whose constituents will be affected by the legislation, did not even speak. She did not put forward the views of her constituents. I indicated that I felt she was not giving the Coalition support in its efforts to change this bill, so she told the local paper that she had been giving the issue huge support. *Hansard* shows that she uttered not one word during debate on the bill. So much for the great support from the honourable member for Dubbo for her community!

This farcical situation gets even worse. The Coalition is privileged—I do not know whether privileged is the right word—to have a leaked confidential Cabinet minute relating to the Brigalow. I assure members opposite that the document is real. They know it is real. The document is dated November 2002 and it is the dinkum item because it has confidential stamped on it. It reveals that it has been Labor's agenda since 2002 to lock up vast areas of the Brigalow, and clearly Labor has been fully apprised of this intention for more than three years. The document seeks approval for a series of reforms.

Mr Ian Cohen: They should have done it three years ago.

The Hon. DUNCAN GAY: Mr Ian Cohen says that they should have done it years ago. The document seeks approval for a series of reforms for the Brigalow forests and related natural resources, including approval to revoke State forests and declare national parks and reserves, and approval for conservation initiatives on private lands. It lists reduction in timber volumes of cypress and ironbark over 20 years, and it lists the reservations of more than 223,000 hectares of forest. There are incredible similarities between this 2002 document and the plan announced by Labor last month. It is more than a coincidence; it is a tragedy.

The Hon. Ian Macdonald: Table the document.

The Hon. DUNCAN GAY: I regret that I am unable to table the document because it has the facsimile number for the honourable member for Northern Tablelands, Richard Torbay, on the top of it. The important

point is that this dishonest Government went to the 2003 polls, when the Pilliga issue was an important matter in Dubbo, Tamworth, the Northern Tablelands and many other regions, and indicated that it was seeking community consultation because it had not made up its mind. After Labor won the election and secured seats in the Parliament for its fellow travellers, it went through the Brigalow Region United Stakeholders [BRUS] process and encouraged communities to develop plans through consultation.

The Government gave hope to communities that had no hope. The Government conned the Aboriginal communities, the Western Conservation Alliance, the land councils and it probably conned members of Country Labor, if only it had the courage to admit that. The Government embarked on one of the biggest cons that had ever been perpetrated. The communities got their hopes up again, little knowing that the issue had already been decided. Then, at great cost to the New South Wales taxpayers, the Government continued the farce by commissioning the Rt Hon. Ian Sinclair to write a report.

The Hon. Henry Tsang: Why are you insulting Ian Sinclair?

The Hon. DUNCAN GAY: The Hon. Henry Tsang should confine himself to subjects he knows something about. He should keep his powder dry. He should be on the Coalition's side because he is a man of the people. If he had a free choice he would be one of us. The Sinclair report almost certainly supported the BRUS option, so the Government kept that report hidden because it was an important issue in the Dubbo by-election. The Government was faced with a State election and a by-election and it needed to curry favour with a promise of community consultation. In the process the Government squandered taxpayers' money, and that is what the copy of the Cabinet minute in my possession shows. I appreciate the efforts of the person who sent the document to the Coalition. If I have the chance, I will cut off Richard Torbay's facsimile number and circulate it wherever I can.

Many honourable members would be aware that the Coalition's submission to the State Government was aimed at saving some of the mills. When the Coalition returns to government, we plan to implement the BRUS plan, but it would not be of much use for us to do so if there is no remnant industry to save. The Coalition believes that many communities are hoping for revitalisation of the industry and tried to save some of the mills that were threatened by the Government's decision. The Coalition's submission outlines further timber applications that are needed to secure the viability of at least some of the mills. The Coalition's submission enjoys the support of the New South Wales Farmers Association, which the Coalition appreciates. In a letter dated 6 June 2005 which was circulated to crossbenchers, the New South Wales Farmers Association indicated its support for the proposal to improve the availability of timber to mills in the region.

The association has also written to various Ministers of the Government, indicating its support for the Coalition's submission and amendments. The support we have received from the New South Wales Farmers Association is very important and the Coalition hopes that will indicate to crossbenchers what a disaster this bill is. As many honourable members know, in recent years on occasions the New South Wales Farmers Association has not supported Coalition amendments in the Legislative Council, but we appreciate the change of heart on the part of the association.

The Hon. Rick Colless: Thanks to the great tactics of the Minister.

The Hon. DUNCAN GAY: As my colleague indicated, it is probably warranted because of this Government's out-of-control action in its death throes.

The Coalition has several concerns with this bill. I have already outlined that the Liberal-National Coalition believes changes need to be made to compartment allocations to ensure the survival of many small towns within the bioregion. In addition, we are concerned that Premier Bob Carr declared that this disastrous decision is a win for jobs. That same promise has been made previously, and has been broken more times than one can count. How long will the promised jobs last? Two, three or five years? Frankly, the jobs package will not lead to increased prosperity, but most likely will bring a downturn of prosperity in the area. The Coalition wonders whether the people of the bioregion will face a fiasco similar to that faced by the people of Coolah. Every worker was promised a job, but after two years no jobs are left. Why? Because each time a position became vacant, it was not refilled.

The New South Wales Government fails to comprehend that, yes, it may have provided a job for every worker who wanted a job at Coolah, but eventually those jobs dwindled away. Whether it occurred at the time or two years down the track, which is now the case, the community of Coolah has lost the economic stability that

those jobs once provided. It was once held that Coolah was going to be the new tourist environmental Mecca; frankly it is not—and there is less chance of that in the Pilliga. Labor may offer the timber industry workers jobs for now, but I am not assured—nor are the workers for that matter—that those positions will continue. Towns such as Baradine will die a slow and painful death. Minister Macdonald's office assured me that the Coolah case is different from the Brigalow case, because the jobs at Coolah were only temporary.

The jobs in the Brigalow bioregion are temporary as well. The job creation plan is funded for only five years. What will happen at the end of five years? It will be another promise in shatters. I wonder if the Government has considered the flow-on affects to small businesses in the region. Is there a compensation package for those businesses that will lose a large part of their trade? Each month Pauls put $250,000 into Gunnedah, and that goes into lots of businesses that employ lots of people.

The Hon. Ian Macdonald: They have accepted the wood supply agreement for Gunnedah.

The Hon. DUNCAN GAY: No, they have not. This bill cannot guarantee jobs; therefore it fails the people it purports to protect. The New South Wales Labor Government's package also promises a $72,000 redundancy payment to workers exiting the industry. That redundancy payment will be heavily taxed, not to mention that the money will quickly run out. Opportunities for many timber workers with only basic education will, unfortunately, be non-existent. Since Labor's announcement, Mr Alf Sed from the Forestry Structural Adjustment Unit has travelled the bioregion, describing the packaging available to displaced workers. More than seven weeks after the announcement Mr Sed is unable to provide any details on the package and unable to implement offers. Mr Sed has told workers that there is nothing to be applied for yet, and application materials are not yet available and no payments can be made, at least until July.

The alternate jobs to be made available, according to Mr Sed, include Forests NSW jobs involving general forest maintenance that pay $630 per week, and National Parks and Wildlife Service field officer positions, on a shift roster basis involving building walking trails, cleaning toilets and firefighting, that pay $817 per week—but only after successful qualification and competency accreditation. Part of the problem is that we do not know what will happen to Forests NSW workers; where will they be? They are forest managers who believe in the forest with a passion. They may end up in the National Parks and Wildlife Service building trails and cleaning toilets. Is that what the Government has in mind for its former forest managers? I cannot see much else.

The Opposition wants to know what has happened to the thinning jobs that were promised by the Premier. There appears to be a complete lack of commitment for their communities within the Brigalow Belt South bioregion and a lack of attention to detail. In the bill, the Government included a map of the area; but, to its embarrassment, the map produced to the lower House was incorrect. Gwabegar should be where the Pilliga is located, and Pilliga should be where Gwabegar is located. That fundamental mistake is a strong indication that the Government is short on detail, of its contempt and lack of understanding of what it is doing. The Department of Environment and Conservation got the map wrong, the Premier's Department got the map wrong, the offices of all the Ministers involved got the map wrong. Frankly, this is a farce and the Government should show all the communities within the Brigalow and Nandewar region greater respect. Another interesting matter is that maps referred to in the bill were not included in the bill.

The Hon. Rick Colless: Christine Robertson said that Gwabegar and Pilliga are in the correct place in the bill.

The Hon. Christine Robertson: I did not.

The Hon. Rick Colless: Yes, you did. You said it is correct.

The Hon. Christine Robertson: I said that I have been there more than you, Rick.

The Hon. Rick Colless: Oh, have you?

The Hon. Christine Robertson: Yes.

The Hon. Rick Colless: That is interesting. How many times do you think I have been there?

The Hon. DUNCAN GAY: The Hon. Christine Robertson indicates that she has been there a lot of times; perhaps she should have drawn the maps for the Minister.

The Hon. Rick Colless: Why did she not tell them that Pilliga and Gwabegar are in the wrong spots?

The DEPUTY-PRESIDENT (Reverend the Hon. Fred Nile): Order! The Deputy Leader of the Opposition has the call.

The Hon. DUNCAN GAY: As I indicated, maps referred to within the bill are not included in the bill. Schedules 1 to 4 to the bill refer to various maps. For example, Arthurs Seat State Forest, which is the first forest that appears in schedule 1, zone 1, is described as:

> … land designated as Z1-09 on the diagram catalogued MISC R 00279 (Edition 1)

Several requests for the maps referred to in the bill were ignored. My office made several requests for those maps, including on Tuesday 7 June, as did the shadow Minister for the Environment in the other place, Michael Richardson, and as did the honourable member for Coffs Harbour, Andrew Fraser. We were told that those maps were on the web site of the Department of Environment and Conservation. Guess what? They were not! After much haggling, the maps were made available to my office last Friday afternoon. I finally got a copy of the maps; it is a comprehensive document. The map supplied with the bill is meaningless when it comes to reading the bill and understanding the references in it. This whole debate went through the lower House of this Parliament without that important part of the bill.

How can we expect Reverend the Hon. Fred Nile, other crossbench members, the Greens, Country Labor members, and members of the Opposition to be able to debate and understand this bill properly without a map? I have a map and it is the only one I know of in this Chamber. Frankly, I do not believe that we should continue to consider a bill as important as this without maps being freely available to everyone who requires one. To that end, at the conclusion of my contribution I will move that the debate be adjourned to allow the Government to supply the appropriate maps to every member who needs them.

The Hon. Christine Robertson: What nonsense!

The Hon. DUNCAN GAY: Country Labor says "Nonsense". There she is again—a Country Labor member. We have been supplied with a map that is incorrect and has absolutely no information relevant to the bill. With some reluctance, the Government sent to me one copy of the map, which contains the detail of what is described in the schedules to the bill. We are acting as the elected representatives of the people of this State; we are here on behalf of those communities. This secretive Government wishes us to consider this bill without access to the proper maps. In order to have the proper information before us when we make a decision in this House, I will move that this debate be adjourned at the conclusion of my contribution. That will allow the Government the opportunity to supply the maps to whoever requires them.

Labor has also shown a complete lack of attention to detail by including in its initiatives for the timber industry an alternative uses plan for cypress oil, despite a determination by a feasibility study that such a plan would not work. The Redchief Aboriginal group in Gunnedah indicated in the BRUS report that it thought it would be a good idea. The Government took that plan, copied it word for word, and incorporated it in the Government's outcomes document. The Government did not realise that the Redchief group conducted its research after receiving funds from the Federal Government through the regional solutions program. Having first thought it was a great idea, the group decided that it did not stack up. Had the Government's research gone far enough—

The Hon. Christine Robertson: You are busy calling other people liars.

The Hon. DUNCAN GAY: This submission was in the BRUS report. The honourable member should do a bit of homework and research and come back to this House when she knows something about this debate. If she were to do that, we might listen to her. I have related what the Redchief group in Gunnedah told us. I am not making this up. At least one of my colleagues in this House and another parliamentary colleague were at that meeting. The fact is the research conducted by the Redchief group showed that the proposal did not add up. Despite that research, it was copied word for word into the Government's announcement without attribution. The Redchief group is pretty upset about it too.

We also harbour serious concerns about the Government's decision to turn most of the 348,000 hectares that will be locked away into a community conservation area rather than national park. This has never been done before, and even Labor concedes this decision is an experiment. The Government is experimenting with people's lives and with communities and towns. It is not fair to conduct such an experiment, especially when an impact

statement has not been carried out. The Government has broken yet another election promise. A significant promise trumpeted by the Government at the last election was that a regional impact statement would be carried out whenever a decision had to be made that affected rural communities. The Government promised it would show people how they would be affected by such a decision. The Premier will not even face the people, let alone make a statement. The Minister is pretending to be asleep because he hates hearing about this. Once again, Labor has shown complete disregard for the people and the communities that this bill will affect.

The Opposition will move a series of amendments in Committee. These amendments seek to increase the area of available timber to operators for forest production. We want to give Aboriginal land councils the right to decide on the use of certain forest areas, change the membership of the advisory committee and streamline the review periods for the Act and the community conservation area agreement from seven to five years. We believe these amendments are essential to the survival of the towns that rely on the industry. After consultation with local Aboriginal land councils, the Coalition believes it is imperative that control of Terry Hie Hie State Forest and Berrygill State Forest is given to local Aboriginal land councils. The bill reverts these forests into zone 2 for conservation and Aboriginal culture. The areas must be managed as productive forests if the local Aboriginal land councils so determine.

I have already referred to other forests tagged as community conservation areas that we would like to see revert to harvestable areas. These include Couradda, Moema, Wittenbra, Yarrigan, Yearinan, Biddon, Bobbiwaa, Killarney, Pilliga West, Trinkey, Merriwindi, Etoo, Lincoln, Eura and Breelong, and Beni, within the Goonoo forest region, for hardwood production.

There is widespread concern about the membership of advisory committees, and we will move an amendment to address that concern. These committees will advise the Community Conservation Council—which comprises the directors-general of the Premier's Department, the Department of Environment and Conservation, the Department of Primary Industries and the Department of Infrastructure, Planning and Natural Resources—on the provisions of the community conservation area agreement applicable to the relevant area for which the committee is constituted. The membership of the committees will include representatives of the Border Rivers Gwydir Community Conservation Advisory Committee, the Namoi Community Conservation Advisory Committee and the Central West Community Conservation Advisory Committee.

The bill in its current form allows for 13 members of the committees. One member will be the chairperson of the catchment management authority within the relevant area for which the committee is constituted, one member will represent the interests of local government, one member will be from the forestry industry and another from the mining industry, one member will be from the apiary industry, two members will represent Aboriginal people, two members will have relevant scientific expertise, three members will represent the interests of local environment groups, and one member will representative the National Parks and Wildlife Regional Advisory Committee. The Community Conservation Council will review the community conservation area agreement every seven years in consultation with the advisory committee. Given that the Act will be reviewed every five years, we would prefer that the community conservation area agreement were also reviewed every five years. We will move an amendment to that effect in Committee. A review of the agreement should occur simultaneously with a review of the Act. Seven years is too long a period to wait for such a review.

Our amendments propose a small change to the membership of these advisory committees to include an officer of the Department of Primary Industries and a representative of broadacre farmers. The advisory committees will no doubt advise the Community Conservation Council on forestry issues. Therefore, it is essential that State Forests be represented on the committees. Broadacre farmers should be represented on the committees because community conservation areas border many broadacre farms. Broadacre farmers are concerned with the management of the new conservation reserves. More than 348,000 hectares of forest is a large area to manage. Issues likely to affect broadacre farmers include wildfires, weeds and feral animals. Farmers must have a say in the management of the conservation areas that border their lands. They are neighbours too.

Under this bill, Eastern Star Gas has been completely excluded from parts of leases it has held since 1981. Any application for exploration or production will have to be signed off by the Minister for the Environment, and there is no guarantee that this will occur. A pecuniary interest clause in the bill means that gas companies will effectively be excluded from membership of the three community advisory committees as they will have to absent themselves from any discussion that involves their interests.

If the advisory committees are to perform their roles properly, they will need to involve all relevant stakeholders. The Liberal-National Coalition is also concerned that the bill abolishes the Waste Fund that was

set up to improve waste reduction and recycling outcomes. Part 4 of the bill stipulates that all the money in the fund is to be transferred to the Environmental Trust Fund. Consequential amendments to the Forestry Restructuring and Nature Conservation Act 1995 mean that the waste levy, via the Environmental Trust Fund, will be used to fund the Brigalow package. That is not what it was set up for and it is not why councils paid money into the fund.

This year the New South Wales Labor Government has budgeted to pay approximately $30 million in waste levies into the Waste Fund. Of this, about $20 million will be used for the Brigalow package, leaving just $10 million for improving resource recovery—compared with the $40 million promised in 2000. Shoalhaven City Council, for example, will pay $1 million in waste levies this year and it is outraged that it will be forced to fund Labor's disastrous decision on the Brigalow Belt South bioregion, thousands of kilometres away. The Local Government Association of New South Wales is also very concerned about this. Labor claims that the waste levy acts as a tool to drive down the amount of waste that goes into landfill. But Labor has failed to lessen the amount of waste in landfill. Most of the money paid into the Waste Fund has gone towards wages. The Local Government Association and the Opposition believe the waste levy should be used for the purpose for which it was designed, including subsidising investment in alternative waste technology and stimulating markets for recycled products. If the Government needs money for exit packages it should find it from its own funds and not raid local government coffers.

The shadow Minister for the Environment, Michael Richardson, wanted to amend the legislation to ensure that a fixed percentage of the money generated by the waste levy was paid into the Environmental Trust Fund, and therefore used for environmental purposes. However, Parliamentary Counsel advised him that, because of the way the money is collected, paid into the Consolidated Fund and an amount allocated to the Environmental Trust Fund, it would be an appropriation and thus ultra vires. This is very disappointing because we wanted to ensure that the Government could never again put all the waste levy into consolidated revenue and ensure that a substantial portion of the levy would be used for environmental purposes, particularly waste reduction and resource recovery.

The New South Wales Labor Government claims the bill will have no impact on towns in the Brigalow and Nandewar bioregion. But I will relate tonight a sad tale that suggests otherwise. I had a meeting recently with some real estate people in Gunnedah. They told me that about two or three weeks ago the Department of Lands tried to auction an old police house in Baradine. It was a three-bedroom, brick veneer home in very good condition—as Department of Lands houses almost invariably are. The reserve price—people in the Sydney property market should listen to this—was set at $67,500 but the property was passed in at $60,000. The local real estate agent told me that the property should have made $90,000 and would have done so six months ago before the Labor Party announced its disastrous decision about the Brigalow. This is the immediate reaction to that decision. Not a lot of properties are on the market yet but there will be more soon.

Sawmillers, timber cutters and foresters in the Brigalow and Nandewar bioregion have told us repeatedly that the forest remaining for harvesting will produce only about 25,000 cubic metres of sawlogs annually, including the extra 15,000 hectares available for harvesting announced by the Government last week. In other words, the Government's proposal is not a sustainable forestry plan and it should hang its head in shame for failing to provide such a plan. The sawmillers need enough resources so that they do not denude the forests or kill their industry. That is all they ask, and that is why this bill is fundamentally flawed. I hope that honourable members will support the amendments to the bill that the Coalition will move in Committee. We intend to oppose this disastrous bill in its current form because the people of New South Wales deserve a better outcome and, frankly, they deserve a better government. To allow all relevant maps to be supplied to honourable members who require them, I move:

That this debate be now adjourned.

The House divided.

Ayes, 16

Mr Clarke	Mr Lynn	Mr Ryan
Ms Cusack	Reverend Dr Moyes	Mr Tingle
Mrs Forsythe	Reverend Nile	
Miss Gardiner	Ms Parker	*Tellers,*
Mr Gay	Mrs Pavey	Mr Colless
Mr Jenkins	Mr Pearce	Mr Harwin

Noes, 22

Mr Breen	Ms Fazio	Ms Robertson
Ms Burnswoods	Ms Griffin	Mr Roozendaal
Mr Catanzariti	Ms Hale	Mr Tsang
Dr Chesterfield-Evans	Mr Hatzistergos	Dr Wong
Mr Cohen	Mr Kelly	
Mr Costa	Mr Macdonald	*Tellers,*
Mr Della Bosca	Mr Obeid	Mr Primrose
Mr Donnelly	Ms Rhiannon	Mr West

Pair

Mr Gallacher	Ms Tebbutt

Question resolved in the negative.

Motion for adjournment negatived.

Mr IAN COHEN [9.43 p.m.]: On behalf of the Greens I speak to the Brigalow and Nandewar Community Conservation Bill. I do so appreciating the hype and passion on both sides of the House about this issue and the concerns expressed by The Nationals. The Deputy Leader of the Opposition asserted that I should be ashamed of a speech I made in this House on an earlier occasion. I was perhaps a little hot under the collar at that time and I may have made a few comments that were perhaps irreverent and indeed off the cuff.

The Hon. Duncan Gay: Irrelevant rather than irreverent.

Mr IAN COHEN: I acknowledge the interjection of the honourable member that some of my remarks were irrelevant. Perhaps some were, but that debate was a folly, and it preceded the second reading debate on this bill in this House. It was a stunt. I must say that much of what was said by the Deputy Leader of the Opposition continues that tradition. I am rather disappointed that matters are asserted as fact without support. It is interesting that the Deputy Leader of the Opposition has access to Cabinet minutes, and spent a great deal of time discussing the Brigalow Region United Stakeholders [BRUS] option and the research and submission produced by his past leader, the Rt Hon. Ian Sinclair. I ascertained from local conservationists that the Rt Hon. Ian Sinclair spent all his time with industry and no time—I repeat, no time—with the conservation movement.

The Hon. Rick Colless: There are only three of them up there.

Mr IAN COHEN: It is interesting that the Hon. Rick Colless says, "There are only three of them up there." I start my contribution advising that the National Parks Association engaged in a six-year campaign to protect the western woodlands. The association has asked me, and I have agreed to do so, to acknowledge two association stalwarts who passed away during the campaign: Judi Peet, of Dubbo, and Graham Evans, of Wellington. They dedicated many years of their life to this cause and, sadly, they passed away before they saw the fruits of their endeavours. The Hon. Rick Colless knows that they were not just two of three; they were two of many people who have worked with the Western Conservation Alliance and of many other conservationists. I will not be verballed by the Hon. Rick Colless. Many people have actively supported conservation.

The Hon. Rick Colless: How many?

Mr IAN COHEN: If the member were to state some figures, perhaps I will reply to them.

The Hon. Rick Colless: I have got the figures

Mr IAN COHEN: The Hon. Rick Colless is obviously grandstanding on this issue, showing that The Nationals are truly the rump of a dinosaur in this debate—

The Hon. Duncan Gay: Here we go with the vilification again. No facts, just vilification!

Mr IAN COHEN: It's difficult to resist. The decision on the future of the woodlands of the Brigalow Belt South and Nandewar bioregions balances the wants of industry and the needs of communities, and creates

areas of conservation that will allow them to repair and will provide environmental benefits that will continue to allow the needs and wants of industry and communities to be met. I congratulate the Government on that position. I have supported proper attention to these very significant and fragile areas, and the Greens have supported moves to protect them for a number of years. I congratulate the Government on its move. Unfortunately, since that decision The Nationals have chosen to voice their predictable opposition, but they have done so without any understanding of the future those regions will soon face if the unsustainable level of logging were to simply continue.

The Hon. Rick Colless: That's a lie!

Mr IAN COHEN: I will say it again because it is not a lie: they have no understanding of the future those regions will soon face if the unsustainable level of logging were to simply continue. The Hon. Rick Colless has to do better than to simply accuse me of lying. He should get his facts right. He will have his opportunity to contribute to this debate. Opponents of this decision have chosen to view the condition of the woodlands and the timber industry, and the current socio-economic health of communities in those regions, through rose-tinted glasses. I will correct that and say, through blinkers. Opponents would have us believe that romantic portrayals of recent colonial history is all one needs to know about when planning for the future.

There is no need, apparently, to heed the worrying evidence found during more than five years of study, consultation and analysis of the environmental crisis occurring in the Brigalow Belt and Nandewar regions. The fact that the timber industry in the two regions is suffering a historical decline as a result of a long history of unsustainable harvesting, and industry rationalisation, is not of much consequence, nor is the impact of this decline on regional communities worth much consideration. It is an attitude that says, "Because it has happened this way for a long time, it should be allowed to continue to happen that way." Irresponsibly, The Nationals and other industry front groups such as the Institute of Public Affairs continue to beat their chests and talk of historical land use in the Brigalow Belt bioregion and of man-made forests. But they have missed the point entirely with regard to conserving these areas. That is understandable. After all, The Nationals represent the interests of big agribusinesses and long ago chose to ignore what generational farmers have known for years, and what scientists have been able to prove, about the benefits of conserving native vegetation: it saves our land from certain death.

It has been well established that the cost of resource degradation, due to loss of native vegetation, is significant. Salinity and erosion have a major impact on agricultural productivity. The cost of salinity to farmers over the next 20 years has been estimated at more than $500 million. Recent studies, documented and freely available through State and Federal government agencies, have found that the retention of native vegetation provides significant direct and indirect use values. Some of the key benefits identified are grazing, wood supplies, reduced salinity, preventing land degradation, long-term sustainability, and biodiversity. Conserving areas of woodland in the Brigalow Belt bioregion will help protect irreplaceable biodiversity, whilst at the same time contributing significant ongoing economic and social benefits to local communities.

These ironbark and box woodlands of the regions support unique and diverse communities of plants and animals. Some of the threatened animals that inhabit these woodlands include the koala, mallee fowl, black-striped wallaby, glossy black cockatoo, squirrel glider, and barking owl. But the same woodlands have experienced some of the highest rates of species decline and extinction in Australia, with up to 17 mammals and 21 plant species now extinct, and many more recognised as threatened or declining. The woodland remnants of the Pilliga and Goonoo are the last of their kind in the world. The CSIRO has recommended that at least 20 per cent of the land in arid ecosystems needs protection. It has escaped the attention of The Nationals, but conservation areas contribute to the economies of local communities through expenditure in the ongoing management of the conservation areas.

The Hon. Duncan Gay: These are man-made forests.

Mr IAN COHEN: I listened with considerable patience to your drivel. You have to do better than say I am a liar. You had your opportunity to prove your point scientifically. I suggest you missed it. When I make clear statements in the House you have to do a little better than just calling me a liar. A few facts might perhaps rattle me, but for an hour and a half we had nothing from you but endless drivel.

The PRESIDENT: Order! If the Deputy Leader of the Opposition cannot refrain from interjecting, he should turn off his microphone.

Mr IAN COHEN: This expenditure directly supports local businesses, which in turn purchase other local goods and services, stimulating cash flows and profits within local economies. Visitors and tourists to conservation areas buy a range of goods and services including accommodation, food, beverages and fuel. This spending has positive impacts on local businesses and produces flow-on effects to local economies that directly and indirectly generate jobs. What is also clear is that the Brigalow Belt South and Nandewar regions have been experiencing a major environmental crisis and ongoing socioeconomic deterioration.

The timber industry in the two regions is suffering an historical decline. This is due to a long history of unsustainable harvesting and industry rationalisation that has had a big impact on regional communities. This major decline has taken place despite the fact that the volumes of cypress removed now are greater than at any previous time. For example, in 1980 there were five cypress mills in five different towns employing more than 50 people in the Inverell supply zone. Now there is only a single mill employing 18 people. Similarly, in the 1950s there were 16 cypress mills taking timber from the Pilliga forests, and now there are only five. The situation is even more severe with ironbark logging. In the first half of the twentieth century there were hundreds of sleeper cutters working in the Brigalow Belt to supply up to 50 mills in the region. Now there are only a handful of fencepost operators left and a single ironbark mill. It has been a case of "log out and then get out".

The natural environment in the Brigalow Belt South and Nandewar regions has also been in severe decline. Twenty-five animal species are now considered extinct in the Brigalow Belt bioregion, and 40 per cent of those remaining are threatened with extinction. This is one of the highest rates of species decline in Australia—which, incidentally, has one of the highest rates of species decline in the world. The recent National Land and Water Audit recognised that the Brigalow Belt and Nandewar are two of the most endangered, poorly reserved, and heavily cleared bioregions in Australia. Less than 2.6 per cent of each region is protected in reserves. The Brigalow Belt contains some of the largest stands of temperate woodlands left in Australia, a broad vegetation formation that has had more than 90 per cent of its original distribution cleared since European settlement.

Conservationists in western New South Wales listened to the concerns of stakeholders and they revised their original proposal for the Brigalow Belt bioregion accordingly. Their proposal recognised that biodiversity and environmental interests must co-exist with a timber industry. Their proposal to government also advocated for the diversification of the regional economy in order to ensure ongoing sustainability and to arrest the current decline. Communities with a diverse economic base can better survive economic fluctuations and climate changes. They would no longer be dependent on a single, environmentally damaging industry, but have economic choices and some form of safety net.

The solution for the Brigalow Belt South and Nandewar regions lies in innovative approaches to job creation, sound environmental protection measures, and the development of new economic opportunities that would sustain both the environment and the communities that depend on it long into the future. To fail to recognise the extent of the environmental crisis in the west and to allow "business as usual" in these irreplaceable woodlands would be to sell the regions short.

Healthy and sustainable communities are only possible when there is a healthy environment. This means protecting the best of what is left. The decision made by the Government will help to turn this around. The Coalition would, however, choose to sign a death warrant for a number of regional communities by reversing the decision. My frustration at times with the Labor Government is reinforced when I hear that The Nationals have promised to reverse the decision to be made now, in 2005, if they are re-elected to government. I wonder whether The Nationals, as part of a Coalition, would take back the $80 million given for the restructuring of this industry as part of the price of its reversal. The Coalition would deny regional New South Wales an $80 million package that protects jobs if workers want them and new timber supply contracts if the owners of mills want them.

The Government struck an important balance between conservation and industry when it made its decision on the future of the Brigalow Belt South and Nandewar regions, but the Coalition would sentence communities to a slow death through economic hardship if it reversed the decision. Regional New South Wales would lose $15 million in incentives for industry to invest in value adding, new timber products, and export markets, $12 million to employ up to 50 workers in major white cypress thinning programs, and $29 million to employ 69 workers to manage new conservation areas.

I was interested to hear a descriptive suggestion that those people will clean toilets. Let us support the people concerned with the restructuring and have sustainable jobs and industries for them. Let us get them

working in conservation areas. I have seen many instances of people who have transferred from some areas of the forestry industry in New South Wales, and in Tasmania after the Franklin dam dispute. They very happily work in conservation areas and with National Parks on track construction and so on. Those people are now working to manage national parks, doing jobs that will be sustainable for the rest of their working lives.

The Hon. Charlie Lynn: Cleaning toilets!

Mr IAN COHEN: It is more than cleaning toilets. It is typical of Opposition members to make comments that denigrate workers who are to do honest labour in a sustainable industry from now on. Communities such as Bingara, Narrabri and Baradine stand to benefit from this package but would lose out if the Coalition had its way. Far from the universal outrage that The Nationals claimed to have taken place, when the Government made its decision even the Forest Products Association said it was a fair package. The owners of Insultimber at Baradine have also accepted the package offered by the Government and described the outcome for the region as excellent.

Protecting the environment does make economic sense. New jobs are on offer, new industry is being created, and there is a bright future for tourism in the region as a result of this decision. The Hon. Rick Colless has led the charge for The Nationals in protesting against the decision the Government has made. For some reason he has chosen to use selective accounts, most notably that of Eric Rolls, to suggest that the Pilliga scrub was originally covered by open grassland or grassy open savannah. He has sought to compound a popular myth that the Pilliga scrub is a "man made", recently grown forest, and that this forest has saved our wildlife. The truth is that these claims have been strongly disputed in the scientific literature.

The claims made by Rolls were analysed and compared in detail by Mitchell in 1991, by Norris in 1991, by Denny in 1994, and by Benson and Redpath in 1997, and all four analyses dispute his claims. In their analysis of Oxley's observation in the region, Benson and Redpath point out that the forest was so dense in some areas that they "could hardly turn their horses", and complained about the lack of grasses to feed their horses. Many written historical records support the conclusions reached by Benson and Redpath and others that the Pilliga has always been a heavily timbered area. For example, in an address given in Coonabarabran in 1913 about how best to settle the Pilliga, Mr Cameron wrote:

> In most of his country the timber is very thick and dense, and the settler will have to do a good deal of hard work before he is able to put much of his land under cultivation.

In 1976 Carnahan described the character of the vegetation prior to modification by Europeans in some detail, suggesting that in woodland and forest areas there was an upper stratum of eucalypts 10 to 30 metres in height and with a crown density of 10 per cent to 30 per cent cover over an understorey of low trees. From Dubbo to Baradine the overstory structure in many areas is thought to have been denser, with cover of 30 per cent to 70 per cent, with cypress the dominant species. Stump counts in the Pilliga West have shown that it carried a density of mature trees of about 30 to the hectare. There is very strong evidence to prove that there was always an area of ironbark forest on the western part of the Pilliga, including photographs from the early 1900s. West Pilliga was the backbone of the sleeper industry in the first half of the twentieth century. The first forest assessor, Mr Wilfred de Beuzeville, described the Western Pilliga in 1916 as follows:

> There exists in the Western Pilliga an ideal forest area practically in its virgin state, which is a very valuable asset to the Department controlling it. We have (1) excellent forests of C. glauca [or White Cypress] occupying about one third of the area. (2) Similar forest of E. crebra [Narrow-leaved Ironbark] of about the same extent. (3) an excellent area for grazing and edible shrub land of perhaps the same area, and (4) an enormous forest of mature C. glauca, occupying three-fourths of the total area of the combined types.

Any cursory evaluation of the logging history of the Pilliga shows that open savannah simply could not have supported the amount of timbered extraction that has occurred, with 800,000 tonnes of sleepers and 2 million tonnes of cypress pine logs recorded as being removed since 1916. Apart from the claims of Eric Rolls, all other scientific work on the area has a shown that prior to the regrowth explosion there was a forest dominated by old trees. If there were no old trees, how can one account for the fact that one million tonnes of ironbark and 2 million tonnes of white cypress have been removed from the forest since 1916? These figures are on the forestry records. There is photographic evidence showing that tall old trees were a feature of the landscape.

The Hon. Rick Colless: Because it was grown in 1870.

Mr IAN COHEN: This supports exactly what I am saying and puts paid to the honourable member's bleating that somehow this forest is man made. It was already there and it is on the record. It is registered. It has

been proven in material I am putting forward today. Dubbo Forestry has stated that old cypress trees near Gulargambone have been radio carbon dated at more than 300 years old. Botanists have established that mature ironbarks are as old as 800 years. Contrary to some assessment of *A Million Wild Acres*, Eric Rolls does not write only about once open spaces. He cites numerous accounts of the scrub and forest areas existing early throughout the Pilliga on pages 1, 127, 128 and 183. One pages 127 and 128 Rolls describes—

The Hon. Rick Colless: Have you read the book?

Mr IAN COHEN: The honourable member should listen for a moment. He will have adequate opportunity to refute my arguments. I am quoting the pages for his benefit.

The Hon. Rick Colless: Did you read the book?

Mr IAN COHEN: I am quoting the details of it.

The Hon. Rick Colless: Did you read it?

Mr IAN COHEN: I have not read the whole book; I have read parts of it.

The Hon. Rick Colless: You haven't read it.

Mr IAN COHEN: I am sorry. Is it suggested that because I have not read the book from cover to cover that somehow my arguments are completely irrelevant? The Hon. Rick Colless has read one book and he is an expert! On pages 127 and 128 Rolls describes a wide arc of country south-west of Narrabri as:

> Brigalow forest so thick the roots laced together on the surface, and five metres off the ground long shiny leaves crowded the canopy grey as galvanised iron.

The Hon. Rick Colless: That's a Brigalow forest, not a cypress forest.

Mr IAN COHEN: On page 245 Rolls writes of ridge country "on the east and south". The honourable member should listen to this because Rolls writes of ridge country "on the east and south" carrying the "same heavy growth as it does now". A claim has been made that fire will be an increased threat as a result of the Government's decision. What hysterical rubbish! The biggest local fire in recent times occurred in the Goonoo State Forest in December 2004. Fire is an ever-present threat in a dry country, but to claim that somehow the threat is much larger because a State forest becomes conservation area is irresponsible and seeks to manipulate people's fears for political gain. That is what this is all about: manipulating people's fears for political gain. The truth is that more funds—

[*Interruption*]

It is obvious that The Nationals are going down fast. Is it any wonder that we see a proliferation, like the forests, of Independent members in what was the heartland of The Nationals. The truth is that more funds will now be pumped into the management of these areas that, together with the program of thinning, will decrease the risk of fire. The use of history by The Nationals is at best selective. At worst it is disrespectful and arrogant. Parliamentary members of The Nationals like to get all excited about Australian colonial history, but I remind them of a few facts about European settlement and land use in Western New South Wales, specifically in the Brigalow Belt. The Liverpool Plains south-east of Narrabri became a site for European settlement in the 1830s. It was used mainly for sheep and cattle grazing until the 1880s. Wheat farming emerged around Dubbo in the south of the bioregion in the 1860s. By the 1880s cropping was beginning to occur extensively throughout the bioregion, especially on the lighter textured red soils at the foot slopes of the Liverpool Ranges.

Although there were droughts at this time, the intensification of cropping and demand for land for this purpose led to wide-scale clearing of forests and other native vegetation. The transition from pastoralism to agriculturalism based on wheat occurred in the Dubbo area from the 1880s to the 1920s. This was prompted by a major change in land tenure and management. There was a push to unlock the lands to allow small selected access to the vast land formerly held under pastoral leases. These shifts were aided by legislation changing the nature of land holdings. While these changes helped to unlock the land to small-time farmers, they effectively shut out Aboriginal people from their traditional lands. So began a period of struggle for the Aboriginal community of the Brigalow Belt South. In the 1890s, as agriculture around Dubbo increased, land enclosure continued to decrease property size. The conditions that allowed occupation in the past ceased. As a result Aboriginal communities were driven from their homeland and onto reserves on the outskirts of town.

This served to alienate the Aboriginal community, whose members, because of limited access to the land and its changing ecology under agricultural production, could now no longer use the land they had traditionally used. Those who were unable to remain on their traditional lands and who lived on reserves or in fringe camps came increasingly under the control of the Government, which established the Aborigines Protection Board in the 1880s. The board was initially responsible only for the distribution of blankets and rations on reserves, but it began to exert a tighter grip on the lives of Aborigines, placing ever more restrictions on the rights of the communities. Children in Aboriginal communities were increasingly the targets of the board, which relied on the power vested in it by the Aboriginal Protection Act 1909.

By 1915 the strength of the Act had increased, giving the board the power to remove Aboriginal children from their families where the wellbeing of the child was in question. The reserve closest to Dubbo was the large Talbragar Reserve, which was established in 1898 at the junction of the Macquarie and Talbragar rivers, where John Oxley arrived in the region only 80 years before in 1818. Other local Aborigines lived in camps along the Macquarie River although the Talbragar Reserve was home to the core of the local community. Aboriginal families often chose to remain in or near reserves to allow their children to gain an education, but in the early to mid-1900s, they found themselves unofficially excluded from local public schools. During these times, areas such as Goonoo Forest became more important to the Aboriginal community. The forest was dedicated as a formal public reserve in 1917 during the period when agricultural production was intensifying in the area.

The protection of the forest enabled the Aboriginal people to use it to gather food, both plants and animals, and for social and spiritual purposes without close observation by Europeans. Areas such as Pilliga and Goonoo that were not dedicated in public forests came increasingly under threat from clearing for agriculture and settlement. The passage of the railway line farther north and west also contributed to clearing as thousands of trees were felled for use as timber sleepers, further razing the land that had been cleared of timber for housing and fencing since the start of European settlement. Since European settlement, timber getting has been a regular activity around the Pilliga and Goonoo State forest areas.

Forest management began in the bioregion when forest reserves were dedicated in the 1870s. The Forest Conservancy Branch of the Department of Mines placed the initial forest reserves over abandoned Pilliga Crown land holdings in 1971, marking the Government's first direct involvement with forest management. Such forest management was driven not by an understanding of ecological process and impacts but by the proposed use of the timber. By the 1870s early landholders and explorers observed changes in the condition of the land and many people were aware of the impacts of agriculture on the landscape, even before further damage was caused by drought and rabbits. In the 1950s technology was introduced that allowed cultivation of the heavy textured soils that had been used for grazing in the past. As a result, cropping on the foothills of the Liverpool Ranges began to be replaced by grasslands for grazing.

Commercial timber harvesting in the bioregion has concentrated mainly on white cypress and narrow-leafed ironbark in the last 100 years, although broad-leafed ironbark, bull oak, black cypress, and western box species have all been harvested in the area in the last 80 to 100 years. The main industries, in terms of highest contribution to the economy of the region, are sheep, grains and beef, other agriculture, agricultural services, education, health, public administration, retail trade and wholesale trade, but not forestry. Between 1976 and 1991 there was a period of high population growth in the region that was fuelled by heightened agricultural development, including increased irrigation areas. Between 1981 and 1996 the proportion of the employed population of the area was decreasing—apparently as a result of variable international commodity markets and poor seasonal conditions.

Excluding Dubbo, which is the main town centre of the bioregion, the region appears now to be shedding jobs at the same rate as its population decreases, with population losses becoming more common in recent years. One would think that incentives to diversify industry, guarantee jobs and support the existing population might make sense in this climate—but not to The Nationals. The decision made over the Brigalow Belt South and Nandewar regions is a big step forward, but there are still considerable areas in the west that need protecting for the reasons I outlined earlier. Existing levels of permanent conservation protection in the regions is very low by national standards. Only 3.4 per cent of Brigalow and 0.9 per cent of Nandewar are protected in national parks or reserves—hardly a large land grab—compared to at least 15 per cent in coastal regions.

There is a generous financial package for industry. Over the next five years $80 million will go towards job creation, timber industry development and conservation management. Every timber worker who wants a job

will have one, and every timber mill that wants to continue in the industry will have new long-term timber supply contracts. Seven mills will continue to operate at around their current timber allocations but they will be secured by new 20-year contracts that will guarantee total timber supplies of 57,000 cubic metres per annum. Three mills that are located at Bingara, Narrabri and Baradine have chosen to exit the industry and receive generous compensation packages rather than let the industry downturn catch up with them and leave employees with no options.

The outraged opponents of this decision have not been supported by industry. Programs to diversify into white cypress oil extraction and firewood briquettes are supported by the industry. The announced $12 million cypress-thinning program will create 50 new jobs—which is 50 more than were there before. Over time, there has been a trend towards fewer mills in the regions operating with fewer staff. An incentive package to develop new activities will help inject life into a dying industry. Around Bebo there used to be several mills, but these have closed of their own volition as the resources have been depleted. The Baradine mill operators said 10 years ago that they would not be open for more than a few more years.

This bill not only preserves the best remaining areas of woodland before the industry degrades them through unsustainable logging; it gives communities in the regions hope for the future. Six mills will have their quotas increased from 49,000 cubic metres per year to 57,000 cubic metres, while $14 million will be provided to assist mills that will cease production as a result of the decision. Moreover, $10 million will be provided over five years in capital costs to build infrastructure in the new conservation areas. Visitors and tourists will be well catered for as a result. Preference will be given to local businesses to supply equipment and to tender for construction of major tourist and visitor facilities. The money will also be used for conservation management—fire fighting and mitigation resources, weed and feral animal control. Over five years $29 million will be provided to employ 69 workers to manage new conservation areas, and this will include jobs for timber workers who are affected by the decision. Also, additional staff will be located at new Department of Environment and Conservation offices in Baradine, Bingara, Dubbo and Yetman.

This bill delivers a win for the environment and a win for industry. In both ways, the community wins. Australians have a well-earned reputation for being industrious and innovative. A generous financial package, together with the foundations of new industry supports and complements this work ethic. There is no longer just hope of a future for the Brigalow Belt and Nandewar regions—it is now clear and real. On those grounds, I commend the Government and I commend the bill to the House.

The Hon. RICK COLLESS [10.17 p.m.]: I express concern about the methodology used by the Government in its attempt to restructure the forestry and timber industries in western New South Wales. Before I deal in detail with the provisions of the bill, I am compelled also to express concern about the agenda of environmental extremists and the power and control they currently hold over the Premier and his band of extreme green Ministers. Ministers who claim that they are not as green as some, who claim that they support the timber communities in the Brigalow Belt South bioregion and the Nandewar bioregion apparently have had no power, no say and absolutely no influence over the Premier, Mr Carr, and the Minister for the Environment, Mr Debus, while the issue has developed during the past four years. Those very Ministers have been out in the timber regions saying to timber millers and to the communities of Baradine, Gwabegar, and Bingara, "Do not worry. We will look after you." But look at what has happened.

The Government stands forever condemned in the towns of the bioregions. This was amply demonstrated by the 2,500 plus crowd at the Gunnedah rally that was held a couple of weeks ago which expressed its disgust and frustration at the Government's decision not to adopt the community's preferred option, the Brigalow Region United Stakeholders [BRUS] option, for the management of forests and national parks in the region. The Minister for the Environment was invited to the rally because he had already accepted an invitation to open a new waste management facility in Gunnedah on the same day. But, of course, the Minister wimped out; he could not face the community about which he was making political decisions. The credentials of the extreme environmentalists who participated in this debate must be challenged.

I refer in particular to a small group of non-local interlopers calling themselves the Western Conservation Alliance [WCA], and those poor misguided souls who support the WCA. I call them extreme environmentalists because I have spoken to many people in the region who are really concerned about the future of the Pilliga forests, the survival of the magnificent birds and animals that have made the forests of the Pilliga home, the magnificent trees and shrubs that grow in the area, and the people and communities that are supported by forest industries. The true environmentalists are the people who live in and love the region, the people who understand the ecology of the forest, and the people who appreciate the economic benefit the forest provides to the region. One such person, David Johnson, sent me a copy of a letter he wrote to the Minister. It states:

I have lived beside the Pilliga State Forest for well over 70 years. For most of those years I have been a practising Ornithologist.

I have closely observed and taken a keen interest in past and present State Forest management and served for a period on the Advisory Committee of the National Parks and Wildlife Service for the Coonabarabran region.

The welfare of the environment and the good health of the Pilliga are of paramount importance to me. I feel that I am well qualified to offer some valuable observations as to how this forest should be managed in future years.

Please consider the following various points when debating the management criteria for the Pilliga. You will realise, of course, that the variance in management that has arisen between the BRUS and the Western Conservation Alliance options mainly concerns the 270,000 Ha of the West Pilliga White Cypress Pine Forests which has basically supported the Cypress Milling industry for nearly 100 years.

Point No 1—The best habitat in this forest ie well spaced trees with a grassy, limited shrub understory, so favoured by the majority of wildlife, is where State Forests have been involved in Silviculture practices.

One obvious addition to such an environment is the presence of hundreds of small metre high pine stumps, cut with an axe 50 odd years previously by State Forest employees as a thinning process.

It is not uncommon to find an area nearby that has missed the thinning process where the pine trees are several centimetres apart in a dense whipstick mass where no grass or wildlife could possibly exist. Up to date, this thinning process has been a self funding exercise by the timber industry.

Point No 2—We are going to lose this valuable habitat if NPWS exclude logging activities from the Cypress Pine Forests.

Anyone who suggests that taxpayers money can replace State Forest thinning activities has lost sight of reality. A few wet years and the passing of time would see vast areas of National Parks in the West Pilliga overrun with closed up whipstick Pine shrubs—lost to all forms of wildlife.

Point No 3—Under the guidance of NPWS over more recent years, State Forest management practices have become dramatically drawn towards the needs of the environment.

Examples of these are the requirements when logging to leave a number of millable trees to each hectare as future habitat trees; the protection of hollow ironbark and hollow logs; in exclusion of logging activities adjacent to Koala and Barking Owl roost sites and various waterway riparian zones.

Point No 4—Immediately after logging activities I and others have observed dramatic increases of bird numbers in the logged areas.

Likewise, a notable increase in Species numbers has been evident in the following years: eg Wood swallows are particularly drawn to recently logged areas, Barking Owls favour open forest, Speckled Warblers, Rufous Whistlers, Eastern Yellow Robins, Treecreepers, and many others prefer this type of open habitat.

Point No 5—PLEASE REMEMBER: We have a unique and incredibly valuable example in this forest. Man and Nature are both major beneficiaries of the same management practices.

Point No 6—If Green activists cannot see the wisdom in leaving the West Pilliga in the hands of State Forest management then there is a commonsense compromise to be considered.

The formation of a forest management regime embracing all stakeholders, that places active conservation above all other considerations. They would be asking themselves what they can do to create a forest they want to see in 100-200 years time.

This management regime would be subject to critical scientific monitoring for a set period of years. The findings of this monitoring would determine forest management for the future.

I understand that this was the proposition offered to Bob Carr when he sent Ian Sinclair out to establish a compromise between the Greens and the BRUS Option.

It may well be that the Government will have to take a very firm hand with the National Parks Association/Western Conservation Alliance activists on this issue. I am afraid that they are prepared to sacrifice the environment of the Pilliga in order to satisfy the vendetta against all facets of the timber industry.

How true that is. The letter continues:

The existence of the moratorium, the introduction of National Parks and the 50% cut in milling activities would, in a few years, completely eliminate all cypress milling from the Pilliga.

If this is allowed to happen, we will lose thousands of hectares of valuable native habitat. We will lose the opportunity to work hand in glove with nature to create ideal wildlife forest for the future and we will be placing another stumbling block in the way of endangered species of birds and animals.

I am appealing to you not to let this happen.

Yours sincerely,

David M. Johnson.
Baradine.

David produced a pamphlet on the birds of the Pilliga with the assistance of the New South Wales Government and the former Coonabarabran Shire Council, now the Warrumbungle Shire Council, in which he listed more than 230 species of birds found in the Pilliga and he described the frequency of observation of each species. In that document David listed eight preferred routes that one can take around the Pilliga forests to check out the birds. A map of the Pilliga shows that those bird-watching routes are either on open farmland or in areas of the Pilliga that have been actively logged for the past 100 years. He does not venture once into any of the nature reserve areas. David is a conservationist in the true sense of the word. He knows where the wildlife can be found. Many people in the region love their forests and their animals as passionately as David Johnson. Shirley Grey also wrote a letter, which states:

> I understand that the decision on the West Pilliga White Cypress Pine Forest may be made by Cabinet. May I make some points regarding this Forest.
>
> Different types of forest require a different management plan. This forest of cypress pine needs an active management which supports biodiversity.
>
> If not controlled, white cypress pine will become a woody weed.
>
> Because active management by Forests NSW keeps much of the forest as open habitat, it is favoured by barking owls and koalas which require space to move about.
>
> Forest harvesting plans must be approved and monitored now by the National Parks and Wildlife Service, the EPA and other environmental agencies.
>
> Fire is a major hazard. There has not been a major fire in the Cypress Forest for over 50 years, due to the care of Forests NSW. The local history of NPWS fire control is not good.
>
> A forest management committee which includes knowledgeable local people amongst its stakeholders needs to be established to monitor the harvesting and forestry activities.
>
> I am an independent conservationist, birdwatcher and long time resident of Coonabarabran, and I ask you to use your influence to keep this forest in the hands of Forests NSW.
>
> Shirley Grey

Kim Brain sent me a copy of a letter that was circulated in desperation, which states:

> To Whom it may concern
>
> I am 49 years old and have lived all my life in the Coonabarabran area. My father had a furniture and floor covering business for many years and the people of Coonabarabran, Baradine, Gwabegar and Pilliga always supported all the business houses in towns as well as ours.
>
> Since the BBSB has started a couple of years ago the Western Conservation Alliance formed when David Paull arrived from the National Parks Association, and they immediately got to action and started making statements about the Pilliga State Forest and the Forestry which were not true or at least only told half the story.
>
> These people are trying to have as much as 80% of the Pilliga and Goonoo Forests turned into Nature Reserve, again putting a big nail in the coffin of country towns.
>
> Do not forget that there is a massive gas supply in the Pilliga, prosperity for us, for our children.
>
> Think long and hard, these people from the WCA, most of which are retired people going through their midlife crisis. They, like yourselves, are financially secure and are not relying on the forestry and wood mills for income.
>
> Most of the people you will affect if the BRUS option is not taken up will be forced to leave the district to find work, like what happened to Coolah when the mill closed.
>
> Mr Carr has to come and see for himself that the Pilliga is very different to most forests. It needs forestry management as has been the case for over 100 years.
>
> Do not forsake us, Mr Carr, just for the Green mob. These people are pulling the wool over your eyes, we have heard all their garbage over the last few years; do not take their words for anything. We cannot afford to import everything with our already massive overseas debt.
>
> Mr Carr, don't let your legacy be the destroyer of rural towns and their people. Too many people are already moving to Sydney. It's already bursting at the seams.
>
> Make a stand now for what you know is right - choose the BRUS option as we will continue to look after our forests. We love the Pilliga. We are the Greenies. We live and work in the forestry and on the land, we love this place.
>
> Yours truly,
> Kim Brain

The postscript on that letter states:

> PS. The WCA and NPA have finally admitted that Tourism will not work out here in a statement in the Coonabarabran Times just 2 weeks ago and are now in panic mode to make up some new hair-brained ideas.

I refer to people like Rod and Juleen Young and all those who participated in a comprehensive community group that called itself the Brigalow Region United Stakeholders, or BRUS, which was responsible for the preparation of the BRUS option. This truly inclusive community advisory group spent an enormous amount of time and effort preparing the BRUS recommendation, only to be completely ignored by the Government at the sharp end of the decision. People like John Farrell, who owns a service station and motor vehicle repair business in Baradine, knows that once the mills are closed his business will probably also close. People like Patrick Hennessey, who spoke brilliantly at the Gunnedah timber rally, outlined to the assembled crowd that the closure of the mills would also destroy his business and his livelihood.

I refer also to Mick O'Neill from Dubbo, to whom the Deputy Leader of the Opposition referred. He has a small hardwood mill in the Goonoo forest producing fencing timber, cattleyard rails, garden sleepers, pergola timber and veranda posts. Mick's family has been in this business for over 100 years, with many generations of his family involved in it, and he is now moving into production of high-quality furniture using the most magnificent hardwood. These people are the true environmental protectors of the forests of the Pilliga and the Goonoo and all the forests of the bioregions.

I refer now to the misinformation being peddled by certain groups in relation to this debate. The entire argument of the Western Conservation Alliance and its extremist supporters is based on anecdotal nonsense generated by the common knowledge theory that has been well used by extremists and their political allies. In his preface to a book titled *The Skeptical Environmentalist*, author Bjorn Lomborg, who describes himself as "an old left wing Greenpeace member who had for a long time been concerned about environmental questions", outlined how he changed his views on the environment. Lomborg read an article by an American economist, Julian Simon, that outlined that much of our knowledge about the environment was based on preconceptions and poor statistics, and that the doomsday conceptions promoted by environmentalists were not correct. Lomborg set out to show that most of Simon's argument was nothing more than good old right-wing American propaganda, but instead discovered that most of what Simon said stood up to statistical scrutiny. He went on to say:

> I was surprised that the only reaction from many environmental groups was the gut reaction of complete denial. Sure, this had also been my initial response, but I would have thought as the debate progressed that refusal would give place to reflection on the massive amounts of supportive data I had presented, and lead to a genuine re-evaluation of our approach to the environment.
>
> Surprisingly, I met many, even my closest friends, who had only read the critical commentaries and drawn the simple conclusion that I was wrong, and that we could comfortably go on believing in the impending doomsday.
>
> This suggested that doomsday visions are very thoroughly anchored in our thinking.

Lomborg concluded his preface by stating that we should not allow environmental organisations, business organisations or the media to have control over the presentation of truths and priorities, and that we should maintain a careful democratic check on the environmental debate. We must not allow any organisation to present its arguments based on mere common knowledge. Decisions should be based on sound science and take into account the impacts on people and communities, as well as the environment. This decision about the Brigalow and Nandewar bioregions is not based on sound science and does not take into account the impacts on people, communities or the environment, despite the wailing rhetoric we have heard from the Premier, Mr Debus and their allies within the Green movement.

I will expand on some of the science that disagrees with the environmentalists' position. I refer members to an academic by the name of David Thomson from the University of New England, and the list of scientific papers he has produced to show there have been no studies that demonstrate conclusively that logging has had a negative impact on biodiversity, despite the anecdotal comments of Mr Ian Cohen a short while ago. I wish to discuss the climatic conditions of the western area of New South Wales, and in doing so draw a distinction between what is called an arid environment and what is called a brittle environment, which is a very important point. There are some differentiating factors that the Government has obviously not taken into account when making this decision.

An arid environment is described as having very low annual rainfall, but that does not take into account other climatic factors, such as temperature and the distribution of humidity throughout the year. On the other hand, a brittle environment can have a very low rainfall or a very high rainfall. The distinction between a brittle environment and a non-brittle environment is determined by the distribution of humidity throughout the year.

For example, most coastal temperate environments have an even distribution of humidity throughout the year, and are referred to as non-brittle environments. Lismore is a very good example of a non-brittle environment. On the other hand, tropical environments have a distinct wet season, with high rainfall and humidity for part of the season and low humidity for the remainder of the season. They are referred to as brittle environments. Darwin is an example of a brittle environment, despite the fact that it experiences a much higher annual average rainfall than does Lismore. The more dramatic the humidity variations, the more brittle the environment.

How does that impact on the Brigalow South and Nandewar bioregions? Baradine has a very distinct wet period, followed by periods of very low humidity. As such, it scores quite highly on the brittleness scale. A number of important environmental considerations need to be taken into account when managing brittle environments. These generally relate to the response of the environment to various management actions being applied to them. The most important of these is the impact of removing large ungulates from the ecosystem and, indeed, changing the way large ungulates move around that ecosystem. In a brittle environment, there is a large amount of vegetative growth in a short space of time. This growth must then provide feed for all grazing and seed-eating animals and birds until the next period of growth. If this growth is not removed, which can be achieved by domestic or native grazing animals or a combination of both, or by slashing, burning or some other non-biological means, the grasses and shrubs will not regenerate properly. In fact, they will begin to die back over time.

This die-back will lead eventually to bare ground appearing, causing loss of soil organic matter, soil erosion, and a general decline in the land's ability to support high levels of biodiversity. High levels of biodiversity can exist only where healthy soils exist, and it is worth noting that there is far more biodiversity, both in terms of numbers of species and in total volume and weight, underground than on the surface of the soil. Resting the land is one of the land management tools that we can apply. While all land needs to be rested at some stage, over-resting the land in a brittle environment will lead to the land degrading.

Disturbance by large grazing animals in a brittle environment does not damage the environment. But the method by which those animals are managed—the method by which that disturbance is applied—can damage the environment. The key to the amount of damage caused is not the number of animals on the land but the amount of time they spend on the land. In order to maintain a healthy, brittle environment animals should be concentrated for a short period—perhaps only one or two days—on a small parcel of land. When the animals leave that land, they should not return for a much longer period—perhaps even 150 to 180 days. The actual time of their return will depend on the brittleness of the land, the ensuing climatic conditions, and many other factors of which the land manager needs to be aware. Locking up the land in a brittle environment for some esoteric, common knowledge reason will not protect the environment, it will not enhance biodiversity, and it will not provide the best outcomes for the environment or for people and communities.

Former Rhodesian national park ranger and ecologist Allan Savory, in his book *Holistic Management*—which I recommend to all members—repeatedly makes the point that our fate as a civilisation is tied inextricably to the land and its health and that, irrespective of the path we follow in life, we make decisions that impact in some way on the health of our environment and the quality of other people's lives. Savory was responsible for developing the concept of brittleness and, in his book, he says:

> ... the old belief that **all land** should be rested or left undisturbed in order to reverse its deterioration has proven wrong. Environments lying close to the nonbrittle end of the scale do respond in this way.
>
> In environments leaning towards the very brittle end of the scale, prolonged rest will lead to further deterioration and instability.

"Rest" in this context means rest from the impact of large grazing animals and their predators. For farmland and domesticated grazing animals, it means the removal of active management of the land, and for a forest it means removal of the management tools that have created the forest. I can already hear the environmentalists screaming hysterically at me that Australia does not have any large grazing animals. But the well-known and often-quoted Australian scientist Dr Tim Flannery describes in his book *The Future Eaters* the early history of Australia prior to Aboriginal settlement, and notes the fact that there were many large animals, including diprotodons and large kangaroos. Flannery notes that the species existed in the arid and brittle heart of Australia when conditions were only slightly wetter than they are now. In all probability they were just as brittle some 60,000 years ago as they are now.

During this period large herbivores such as the diprotodon—some species of which weighed up to 2,000 kilograms—echidnas, kangaroos weighing up to 200 kilograms, flightless birds and tortoises were distributed widely across the Australian landscape and in every habitat, from deserts to rainforests. The sub-

family of short-faced kangaroos, known as sthenurines, contains the largest known kangaroo species. All short-faced kangaroos had a single large toe on their hind feet, which was similar to a horse's hoof. As they hopped with their 200-kilogram weight, this had an enormous impact on the soil surface. The species was known as the procoptodon, and they were apparently restricted to the drier regions of south-eastern Australia. Those animals would have contributed to maintaining the environment by preventing the land from becoming over-rested.

A thriving population of large herbivores also needs a thriving population of carnivorous predators in order to maintain the ecosystem. These predators included the middle-size thylacine, a marsupial lion, the giant meat-eating rat kangaroo, Tasmanian devils, and spotted tail quolls. But the largest and most ferocious predators were an assemblage of reptiles in the form of a huge goanna, a land crocodile, and a 100-kilogram python-like snake, as well as aquatic crocodiles similar in form to those that now live in the tropical rivers of northern Australia. The goanna was a massive, ferocious and formidable carnivore, seven metres long and weighing in at more than 1,000 kilograms. It was probably able to move in a similar fashion to today's much smaller goannas. It would have had no trouble pursuing, capturing and killing even the largest herbivore, the diprotodon. So there were large herbivores, some with large hooves, and there were large carnivores. There was active predation and a high degree of animal impact. The land was not over-rested and the interior had a high level of biodiversity as a result.

Then about 60,000 years ago the Aboriginal peoples arrived in Australia, changing forever the mix of wildlife, changing the biodiversity, and changing the landscape. The large herbivores in Australia at that time had never seen a human and so did not recognise them as the new top predator. The Aborigines found they had an abundance of meat that was relatively easy to catch. Flannery outlines the arguments of Professor Paul Martin of the University of Arizona that the introduction of humans into ecosystems has caused virtually all the extinctions of large mega fauna within a few hundred years of the first "arrival" of humans, essentially as a result of those animals not recognising humans as the top predator. This is particularly applicable to early Australia, as the top predators prior to the peopling of Australia were reptilian rather than mammalian and the large herbivores certainly would not have recognised humans as predators.

Flannery goes on to postulate that the earliest extinctions in Australia appear to have been the largest of the marsupials, reptiles and birds. They were extinct by 35,000 years ago. The extinction of the large herbivores would have been followed shortly afterwards by the extinction of the large carnivores. Following the extinction of the mega fauna, the landscape would have been subject to an extended period of over-rest, with the ungrazed plant material remaining for years, oxidised and highly flammable. The certain outcome of fire—started either by natural causes or by the Aboriginal people in their efforts to make hunting easier—led eventually to the desertification of the inland ecosystem.

How does this relate to the management of forests in the bioregions? It shows that simply locking up areas, removing the large grazing herbivores, removing active management of the area and applying over-rest will lead to a further loss of biodiversity and degradation in a brittle environment. A viable and healthy ecosystem must have a high level of diversity and complexity in the community, and, logically, this means reducing monocultures and creating a concept called "edge effect". In a large monocultural forest that is regenerating with a flush of cypress pine, following the correct climatic conditions to create a germination event, the pine will force its way through as a monoculture, eventually restricting its own growth as well as that of all other species of plants and animals. This scenario is known by professional foresters as "cypress lockup". The bigger the area of the monoculture, the bigger the area of the lockup and the less diverse the ecosystem becomes.

In the forests where non-commercial and commercial thinning has been carried out, a high level of biodiversity is present—there are many species of trees, shrubs, grasses, and birds and animals that like to live in such a forest. Savory describes the edge effect as one of the quickest ways to increase the diversity of species in any environment. By using the term "edge effect" he is referring to where two or more habitats join. According to Savory, Aldo Leopold was one of the first to note the edge effect, particularly in relation to wildlife management, with most wildlife occurring where the types of food they require come together. This, of course, has enormous implications for the management of species such as the barking owl, which requires hollow trees for nesting and an open forest space and grassland for hunting. Further south, in the red gum forests of the Riverina, the superb parrot requires a similar habitat.

Most species of kangaroo also live in the shady areas of an open forest—never have I observed a kangaroo in locked-up pine scrub—and then move out into the more open grasslands to feed an hour either side of sunrise and sunset. Indeed, those grasslands are often farmers' crops and pasturelands adjoining the forested

area. This is all part of the edge effect. Establishing a continuous forest system of hundreds of thousands of hectares will reduce the current edge effect in the forests of the bioregions and will not contribute to providing better environmental outcomes for that area.

I turn now to the provisions contained in the bill. Part 1 clause 4 defines certain terms contained in the Act, and zones 1 to 4 relate to lands described in schedules 1 to 4 to the bill. In fact, schedules 1 to 8 contain references to a series of diagrams to which the Deputy Leader of the Opposition referred earlier, for example, MISC R 00279, edition 1, et cetera.

The Hon. Duncan Gay: Disappointingly, a majority of this House think they don't need them.

The Hon. RICK COLLESS: That is right. As the Deputy Leader of the Opposition points out, disappointingly the majority of honourable members of this House believe they do not need to look at the maps in order to make a decision about this bill. The diagrams that are part of the bill were only provided to the shadow Minister's office on Wednesday last week. Yet the Minister in the Legislative Assembly repeatedly stated that they were not part of the bill but they were available on the web site. Apparently, they were available but he just did not want to provide them to honourable members. I was certainly not able to locate them on the web site. When I privately asked the Minister for Primary Industries during the past sitting week for copies of the diagrams, his initial sarcastic response was, "Ask George for them." Then he gave me an undertaking that he would provide them before this debate was started.

I thank the Minister for providing them, but why the delay? Why did the Minister for the Environment refuse to provide them for debate in the Legislative Assembly? The maps are dated 24 May 2005. I specifically asked the Minister for them on 9 June, so why were they withheld until 15 June? What was the Minister trying to hide? The absolute doozy of the lot is in the final section of clause 4 in the general map of the Brigalow and Nandewar Community Conservation Area. In a glowing example of the lack of attention to detail on this map that the Government and the two Ministers responsible for this mess have applied to the process, in the original bill that they presented to the other place they misplaced Pilliga and Gwabegar on the map. The bill that is before this House today still contains the same mistake as the bill presented in the lower House, which I thought the Government would have corrected.

It is astounding that the map still shows the locations of Gwabegar and Pilliga as reversed on the map. Pilliga is shown on the map where Gwabegar is, and Gwabegar is shown where Pilliga is. The map delivered to the office of the Deputy Leader of the Opposition last week is correct, but this bill still contains the incorrect map. When this legislation is passed by this House and becomes law, will the Minister move an amendment in the House to correct that map? It is astounding that the bill has not been corrected. It really shows the Government's inconsistency with regard to its attention to detail. If the Government cannot get the map right, how can the rest of the bill be correct?

The Hon. Charlie Lynn: They haven't.

The Hon. RICK COLLESS: That is exactly right. Part 2 of the bill outlines the Community Conservation Area concept, and the major concern with that concept is the blurring of the boundaries between State forests and national parks. Zone 1 areas are areas of former State forests and other Crown lands to be reserved as national parks and, in total, comprise 121,273 hectares, of which 114,966 hectares are currently State forests. Those forests have the capacity to produce more than 30,000 cubic metres of cypress pine sawlogs annually, on a sustainable basis, although some of the areas, such as the Goonoo State Forest, are forests producing iron bark sawlogs at present. The greatest travesty of this bill is the removal of productive State forests from active management and the imposition on these areas of excessive rest, which will ultimately lead to loss of biodiversity and degradation of these now beautiful forests.

Zone 2 reserves 21,359 hectares of current State forests for Aboriginal management. While I welcome that general concept, it seems extraordinary that Aboriginal communities will not be given control of the area. The manager of zone 2 will still need to be signed off by the relevant Ministers. I am sure Aboriginal people will not agree with that proposal—it is certainly a clayton's zone. If the Government were serious about handing back this land to Aboriginal people, it would have the final say in how their land is managed. Zone 3 reserves current State forests and Crown lands as State conservation areas that allow mining, but not timber extraction. The area set aside for this zone includes 183,186 hectares of current State forests, and 2,510 hectares of Crown land. While feasibly it can one day be opened up for mining, there is now no timber harvesting allowed from that area. I cannot follow the logic of that decision, unless the ulterior motive will be to immediately shove it across into the zone 1 areas where nothing can happen on it quickly.

The Hon. Duncan Gay: What if they want to extract coal?

The Hon. RICK COLLESS: I will get to that point.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! The Hon. Rick Colless has the call, and other members should cease interjecting.

The Hon. RICK COLLESS: You would never do that, Madam Deputy-President, I understand. Thank you for your support. I cannot follow the logic of that decision. Properly planned and managed forestry operations have a much lesser effect on the environment than open cut mining. The situation with Eastern Star Gas is that virtually all of the area in which it is interested falls within zone 3 Community Conservation Area. One must ask: does that classification guarantee mean that it will be able to complete its exploration works, bearing in mind that both coal and gas reserves are in that zone? The Minister for Mineral Resources may well sign off on the proposal to explore this area, or to mine it, but then the Minister for the Environment maintains the power of veto over that exploration. He retains the right to say no.

The Hon. Jennifer Gardiner: He's the nigger in the woodpile!

The Hon. RICK COLLESS: He's the nigger in the woodpile all along.

The Hon. Jennifer Gardiner: He and Bob Carr together.

The Hon. RICK COLLESS: Consider the scenario where the vast majority of forestry roads are closed in zone 3 areas to fit in with the national parks policy of closing fire trails and access roads in national parks. If Eastern Star Gas then needs to sink a series of exploratory wells in the area that has had all the roads closed, can it then go in and construct new access roads in order to complete its exploration? If the industry finds commercial quantities of coal, will the Minister sign off on an open cut coal mine? If the Minister does sign off on an open cut coalmine, what happens to the hundreds of thousands of cubic metres of millable timber that is sitting on the surface of the coalmine? It will get pushed up into a big heap by the coalminers and burnt when there could have been a sustainable forestry industry operating on that land for many years to come.

I somehow think that the Minister will not sign off on a coalmine in those areas. Again this is nothing more than a Clayton's zone in an attempt to keep the industry quiet. I can assure honourable members that the industry has not fallen for it. Finally, maybe it was an oversight, but the Government decided to include a zone 4 to allow forestry operations as well as mining. Should large mineral and gas reserves be mined from under these areas, will additional forestry areas be brought back into production? I think not, and it would contribute to the inevitable demise of the forestry industry in western New South Wales. Zone 4 totals 275,708 hectares that is supposedly available for forestry operations, which sounds pretty good. At a sustainable harvest rate of about 0.2 of a cubic metre of sawlogs per hectare per year, that area would be capable of producing about 55,000 cubic metres of sawlogs on a sustainable basis each year—still 2,000 cubic metres short of what the Government promised the industry.

The big fires of 1984 and 1997 in the Pilliga forests destroyed at least 130,000 hectares of forest, although much of the Pilliga east forest, where the fires were, is not optimum pine-producing forest anyway. In fact, a lot of it does not support cypress pine at all. But that is all included in the 275,000 hectares. Anyone who has any understanding of cypress pine management knows that cypress pine is extremely susceptible to fire, and that a fire with the intensity of the 1997 fires completely destroys all living cypress trees. So, if we take the 130,000 hectares out of the equation, that leaves 145,000 hectares of forest that has cypress on it. Again, at a sustainable rate of about 0.2 cubic metre per hectare per year, the remaining forest will produce about 29,000 cubic metres annually.

If the Government attempts to harvest the 57,000 cubic metres from the 145,000 hectares, the harvest rate will be 0.4 of a cubic metre per hectare per year. I am sure Labor members opposite know for fact, and if they do not they should be ashamed of themselves, that a cypress pine forest grows at the rate of from 0.28 to 0.35 cubic metres per hectare per year. Those are figures from the mouths of district foresters—the people in the industry who are growing the pine trees. I wonder whether the Minister understands what happens to a forest that is cut faster than it grows. The figures are further complicated by the fact that much of the remaining 145,000 hectares has only small pine on it, and as such it will be more than 50 years before that is a harvestable resource. Much of the proposed available area has also been cut in the last 10 years. So those areas will not be available for harvesting for at least another 30 years—depending on whether the previous harvest was a commercial thin or a final harvest.

Some of these areas in fact have been overcut during the last four years of the moratorium, so there will be no harvestable timber in those compartments for up to 100 years. I have told the Hon. Henry Tsang that I would explain things to him. It is these facts that have resulted in people in the timber industry, people like Tim Lacey, George and Paddy Paul and Tom Underwood, telling us that in their best estimates they cannot find more than 20,000 to 25,000 cubic metres which will be available on a sustainable basis from the remaining forests. This means, if the Government is committed to its guarantee of 57,000 cubic metres annually, they will have to either overcut the forest or import into the region between 27,000 and 32,000 cubic metres of sawlogs every year. Where will these logs come from? At what cost, and who pays for the extra transport? Is it logical to close a mill in Narrandera or Eugowra and transport unmilled timber to Gulargambone, Baradine and Gunnedah, when there are closed forests on the back door of mills capable of producing that timber on a sustainable basis? I think not. It is nonsense.

Further insult is added to the nonsense by division 5 of part 1 which vests an additional 18,349 hectares of State Forest, as described in schedule 5, to National Parks management. Under schedule 6, some 9,137 hectares that are parts of former State forests are transferred to national parks. Schedule 7 transfers a further 4,386 hectares of Crown land to national parks and schedule 8 transfers a further 10,300 hectares of land vested in the Minister to national parks and reserves. Let us look at those totals. New national parks, reserves and zones 1, 2 and 3 in community conservation areas total 370,500 hectares of effectively new national parks, of which 346,997 hectares have been ripped off the productive capacity of New South Wales State forests. The Government then has the hide to try to tell the people of regional New South Wales that this will result in a more efficient and productive forestry industry!

Earlier I expressed concern about the boundaries blurring between national parks and State forests, as both classifications will be known as community conservation areas, the only differentiation being zone 1 or zone 4. Further blurring exists in division 6 of part 1, which allows for land to be transferred from zones 2 and 3 to zone 1 by proclamation, yet the only land that can be transferred to zone 4 by proclamation is land that is State forest. There is no guarantee for the mining industry in zone 3 lands that they will remain in zone 3, as the bill gives the Governor the power to amend schedule 3 by proclamation to transfer land back to schedule 1. The only method by which any of these lands can be revoked is by an Act of Parliament, so the environmentalists will continue to play their shabby games with the Government by bribing it with promises of votes for transferring every bit of land they can possibly muster into the national park estate, with further pressure being placed on the forestry industry.

Part 3 provides for the establishment and operation of the Community Conservation Council and the community conservation advisory councils. I have to say that I almost choked with laughter when I read clause 25 of the bill, which sets out that the Community Conservation Council is to comprise the directors-general of Premiers, Environment and Conservation, Primary Industries and Infrastructure, Planning and Natural Resources departments. While I am sure all those people are honourable and hard working, they hardly represent a community! They do represent the bureaucracy, and therefore will be implementing the decisions of their political masters, not those of the community. It is somewhat appropriate that the initials for this council are CCC, but I suspect it would be more appropriate that it be KKK, because the council has the potential to engage in subversive decision making as its master delivers its riding instructions.

Division 2 of part 3 establishes three community conservation advisory committees, but unfortunately they will not have any real influence at all, as they have the function of advising on the content of the community conservation area agreements. They do not have the responsibility for preparing the agreements, as provided for under the Brigalow Region United Stakeholders option. The committees are comprised of one delegate each from the local catchment management authority, local government, forestry, mining and apiary industries, two people representing Aboriginal interests, rather than two people of Aboriginal descent, two scientists, three environmentalists and one member of the National Parks Advisory Committee, with the chairman to be appointed by the Ministers for Environment and Primary Industries.

What a team! What is the justification for having on the committees two people representing Aboriginal interests, especially as they do not need to be people of Aboriginal descent. They need only be people representing Aboriginal interests. If the Government were fair dinkum about this bill, it would have Aboriginal people on the committee, not people representing Aboriginal interests. Why does the committee have three environmentalists, yet only one apiarist and one forester? Why three environmentalists? What is the justification for that? There is none. What about the two scientists? That is all right, as long as they are appropriately qualified scientists—not scientists that automatically have a degree in some sort of green management, but scientists in fields appropriate to make these agreements work.

It is a numbers game. Add those numbers up and, yes, 8 of the 13 will undoubtedly be appointed to ensure the environmental agenda will be pursued with gusto. I note that the Government amendments, which have just now been handed to us, will include a rural representative and two other representatives that my colleague the Deputy Leader of the Opposition will advise. Even if those two others are put into the mix, the Government will still have a majority of 8 of 15! Surprise, surprise! The committees will be exclusive of the majority of the population and will not represent the community interests at all.

The Hon. Duncan Gay: The two are representatives of local farmers and the interests of local recreationists.

The Hon. RICK COLLESS: That is the other one.

The Hon. Henry Tsang: You cannot object to that.

The Hon. RICK COLLESS: I do not object to that at all. I object to the three Greens.

The Hon. Jennifer Gardiner: It is tokenistic.

The Hon. RICK COLLESS: As my colleague says, it is tokenistic. Why put three Greens on the committee? Reduce the Greens number and I will support it.

The Hon. Duncan Gay: Or no Greens.

The Hon. RICK COLLESS: Or no Greens would be even better. These committees will be exclusive of the majority of the population and they will not represent the community at large.

The Hon. Greg Pearce: Where are the Greens anyway?

The Hon. RICK COLLESS: They would not be bothered to listen to facts. The Minister did not even bother to address the House. I was hoping the Minister would have some updated information on the bill. He has not even bothered to correct the bill where it is incorrect. We sat here and saw what the Greens did. Compare these committees with the Brigalow Region United Stakeholders [BRUS] group, which completed a monumental task in putting forward a plan of management for the Brigalow Belt South bioregion by involving 25 community organisations. Was that more reflective of the needs of the local community? Or is this community conservation advisory committee, with 8 of its 15 members being Greens, more reflective of the needs of the community? Which group would better represent the needs of the local community?

The answer is BRUS, which was an inclusive community advisory committee. The framework used to arrive at the BRUS option should be a model for all future natural resource management community consultation. The bill is not about community consultation; it is about giving the Government more power to drive its agenda harder against the people of regional New South Wales. Part 4 of the bill provides for the preparation of a community consultation agreement to provide a co-ordinated framework for the management of all lands in zones 1 to 4 in the region. BRUS did that. I am glad to see the Hon. Michael Costa in the House, because he understands these issues. I am sure he would agree with me if we had a private conversation. He has come into the House to support me.

The Hon. Duncan Gay: Where's that big sook Macdonald? It's quarter past 11.

The Hon. RICK COLLESS: He has gone home.

The Hon. Duncan Gay: He would be asleep in beddy-byes.

The Hon. RICK COLLESS: Yes, he has gone home to bed. The community conservation agreement provides a co-ordinated framework for the management of all land in zones 1 to 4 in the region. The BRUS option did that with real community consultation, not with the nonsensical facade the bill provides for community consultation. I am greatly concerned that the agreement will be responsible for developing integrated forestry operation protocols, if any forestry operations survive.

Given that 8 of the 13 committee members—or eight of the 15 after the Government's amendment—will be seven environmentalists and one forester, the resultant protocols for forest harvesting and management

will be even more onerous on the forestry industry than they are currently. I turn now to the contributions of other honourable members to the debate. In his introductory remarks, in interjections on other members, and in replying to the debate in the other place, Minister Debus made extraordinary statements that made me wonder whether he understands the enormity and complexity of the bill he introduced. Early in his second reading speech the Minister stated:

> The bill introduces an entirely new land management tenure. To be known as a community conservation area, this tenure was developed specifically for this part of western New South Wales.

That sounds marvellous. But about halfway through his speech he said:

> An important part of this legislation is the proposal to create a community conservation area. This is an internationally recognised reserve concept new to Australia.

The Hon. Duncan Gay: That's different.

The Hon. RICK COLLESS: But he just said that he developed it specifically for this part of western New South Wales. Who wrote his speech?

The Hon. Greg Pearce: There were two advisers, one for the first half and one for the second half.

The Hon. RICK COLLESS: That must have been what happened.

The Hon. Duncan Gay: Probably the same person that drew up the maps.

The Hon. RICK COLLESS: Probably. However, they got it wrong because there is a definite conflict. He went on to say that it is based on the recognised International Union for the Conservation of Nature reserve categories. It was not designed specifically for this part of western New South Wales. How can a tenure system be developed specifically for western New South Wales if it is an internationally recognised reserve concept? He continued with all the rhetoric and common knowledge statements that we have come to expect from the extreme environmentalists—such as that the lands to be protected contain the highest quality habitat for the most endangered species—yet he failed to remind us that this habitat was created by more than 100 years of forest management, including the extraction of a substantial quantity of sawlogs.

The Minister spoke of how the Goonoo and Terry Hie Hie forests would be protected for Aboriginal people and managed through indigenous land use agreement, but he failed to give a commitment that the Aboriginal people would manage those forests. The Minister also spoke of the 57,000 cubic metres of cypress pine that would be guaranteed for 20 years, but he failed to identify exactly where those sawlogs would come from. There will be no investment by the industry unless sawmillers are convinced that their 20-year guarantee of supply is absolutely secure; and to be convinced, the industry needs to know where they will harvest it from and when they will harvest it, not just for the next five or so years but for each year of the 20-year agreement. They need a 20-year harvest plan. Although there has been some movement on that over the past few days I understand that sawmillers are not 100 per cent satisfied.

The Minister said that NSW Forests will source timber from outside the bioregions, private property, and leasehold lands, but he does not know where they are. Foresters and sawmillers tell me there is very little harvestable timber remaining on private land, and even if there were such timber, the approval process that farmers have to go through under the Native Vegetation Act and the Threatened Species Conservation Act is such that it is almost impossible to have a private native forestry application approved.

The Minister foreshadowed that he would review the firewood industry and provide an exit package. He would do well to make a public announcement about the effect on his electorate of Blue Mountains, because Pilliga ironbark tops and tails supply the majority of winter firewood in the Blue Mountains. The business exit fund will provide redundancy payments for millworkers at affected mills, but what about other businesses that will be forced to close as a result of mills closing? What compensation will there be for businesses like Patrick Hennessy in Gunnedah, John Farrell in Baradine, or the clothing store in Coonabarabran that supplies uniforms for the Baradine mills? There is no mention of them in the bill.

During the shadow Minister's comprehensive address in the other place the Minister interjected that there is now no ironbark left in the Pilliga forest. If he believes that, either he has not been there to have a look or he does not know what an ironbark tree looks like—and, whichever it is, that is a disgrace for the Minister.

The Deputy Leader of the Opposition spoke at length about the atrocious treatment of this issue by the Independent members for Tamworth, Northern Tablelands and Dubbo. The fact that the member for Dubbo has not mentioned this issue once is astounding. The member for Tamworth jumped on a horse back to front and galloped off backwards, the member for Northern Tablelands pulled on a rein to pull the horse up, but he pulled the wrong rein, and the member for Dubbo still has not found the stables. They are on another planet altogether. They do not understand these issues at all. The members for Tamworth and Northern Tablelands did not deal with any of the technical issues of forestry, because they do not understand it. All they want to do is play political games and support the Minister.

I turn now to some of the technical issues of forestry management, which the Minister does not seem to have any knowledge of, and I point out that my forestry experience stems from my 25 years with the Soil Conservation Service. During that time I worked in varying capacities with New South Wales Forests staff throughout New South Wales. The majority of my forestry knowledge was acquired during my 10-year term as district soil conservationist at Inverell. During this time I worked with three district foresters on pinus radiata plantations, on derelict mine reclamation projects, and on the conversion of part of the Copeton Dam foreshores as a pinus radiata State forest. I also worked with these people in developing a management plan for the remainder of Copeton foreshores—an area of some 12,000 hectares surrounding Copeton Dam—for the purposes of encouraging the growth of white cypress pine as a future harvestable resource for the people of New South Wales.

When white cypress germinates, it does so as an event. That means that it will germinate only when climatic and soil surface conditions are suitable. As such, it does not germinate every year. A single germination event, which might happen only once in 20 years, may result in 1,000 to 1 million seedlings per hectare emerging, although northern New South Wales forests tend to have a maximum of up to 10,000 seedlings per hectare in any one germination event. Typically, the right climatic conditions are created by a long dry period followed by a wet period over several months, particularly if there has been enough rain to cause local flooding. The soil surface needs to be healthy, with good surface cover and organic matter, but it should be free of oxidised tall grasses, to which I referred earlier, and the area needs to be an open forest with minimal understorey shrub cover—just the conditions that a properly managed forest will provide.

Small pine trees grow rapidly until they reach a certain point, which I referred to earlier as the cypress lock-up. This lock-up occurs when the total area of all the stems, known as the basal stem area, reaches 16 square metres per hectare. In optimal conditions cypress will increase in diameter at a rate of approximately three millimetres per year. If the germination event produces 10,000 seedlings per hectare, they will reach 16 square metres per hectare in about 15 years under good growing conditions. Each seedling will be about five centimetres in diameter and may be three to five metres in height. These young trees will grow up to that this size until they are thinned. The normal silvicultural practice is to do a non-commercial thinning, taking the number of stems down to 280 stems per hectare, which is equivalent to approximately a six metre by six metre spacing.

Because 280 stems of five-centimetre diameter per hectare occupy only about 0.5 of a square metre per hectare, the small trees are encouraged to actively grow. They are left to their own resources to do this for another 40 to 50 years. During that time, they grow to 25 or 30 centimetres in diameter and reach 16 square metres and lock-up once again. At this stage, the forest is commercially thinned down to six to eight square metres per hectare of basal stem area, or about 140 stems per hectare, and is again allowed to grow for another 20 to 30 years, depending on the conditions, when a further thinning down to six to eight square metres of basal stem area will occur. The important issue in this process is that the regeneration of the forest will occur at that stage of six to eight square metres per hectare of basal stem area, so we can end up with a forest that has a range of ages in the stand and will continue to provide harvestable log sizes every 30 to 50 years. This is what sustainable forestry is all about.

The concern with the proposed 20-year guarantee of supply is that planning a 20-year forestry operation in a system that has a rotation time of 100 years means that no planning is being done beyond that 20-year period. Tonight the Minister for Primary Industries challenged me across the Chamber and said that George Paul has accepted that he will have 44,000 cubic metres of timber available, but I thought the Government's promise was 57,000 cubic metres. If George Paul has accepted there will be 44,000 cubic metres, he is really saying there will be 44,000 cubic metres of resources available for 20 years, but, in a 100-year rotation, after 44,000 cubic metres is taken each year for 20 years, all that timber will be taken out. There will be no 25- to 30-centimetre logs left and there will be no commercial thinning down. It will be clear felled.

The Hon. Duncan Gay: Bang goes the environment!

The Hon. RICK COLLESS: That will be the end of the forest, the environment, and the timber industry. That is not what the Coalition wants. The Coalition wants the timber industry to survive over the next 20 years, the next 50 years, the next 100 years, the next 200 years and beyond. The Coalition wants the industry to be indefinitely sustainable. The Coalition does not want the industry to be guaranteed only for 20 years. We want an industry that will exist forever.

As the Government attempts to supply that 57,000 cubic metres each year, it will be forced to harvest all timber at that non-commercial thinning stage, leaving no timber for future operations. As my colleague the Deputy Leader of the Opposition pointed out, that will be an environmental disaster. In conclusion I will refer briefly to white cypress pine and narrow-leafed ironbark as building products. I will show honourable members what happens to some timber when it is exposed to the elements. I have here three scraps of timber that were left over from the construction of my new home. The first one I wish to refer to for the benefit of honourable members who do not know—especially the Hon. Eric Roozendaal—is a piece of narrow-leafed ironbark.

The Hon. Amanda Fazio: Does it have cyanide on it?

The Hon. RICK COLLESS: No, it does not, and I am very pleased the Hon. Amanda Fazio asked that.

The Hon. Amanda Fazio: I thought you could lick it.

The Hon. RICK COLLESS: It could be licked without any ill-effects, because it is a purely natural product. Members opposite may laugh and joke, but this is a very serious issue. I also have a piece of cypress pine, which is also from the Pilliga, and you can see where white ants have been crawling around on it. That happened because another piece of timber, pinus radiata, was on top of it. The white ants left only the shell of the pinus radiata, but they did not touch the cypress pine.

Do Government members really expect people to build their houses out of pinus radiata? The piece of pinus radiata is as light as a feather, and the white ants have not touched the white cypress pine. It is important for all honourable members to understand that shutting down the cypress pine industry will mean that people in New South Wales will have to build their houses out of pinus radiata or some other building material. In areas where white ant infestation is bad, people obviously will not be able to use pinus radiata.

The Government has failed to properly plan the introduction of the bill. The Government does not know how much timber is there and it has not been able to produce a 20-year harvest plan that takes into account the 100-year rotation that cypress pine management requires. Unless the Government starts to plan for a 100-year rotation, the forestry industry in the Brigalow and Nandewar bioregions is doomed, even if it does survive the next 20 years. As my colleague the Deputy Leader of the Opposition pointed out, the Coalition cannot support the bill in its current form, and I look forward to debating its provisions in detail in Committee.

The Hon. MELINDA PAVEY [11.30 p.m.]: I thank my Nationals colleague the Hon. Rick Colless for his illuminating speech. I congratulate him on his passion, interest and work on this issue over a number of years. With the introduction of this bill by the Government, many industries within the region may come to an end. As my upper House leader the Deputy Leader of the Opposition said, we will oppose the bill in its current form and move a number of amendments to it.

It is important to highlight a number of issues about politics—and let us not pretend that this issue is not about politics. It is the politics of the Bob and Bob show—Bob Carr and Bob Debus—who get their way by rolling their Cabinet colleagues. It will end in environmental outcomes that will not be sustainable for the environment or communities in the region. As a representative of a regional area I have been most disappointed to witness the so-called Independents operating closely together on this issue by supporting the Labor Party in its endeavours and not supporting The Nationals or the Liberal Party in our efforts to bring commonsense into this debate.

The Hon. Eric Roozendaal: They are political opponents.

The Hon. MELINDA PAVEY: The Hon. Eric Roozendaal says that we are their political opponents. They are supposed to be representatives of their communities and they have not joined with us in our fight against the Government and its actions against these communities. One of my duty electorates is the seat of Port Macquarie, and what could the seat of Port Macquarie have to do with this issue when it is 400 to 600

kilometres away from the area of New South Wales we are discussing? I have been interested to see the Independents working as a quasi-party in a loose coalition with the Labor Party. On the front page of the *Namoi Valley Independent* last week on 16 June—

The Hon. Amanda Fazio: That is worth reading every day, I'm sure.

The Hon. MELINDA PAVEY: I acknowledge the interjection of the Hon. Amanda Fazio. She is being cynical and critical of a good country newspaper.

The PRESIDENT: Order! I remind honourable members that interjections are disorderly at all times. I ask the Hon. Melinda Pavey to ignore them.

The Hon. MELINDA PAVEY: The member for Port Macquarie—he is not honourable and never will be—was sent an email.

The Hon. Eric Roozendaal: Which paper does he read?

The Hon. MELINDA PAVEY: Madam President, you said interjections are disorderly at all times. Would you call the Hon. Eric Roozendaal to order or send him out?

The PRESIDENT: Order! I ask the Hon. Melinda Pavey not to be diverted by interjections.

The Hon. MELINDA PAVEY: The member for Port Macquarie, Robert Oakeshott, had a relevant and pertinent exchange with Ian Paul, one of the family members involved in the timber industry in the region. In an email Mr Paul raised concerns about the impact of the decision on the family's operations. This email, like all of ours, carried a rider that the information in it was confidential and may be the subject of legal professional privilege. Funnily enough, the personal interchange between Ian Paul and the member for Port Macquarie miraculously ended up in the hands of the leader of the party of the so-called Independents, Richard Torbay, the member for Northern Tablelands. The member for Northern Tablelands was nasty and despicable in his release of that email to the local community, in an attempt to undermine the Paul family. That is an example of the Independents network.

I read with interest the contribution to this bill by the member for Tamworth, Peter Draper. Nowhere did I read in his contribution or the contribution of the member for Northern Tablelands any demand for the Premier to visit the region and meet with local communities and local millers to see first-hand the impact of their decisions. There were no demands or criticisms of the Government. Their demands and criticisms were of The Nationals for allegedly playing politics.

We have played politics on this issue, and we will continue to play hard politics, because it is a game of numbers. We have given a commitment to the people of the region that when we have the numbers in 2007 we will reverse this stupid decision and take up the BRUS option. As my colleague the Hon. Rick Colless pointed out, the BRUS option, which was released on 18 September 2002, is a unique piece of community planning and co-operation between all stakeholders.

The BRUS option states that "tourism is rightly recognised and is an important part of the bioregional economy". I have heard Mr Ian Cohen mention on many occasions that if a timber mill has to close it does not matter because a tourism industry will be established in the area. Research by the Resource and Conservation Division in 2002 shows that Planning New South Wales indicated that visitor numbers would have to increase by 490,000 people per year to generate the same input to the regional economy as the local timber industry has. It is important to put that into context.

Two months after the BRUS option was released, my upper House leader the Deputy Leader of the Opposition received a Cabinet confidential memorandum relating to Cabinet discussions in 2002. Two months after the community got together with the relevant stakeholders and came up with an option that was going to be a genuine win for the environment and local economies, Cabinet met in the strictest confidence. I am talking about at a period four or five months before the State election. The Cabinet confidential memorandum shows that the Government's decision in 2005 is virtually the same as it agreed to four months before the election. It agreed to it four months before the election but sat on it for three years, which gives an indication of the duplicitous nature of this administration.

The 2002 November memorandum points out that the Government had set aside 352,000 hectares. We have ended up with virtually the same number now. I note with interest that the cover sheet title is headed "The conservation of sustainable agricultural and industry initiatives for the Brigalow Belt South Bioregion" and lists the Ministers involved and the date of the minutes in November 2002. It states:

> The main purpose of the minute is to seek Cabinet approval for a series of reforms for the Brigalow belt south bioregion forest and related natural resources, including approval to revoke State forests and declare national parks and reserves and approval for conservation initiatives on private lands.

In answer to the question of resources required—how much it is going to cost—there is big fat blank. The Government did not know and did not care. It did not know that a decision it had signed off in November 2002 has ended up costing the taxpayers of this State $80 million.

When Premier Bob Carr announced the final decision some three years later he shouted from the rooftops that the permanent conservation of 348,000 hectares would not cost a timber industry job. It is costing plenty of jobs within the timber industry and it will cost plenty of jobs in local towns and villages. It is also costing the taxpayers of this State $80 million to reach an outcome that will not achieve the environmental outcomes we all desire. The irony in all of this, which was explained scientifically by the Hon. Rick Colless, and why we do not support the bill, is that the conservation movement is so keen to have everything replicating pre-1788 conditions. Before white settlers arrived here what did that land look like? To be honest, it was savannah land; it was mainly grassland. Everyone in the region knows that.

The Hon. Amanda Fazio: Give us your scientific references for that bit of rubbish.

The Hon. MELINDA PAVEY: The books written by Eric Rolls and Tim Flannery. Has the Hon. Amanda Fazio read those books?

The Hon. Amanda Fazio: Have you read them?

The Hon. MELINDA PAVEY: Yes, I have, with the assistance of the Hon. Rick Colless. I have taken an interest in the matter we are debating, unlike members opposite. Who is paying that $80 million? Every householder in Drummoyne, Penrith, Miranda, Menai and Ryde and all the other city suburbs, through their waste levies. Every time they take out their wheelie bin they pay about $1 for the privilege. They would not be happy to know their $80 million is going towards taking good, honest decent timber workers out of productive employment and out of productive community life in their villages. One of the most interesting and brave contributions to this debate was by the Federal Labor member for Rankin, Dr Craig Emmerson. I congratulate him on that contribution. He grew up in Baradine and has very significant environmental credentials.

Dr Emmerson is a senior officer within the Queensland environment department and he thinks that what the New South Wales Labor Party has done is an absolute and utter disgrace. I never thought I would agree with a Federal Labor member; but I certainly do on this occasion. The village of Trundle is in the electorate of the honourable member for Dubbo and will be seriously affected by this decision, but it is worth reiterating that she made no contribution to the second reading debate in the Legislative Assembly.

The Hon. Jennifer Gardiner: She sent us an email from her constituent about this issue.

The Hon. MELINDA PAVEY: Yes.

The Hon. Jennifer Gardiner: That was a pretty sensible thing to do.

The Hon. MELINDA PAVEY: It was. By sending us an email from her constituent, the honourable member for Dubbo has at least acknowledged privately that she cannot do anything about this issue. However, I have not heard her condemn the Government, the Premier, the Minister for the Environment, or the Minister for Primary Industries. They all work hand in glove. This debate has given us all the opportunity to outline the underhand deceptive tactics of the so-called Independent members.

The Hon. JENNIFER GARDINER [11.43 p.m.]: As a member of The Nationals I strongly oppose the passage of this bill, and again I speak out against a Carr Labor Government bill that attacks jobs, businesses, and communities across a swathe of New South Wales electorates. Many people in the areas affected by the provisions of the bill are at a loss to understand why the Carr Labor Government has introduced it. They need only read these words uttered in this Chamber by the Hon. Ian Cohen of the Greens on 14 September 2004:

I urge the Government to take a major step towards adequate nature conservation in western New South Wales, starting with some brave decisions for the conservation of the Brigalow Belt South and Nandewar bioregions. If the Government cannot overcome its paralysis, like the old dog, it may have to be put down.

The Hon. Amanda Fazio: The Nationals?

The Hon. JENNIFER GARDINER: No, Mr Ian Cohen was talking about the Carr Labor Government. That was a warning from the Greens to the struggling Carr Labor Government about its survival chances in the 2007 election. If Labor does not lock up the Brigalow, the Greens might walk away from their usual practice of allocating preferences to the Australian Labor Party. That and similar comments by the Greens give rise to my contention that the bill represents a deal between the Greens and the Australian Labor Party, trading the livelihoods of electors whom Labor believes to be expendable for Greens' preferences in seats elsewhere in New South Wales, particularly in Sydney. It is a cynical swap. The bill directly affects at least five electorates: Tamworth, Barwon, Orange, Upper Hunter and Dubbo. It is a straight-out betrayal of decent people throughout the north and north-west and down through the centre of the State.

My colleague the Deputy Leader of the Opposition demonstrated that the Carr Labor Government set out to deceive the people of those electorates years ago. The assessment process, including the involvement of the Rt. Hon. Ian Sinclair, seems to have been pointless and a waste of money. The Brigalow lock-up was a done deal years ago. The secrecy surrounding the whole process, the trampling upon deeply considered community input, and its drawn-out nature has been a cruel exercise. Last weekend I moved the following urgency motion at The Nationals highly successful annual general conference at Gunnedah.

[*Interruption*]

The Hon. Melinda Pavey: Point of order: Madam President, you ruled earlier that interjections are disorderly at all times. I ask you to call the Hon. Amanda Fazio to order, because she has been distracting and disorderly.

The PRESIDENT: Order! I remind all members that interjections are disorderly at all times.

The Hon. JENNIFER GARDINER: At The Nationals highly successful annual conference at Gunnedah, a town directly affected by this bill, a town still reeling from the Premier's Brigalow announcement—

The Hon. Amanda Fazio: It was not a highly successful conference. No-one knew about it.

The Hon. JENNIFER GARDINER: It was successful. At least we did not call it off a day early, like the Labor Party did when it closed down its annual conference at the Sydney Town Hall because the people of New South Wales were so disinterested.

The Hon. Amanda Fazio: Oh you loser: It had only been scheduled for two days.

The Hon. JENNIFER GARDINER: You did not even get to the agenda affecting country people, particularly the closure of the Casino to Murwillumbah rail service. You closed down the debate.

The PRESIDENT: Order! The member with the call should not allow herself to be diverted by interjections.

The Hon. JENNIFER GARDINER: At the conference I moved:

That, with respect to the Brigalow Belt South Bioregion, the Conference:

(a) Condemn the Carr Labor Government for legislating to lock-up renewable cypress pine forests, destroying hundreds of timber industry jobs in Gunnedah, Baradine, Bingara, Pilliga, Quirindi, Eugowra, Gwabegar, Gulargambone, Narrabri and districts;

(b) Note the devastation caused to other businesses in these communities which provide goods and services to the closing and threatened timber mills and those which have developed using timber by-products;

Note that the region's future economic development is jeopardised because the opening up of gas and coal reserves is threatened;

(c) Condemn the Carr Labor Government for the deceitful way it has conducted the resource assessment process and for keeping secret the Sinclair Report which was part of that assessment process;

(d) Congratulate the NSW Parliamentary Nationals and the NSW Opposition for the long-standing and continuing support for the widely supported BRUS option which struck a sensible balance between economic and conservation values;

(e) Call on the so-called Country Labor Members and all crossbenchers of the Legislative Council to vote against the Bill when it is debated in the Upper House;

(f) Note the mischief caused by the so-called Independent MPs in the Brigalow debate to the detriment of the communities they represent; and

(g) Endorse the invitation extended by the Hon. John Anderson—

the local Federal member—

to Premier Bob Carr to urgently visit Gunnedah and other affected districts and take moral responsibility for the distress and dislocation caused by his decision to close the Pilliga and other forests and re-think this wrong-headed policy.

I have pleasure in saying that the motion was carried unanimously. I agree with the comments of my Nationals colleagues, the Deputy Leader of the Opposition, the Hon. Rick Colless and the Hon. Melinda Pavey, about the Independent parties, which have been exposed as a bunch that is sucking up to the Australian Labor Party rather than sticking up for the interests of the electorates and the communities of the north of the State. The honourable member for Tamworth in the other place referred to an earlier speech I made on this important issue in which I attacked the Australian Labor Party for trampling on some of the most vulnerable people in the timber industry work force. I stick by my colleagues.

It makes me sick when the Australian Labor Party, which claims it represents the less well off in our society—at least, it used to claim that—tramples over such people, kicks them in the teeth and in the guts, and just walks away from them. I have seen the anxiety on the faces of some of those constituents and it is a sad and sorry sight indeed.

The Premier will be in the Tamworth electorate later this week. He has not been to the Pilliga. Perhaps he could take the opportunity to educate himself about the issue at first hand. Is that too much to ask? I do not think so, especially as the Premier announced the devastating decision to lock up the Pilliga, as he had planned to do years ago. That is obvious from the leaked Cabinet minute, to which my colleagues have referred. One wonders why the Government hung so many people out to dry for so long. Along with the Hon. Rick Colless, I attended the rally of approximately 2,500 people at Gunnedah a couple of weeks ago. Since then Gunnedah's gutsy mayor, Gay Swain, and the Gunnedah community have vowed to continue the fight to save jobs and businesses in the district. They have vowed to win that fight, as the Leader of the Opposition, John Brogden, pointed out when he visited Tamworth a couple of weeks ago. During that visit he met with a delegation from the affected area, particularly from Gunnedah—he met people directly involved in the timber industry, but also representatives from businesses that have grown up around the timber industry. Unlike Mr Debus and Mr Carr, Mr Brogden was more than happy to meet with such a delegation and it very much appreciated his time.

The Carr Labor Government cannot manage Sydney's population growth, yet in the package being offered to timber workers—who, until this bill was introduced, had sustainable jobs—there are relocation provisions. The Carr Labor Government does not seem to understand that people do not want to leave towns such as Baradine. The town functions extremely well. It has a hospital, two schools, two pubs and a new cafe. It is the tidiest town in the State. It has a terrific community spirit. People have grown up there and people have settled there. I met with one timber worker, for example, who had come from Dorrigo after his job on the coast was wiped out by the Labor Government. He went to Baradine with his family to a more secure area in terms of employment, so he thought. Why would such people, who are happily bringing up their kids—or were up until now—want to leave that beaut little town? The simple fact is that they do not wish to leave. My heart goes out to the people directly and indirectly bruised and devastated by the Carr Labor Government's capitulation to the Greens threat that, like an old dog, it would be put down if this bill was not passed through this Parliament. I look forward to working with many of those same people to ensure that, yes, like the vicious, cruel, diabolical dog of a government, that the Government will be put down and that that will happen in March 2007.

Reverend the Hon. Dr GORDON MOYES [11.53 p.m.]: I am pleased to speak on behalf of the Christian Democratic Party on the Brigalow and Nandewar Community Consultation Area Bill. The stated objectives of this bill are to reserve forested land in the Brigalow and Nandewar areas in order to create a community conservation area that provides for permanent conservation of land, to protect areas of natural and cultural heritage significance to indigenous people and for sustainable forestry, mining and other appropriate

uses. The bill also aims to give local communities a strong involvement in the management of that land. In the interests of time I will endeavour to keep my remarks brief, although I have taken quite an interest in this particular subject and have visited the area. The Christian Democratic Party expresses concern with respect to this bill. Though the Christian Democratic Party observes that the objectives of the bill have great merit, it is also at the same time important to realise that the livelihoods of many individuals in the Brigalow area are at stake.

For many years timber workers and pastoralists have depended on natural resources to fend for themselves and for their families. For many years, the environment has provided these individuals with the necessary income to make a living. This bill will cordon off the ability for timber workers and pastoralists to make a living. It will devastate the small towns and villages that are wholly dependent on the environment for their viability. What will happen to these individuals and their families? Their ability to gain an income, their self-esteem, their morale and their disposition will be gravely affected. How will the Government respond to the ramifications of this decision for those affected? What will be the real cost to these communities if this bill is passed? On a material, social and emotional level, the costs to these families and also to the Government will be immeasurable. I envisage that many workers have been employed in the timber industry for years. I understand that there are many pastoralists in the affected areas. This decision will cut such people off from all they know.

It is difficult for people to be retrained or learn new skills when they have performed certain tasks for a number of years. The Deputy Prime Minister, and Federal member for Gwydir, John Anderson said, "Over the years Gunnedah has lost two coalmines, an abattoir and a pet food factory and has endured floods, drought and a reduction in water allocations." Gunnedah is, of course, one of the main towns affected by the Brigalow decision. The Deputy Prime Minister also stated that the closure of the town's timber mill would be disastrous. The Manager of Gunnedah Timbers, Patrick Paul, has said that about half the new area offered by the Government—the additional 15,000 hectares of cypress forest—had been logged out and would not be available for use for 15 to 20 years, and that the other half contained mainly low quality timber. He estimates that the Brigalow Belt South bioregion decision could cost 472 jobs across the bioregion. This decision will continue to exacerbate the incredible environmental conditions that pastoralists face. Senior Vice President of New South Wales Farmers has expressed the view that "rural New South Wales residents suffer under the worst drought conditions since European settlement".

The Government will certainly add to the woes of those people by taking away the very source of their livelihoods. Dr Craig Emerson, an economist and environment adviser to former Labor Prime Minister, Bob Hawke, who was head of Queensland's Environment Department for five years and is currently the member for Rankin south of Brisbane, has denounced the Brigalow decision. He informed the *Land* that he knows both ends of the argument. As a high-ranking official within the Queensland environment department he would definitely have the nous to understand the implications of the Brigalow decision for the environment, and also for the timber workers and pastoralists. Dr Emerson has vehemently opposed the New South Wales Government's decision to lock up the 348,000 hectares of the region in reserves and restrict local timber mill access to the forest's cypress pine. "The decision has the potential to devastate country towns like Gulargambone, Gwabegar and Baradine", he told Federal Parliament. The Christian Democratic Party concurs with that position. *National Geographic* noted:

> In the Brigalow ecoregion there are the spectacular gorges and escarpments of the Carnarvon Range [that] bisect low, sweeping forests dominated by brigalow trees—slender acacia trees with silvery crowns and dark trunks. A variety of other habitats can be found here as well, including semi-evergreen vine thickets, bogs, and eucalyptus forests—each with their own endemic wildlife.

That being said, there are also reports that suggest that the Pilliga forests, one of the main treasured forests in the Brigalow, are a relatively recent phenomenon. Peter Austin in an article titled "Forest's roots not in 'dreamtime'", found in the *Land*, recounted the history behind the Pilliga. Apparently, when the first explorers traversed the area in the 1820s and 1830s, they reported grasslands and open woodlands where today's forests stand. Settlers followed the explorers and the story of the post-European development of the region is well told in Eric Rolls' acclaimed historical study, *A Million Wild Acres*. That book has been referred to by several other speakers tonight. The plains were soon taken up in grazing leases and by 1875 it was estimated that 30,000 head of cattle, 10,000 horses and 25,000 sheep were running the area now covered by forest.

There were heavy rains between 1878 and 1885, which triggered a massive germination of pines and eucalyptus that the depleted numbers of livestock failed to keep in check. Without going into the detail given by Eric Rolls and others, it is asserted that for many years large sections of the forest were used for sawmilling. In fact, the value of the forest as a commercial resource was recognised by the New South Wales Government, with the dedication of 182,000 hectares of State forests in the area in 1917. By the 1950s the Pilliga supported a major sawmilling industry, producing cypress pine timber for the post-war building boom. That was the state of play for many years until the moratorium on logging was imposed in early 2003, which damaged completely the viability of the timber industry.

In March 2005 Peter Meredith, writing in the *Australian Geographic*, reminded us that in 1818 explorer John Oxley damned the Pilliga as a forbidding and miserable place. The word "scrub", with its associations of unkempt scrawniness, was applied, and the term "Pilliga scrub" stuck for decades before it was rehabilitated into "Pilliga State Forest". Whatever the name, there is no denying the subtlety of this 5,000 square kilometre splash of State forest and nature reserve between Narrabri and Coonabarabran in northern New South Wales.

It should also be recorded that indigenous people have lived in this area for thousands of years. They marked caves with hand stencils that can be seen to this day. One can see etchings of emu and kangaroo feet and a tail—perhaps that of a goanna. These stencils and etchings are estimated to be between 10,000 and 12,000 years old. Judging by the number of hand stencils, this seems to have been a special place for indigenous people. It also appears that families came here because the handprints are of different sizes. The Aboriginal people, the Kamilaroi, inhabited an area embracing the Namoi, Gwydir and Baron rivers, and numbered about 15,000. They left ample evidence of their presence throughout the Pilliga at campsites and rock shelters.

Becky Featherbe, a resident of Baradine and secretary of the Baradine Progress Association, says that, without thinning, young cypress forests stop growing due to a shortage of nutrients and become dense, fire-prone scrub. Natural thinning takes a long time. Thinning by human hand encourages the development of a healthy and productive forest. Today much of the Pilliga—4,000 square kilometres—is State forest, with an 802 square kilometres National Parks and Wildlife Service nature reserve slotted into the south-east. It is important to understand what is happening in that area. The Pilliga's native plant species and exotics grow in a mosaic of communities. White cypress dominates in the Pilliga's west and centre, usually associating with box and ironbark. Black cypress grows in the east among bloodwood and ironbark. If one looks west from any promontory in the east, one sees a rolling grey-green sea, which pokes through the darker spires of the cypress. There are some rugged sandstone outcrops and cliffs and occasional gorges.

The State forests—more than 80 per cent of the area—are in many ways very different and are being used rather than conserved. Overall, their vegetation is more open and less wild. Unlike the nature reserve's tracks—which are mostly closed to vehicles as only day walking is allowed—their tracks are generally smooth and wide because they carry logging traffic. The differences between the two zones mirror the polarisation that has been building up around the Pilliga. Since August 2000 the New South Wales Government's Resource and Conservation Assessment Council has been consulting interested parties about the future of the bioregion. Because of its size and significance, the Pilliga was the main focus. At issue was whether, and to what extent, its State forests should continue to be logged—mostly for cypress—and whether the extraction of coal and gas should be allowed there in the future.

We note the large gas reserves in the area and the Premier's desire to move from coal-fired to gas-powered electricity generators. However, in August 2002 the Western Conservation Alliance protested against any gas exploration in the Pilliga. The parties have formed into two camps on this issue. Most of the conservation bodies, under the umbrella of the Western Conservation Alliance, espouse the slogan "Saving what's left". They want cypress extraction in the region cut by 76 per cent. In the other camp is the Brigalow Region United Stakeholders Group, representing parties such as the local sawmillers, farmers and other private landholders. They have argued for continuing the harvesting of cypress and ironbark, and for mining and other commercial activities to be allowed in the forest. Their primary point is that local sawmills and the communities they support will die without the Pilliga's timber. A secondary point is that without management the forest will deteriorate back into a dense, fire-prone scrub.

Between those two extremes is a number of different positions proposed by the Government. The Government was originally due to announce its decision on the region's future at the end of 2002, when the matter was debated quite vigorously in the House and many questions were asked. But the Government's decision has come to us in early 2005. The area has a rich habitat. It is home to 33 native mammal species, more than 200 bird species, 23 lizard species, 13 snake species, 14 frog species, one tortoise species and 12 introduced species. Some 21 native animal species are threatened at present and as many as 17 mammal species may have become extinct since European settlement. But there is some real growth in the area as well. The number of red-necked wallabies is up and, as has been mentioned tonight, koalas are thriving but there are fewer dingoes and brush-tailed rock wallabies. The largest population of barking owls in New South Wales can be found in the area.

There is quite a bit of evidence that fire frequency increased after the arrival of stock management in the area. This produced a mix of dry, grassy forest, various woodland types and ironbark ridges. Into this landscape stepped the squatter, with his sheep and cattle. Within 30 years, opportunistic overexploitation, punctuated by natural disasters, produced major problems. There was a big drought in the late 1800s that led to a crash in animal numbers. Subsequent wet years encouraged phenomenal cypress regrowth. Unchecked by animals, the pines kept growing—densely packed saplings even recolonised cleared land. The last great bushfires were in 1997. They burned for 30 days and human lives were lost.

For the first half of the 1900s rabbits restricted further regrowth. But by 1950, when a long wet fostered another cypress explosion, rabbits were reeling from myxomatosis. The result was dense stands of young pines that have locked up, reaching the point where they will not grow further until they self thin or are thinned by human hand. Timber extraction has also had a huge impact. Cypress was harvested for building and ironbark was milled for railway sleepers. To encourage the cypress, foresters and timber getters ringbarked and poisoned the ironbark. The forest that has survived is undoubtedly different from that which Oxley saw. Conservationists believe there was once a greater type of tree species. People say that there might be more cypress now because of fire suppression—in a natural habitat wildfires would have thinned the forest.

But although there are more cypress stems, there is reduced habitat for animals. Most of the big ironbark and cypress pines—the habitat trees—have been chopped down. Fewer old trees mean fewer nesting and roosting hollows for animals. That is why the number of hollow-dependent creatures, such as masked owls and ringtail possums, are declining. The lack of large nectar-bearing trees is hitting nectar feeders, such as the little lorikeets and regent and painted honey-eaters. Like the unkempt hairdo of a flower child, red and bearded lichens sprout from the branches of the white cypress, the Pilliga's dominant tree species. Lichens are composite organisms: a combination of fungi and algae living in a symbiotic relationship. The fungus absorbs water and the algae produce food with the aid of sunlight. Lichens have no roots and grow only when they are moistened by dew or rain. Many lichens are highly sensitive to airborne pollution.

Cypress pine is the hardest of our softwoods. It makes a superb building material—not just because it is beautiful. It is also durable, it shrinks little, and, as the Hon. Rick Colless pointed out, it resists termites. Cypress milling was under way in the Pilliga region by the 1860s, but demand mushroomed in the post World War II building boom. It should be pointed out that there are a large number of employment opportunities in the area. I cite, for example, the well-known Pilliga Pub, the Pilliga artesian bore baths, and Pilliga Pottery, in Coonabarabran. The forests of the Pilliga employ about 180 locals directly and 140 indirectly. Every year State Forests overseas the harvesting of 50,000 cubic metres of cypress pine and about 7,000 cubic metres of ironbark from the Pilliga. State Forests considers this to be sustainable.

As with most things, we have to balance conservation and timber extraction. The way things are going we will be more active in promoting conservation and increasing biodiversity through good management. The future for the Pilliga is as a managed forest. Its welfare must lie in improved forestry practices, signs of which have already been seen. Humans are part of our environment. If we can learn to benefit the environment and ourselves at the same time, we would get a much better system, but that requires significant good management.

The bill will enable payments to be made to the Consolidated Fund from the Environmental Trust Fund, to offset payments from the Consolidated Fund for the purpose of implementing forestry restructure, assistance programs, and schemes in the Brigalow and Nandewar areas. It remains to be seen whether the families affected will be put in the same or a better position than that which they are currently in. What is apparent, however, is that the lives of families affected will be shaken, uprooted and dishevelled, and there will be no absolute guarantee that they will recover from the implementation of this bill, if it passes through this House. I believe that the Government is not doing enough for the residents of small towns. We will support the Opposition amendments to be moved in Committee.

Debate adjourned on motion by the Hon. Peter Primrose.

STATE REVENUE LEGISLATION AMENDMENT BILL

SECURITY INDUSTRY AMENDMENT BILL

NATIONAL PARKS AND WILDLIFE (FURTHER ADJUSTMENT OF AREAS) BILL

NATIONAL PARK ESTATE (RESERVATIONS) BILL

LOCAL GOVERNMENT AND VALUATION OF LAND AMENDMENT (WATER RIGHTS) BILL

JAMES HARDIE FORMER SUBSIDIARIES (SPECIAL PROVISIONS) BILL

BUILDING LEGISLATION AMENDMENT (SMOKE ALARMS) BILL

Bills received.

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

Motion by the Hon. Ian Macdonald agreed to:

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

Bills read a first time and ordered to be printed.

ADJOURNMENT

The Hon. IAN MACDONALD (Minister for Primary Industries) [12.13 a.m.]: I move:

That this House do now adjourn.

NORTH COAST DRUG COSTUME KITS LAUNCH

The Hon. AMANDA FAZIO [12.13 a.m.]: Yesterday I had the pleasure of representing the Special Minister of State at Coffs Harbour at the Launch of the North Coast Drug Costume Kits. The launch was held on Gumabaynggirr land, and that was most appropriate as the project is a partnership between the New South Wales Government, through the Premier's Department; the Australian Government, through the National Illicit Drugs Strategy Community Partnership Initiative; and the Mid North Coast and North Coast communities, represented by an Aboriginal Project Advisory Committee. Ken Nayda, a Gumbaynggirr Elder, provided a Welcome to Country, and Bea Ballangarry, the regional indigenous representative on the Arts Mid North Coast Board, spoke of the importance of the project to local Aboriginal communities.

The North Coast Drug Costumes Kit is one of many Aboriginal projects funded as part of the New South Wales Government's Family Drug Information Kit—a program that recognises the importance of the family in addressing drug and alcohol issues. On 26 February 2003 Minister Della Bosca approved the Aboriginal Family Drug Information Kit [FDIK] project plan involving development of a series of regionally determined information products and/or strategies for Aboriginal communities. North Coast Aboriginal communities decided a set of "'drug costumes" was the most effective medium for community education. The New South Wales Premier's Department entered into a partnership with Arts Mid North Coast to develop a locally tailored resource for Aboriginal communities living on the North Coast.

The New South Wales Government provided $10,000 to Arts Mid North Coast to develop a set of drug costumes. The Premier's Department developed an accompanying print resource at a cost of approximately $6,000. On the strength of the New South Wales component, Arts Mid North Coast was able to gain significant additional funding for the project in the form of a $15,000 grant from the Australian Government. This meant two kits could be developed for the region. The kits comprise eight adult-size, full-body costumes designed to characterise various drugs, including a bong, cigarette, wine cask, bottle of beer, mug of coffee, pill, capsule and syringe; information labels to attach to the costumes during use to provide supplementary information; cooling bibs for wearing underneath the costumes; a stimulus booklet—an information resource to guide the use of the drug costume kits, including substance-specific background information; and additional background information on alcohol and other drug effects.

The North Coast Drug Costumes Kit is a highly creative project and an outstanding example of a regional community working in partnership to help families discuss and learn about drug and alcohol issues. Community members and local Aboriginal service workers are in an ideal position to understand what is happening with their families in their region and to know what form of information will suit their needs. The people involved in the North Coast drug costumes project have demonstrated this by actively engaging their community, and government and non-government agencies in tackling drug and alcohol misuse. A wide range of people and organisations were involved in this project and should be acknowledged for their significant contribution: the Biripai, Dunghutti, Gumbaynggirr and Bunjalung communities for the initial inspiration and valuable guidance on the development of the kits; Jacky McCarthy, who worked diligently on the design and manufacture of the costumes, overcoming some tricky design issues; Anthony Hickling, who provided the original artwork that brought to life the booklet designed to support the kit; Jenny Grant, from the Premier's Department in the New South Wales Government for her work supporting the extensive consultation between all the project partners; Richard Holloway and staff of Arts Mid North Coast for managing the project; the Australian Government for its financial contribution to the project; and Narelle Cochrane and Anthony Franks, from the Aboriginal Health Service of the Northern Rivers Area Health Service, for taking on the role of custodians of the completed kits.

I congratulate all those involved and the advisory group on demonstrating how a community can build strong partnerships to educate individuals and families about drug- and alcohol-related issues. This project is well on its way to achieving its longer-term goals of community education with the kits being booked for a number of community events already. I am sure that the North Coast communities will continue their strong work in drug prevention. It is through the cumulative efforts of the North Coast Drug Costumes Kit and other similar projects that we can actively prevent or reduce drug and alcohol problems in New South Wales. The launch of the kits also included a performance of "VB Dreaming" by the Wirrunga Dunggirr and the Baga Baga Dancers. This was introduced as an example of the performing arts being used to communicate drug and alcohol issues.

Yesterday marked the start of Drug Action Week: a week in which we recognise the impact of drug and alcohol on our communities. The New South Wales Government strongly supports this week and, through its Drugs and Community Action Program, is involved in many local events aimed at raising awareness. The Carr Government remains strongly focused on drug and alcohol issues and the important need to address the damage associated with their abuse and misuse. Since the 1999 Drug Summit the Carr Government has established a new direction for drug policy in New South Wales. It is a policy that recognises the complexity of drug abuse and tackles the problem on all levels, as a whole of Government, whole of community issue.

In practical terms more programs have been provided to turn lives around, help families and give communities the skills and resources to tackle the drug problem. Since the Drug Summit an additional $434 million has been allocated for drug programs focusing on the four key areas of prevention, education, treatment and law enforcement. We also recognise that the reasons why people misuse drugs and alcohol can be complex. This misuse can result in significant harms not only to individuals, but also to families and the wider community. Keeping this in mind, there is no single or simple solution to this difficult social issue. Managing the impact of drugs and alcohol requires effort from all levels of government, the community, individuals and business. Further, it is essential that the approaches taken are sensitive to local needs. Once again I would like to congratulate all those involved in the North Coast Drug Costume Kits Project.

INSTYLE CONTRACT TEXTILES ENVIRONMENTAL TEXTILE COLLECTION

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [12.18 a.m.]: I wish to highlight concerns expressed by an Australian textiles company regarding the future of Australian woolgrowers, manufacturers and associated industries. Instyle Contract Textiles is a leading supplier of contract furnishing textiles in Australia and New Zealand, and the company also exports to America and Asia. In conjunction with the Woolmark company, Instyle has been developing an environmental preferable textile collection over the past 2½ years. Instyle contacted me in my capacity as shadow Minister for Primary Industries. The company also contacted other relevant Ministers and shadow Ministers throughout the country in relation to their concerns and to seek change to procurement policies.

Federal, State and local government policies specify the purchase of environmentally preferable products and, in particular, recycled content products and materials. I share Instyle's belief that those policies could potentially damage the Australian wool growing industry, local textile manufacturers, distributors and the environment. Currently, a significant percentage of textiles and carpets supplied in government offices and public buildings is manufactured in Australia from Australian wool, and that could be under threat from procurement policies. Wool textiles and locally produced carpets could be overlooked in favour of less desirable recycled synthetic textiles and carpets that are mostly manufactured overseas.

Instyle's product, LIFE Textiles—"LIFE" being an acronym for low impact for the environment—is made from sustainable rapidly renewable resources, including Australian eco and organically certified wool. The only textiles currently available in Australia with recycled content are made from polyester fibres manufactured overseas. Those recycled textiles, which are known otherwise as polyethylene terephthalate [PET], contain harmful and toxic substances which create environmental and human health risks during production, use, disposal and recycling. Alarmingly, no company in this country has the facilities to recycle recycled PET. Therefore, the current policies encourage the importation of another country's waste, that is, plastic bottles that will ultimately end up in our landfill. Those toxic substances include antimony, chromium, arsenic, benzene and toluene.

Antimony is a toxic heavy metal that is mixed into alloys and used in lead storage batteries, solder, sheet and pipe metal, motor bearings, castings, semiconductors, and pewter. It is harmful to health and is known to cause cancer under certain circumstances. Benzene is a carcinogen and chronic exposure can affect bone marrow and cause leukaemia. The most common route of exposure is inhalation, but the chemical can also enter the body through skin contact and by swallowing. The report entitled, "Principles, Practices and Sustainable Design" recognises the risks associated with recycling PET textiles and carpets. It states:

> … simply recycling carpets to meet an arbitrary green standard, for example, overlooks the quality, content and potential hazards of carpet materials. Most recycled carpet materials contain high levels of PVC which can contain plasticizers and toxic heavy metals …

LIFE Textiles are made with rapidly renewable, sustainable and/or non-hazardous recycled resources, with minimal input, energy-water, and output, waste. They are made without polluting or toxic chemicals. The fabric is produced locally, benefits indoor air environment and human health and is reusable, recyclable or

biodegradable. Instyle is rightly concerned that its LIFE Textiles product and all other textiles products made using rapidly renewable resources have been excluded from the Green Building Council Green Stars—Office Interiors rating tool, and yet recycled PET products are included. The decision to exclude sustainable rapidly renewable content and locally produced materials will eliminate better sustainable options and could have serious consequences for the Australian wool growing and Australian textile manufacturing industries. [*Time expired.*]

NATIONAL 40 DAYS OF PRAYER FOR BREAKING THE DROUGHT

Reverend the Hon. Dr GORDON MOYES [12.23 a.m.]: I encourage citizens of New South Wales who are badly affected by the present drought to endorse the National 40 Days of Prayer for Breaking the Drought, which is presently being organised by churches of all denominations. As honourable members know, 90 per cent of our State currently finds itself in drought. Rainfall in the first four months of 2005 was the second lowest since records began in 1910. That has come on the back of what was already one of the worst droughts in living memory. Farming families are crying out for significant rains to penetrate the soil, nourish the crops, and fill the dams. They rejoiced in the recent steady, soaking rains but much more is needed. Since 1788 Australians have struggled to come to terms with the elusive bounty and the perceived capricious promise of a wide, brown land. During the trying drought in 1895 the Governor of New South Wales responded to "the very serious calamities from which the Colony is now suffering" by calling on all of Her Majesty's subjects:

> … to observe such a day of prayer. The earnest hope is that all classes of the community will join with reverence and humility in this solemn appeal to the divine mercy. That would be the key to reviving our land.

Australians are again being called upon to pray for a reversal of our current drought. The nation is about to embark on 40 days of prayer in response to the desperate needs of those in rural and regional Australia. Individuals as well as churches and prayer groups are being encouraged to be involved in this bold prayer initiative. The prayer season will commence and run right through July and August until 1 September. Churches are urged to include special prayers for rain throughout that period. Individuals can find personal quiet times to reflect and pray for those affected by drought. Communities are combining to hold at least one public event in which all can pray in unison together. We can understand that farmers would feel that they need prayer this week, not in six weeks time, but the fact is that many prayers are already being offered across the country. Uniting a nation, as it is our hearts' desire to do, requires time to prepare.

Last week's *Bulletin* magazine reported that in some communities some farmers were so desperate that they went out at midnight and conducted rain dances to invoke rain from the heavens. Despite those dances being attractions for tourists, the heavens did not respond. However, we have faith petitioning God in prayer that He will not disappoint us. The hope is that with a unified response across the nation the rains will come and bring new life to the earth and new hope to our people. One can only imagine the strained domestic relationships and deep depression for some farming families. One school student from Coonamble wrote of the drought:

> We have probably been in the beginnings of drought for about 1½ years now. But now it is getting worse by the day and when you watch your parents' faces tired and exhausted after feeding stock [by hand] all day and their faces weary of looking at death every minute you have to understand [that living in drought] is not the easiest thing in the world.

We will be praying that a reviving spirit will come upon these people. They are of deep concern to all honourable members of this House. I take this opportunity to remind honourable members that, conversely, people in drought-affected communities across our State are continually praying that in debates and discussions parliamentarians will make wise choices that will be in the interests of the people of this State. They are praying that we will be firmly basing our judgments on principles of goodness, justice and love. And we need to pray for them as they go through tough times. We pray that the Divine will look at the decisions that we face and will hear our prayers, and that our people will be refreshed.

AUSTRALIAN EQUINE AND LIVESTOCK CENTRE

The Hon. JENNIFER GARDINER [12.28 a.m.]: Last week I attended the official launch at Tamworth of the Australian Equine and Livestock Centre by the Deputy Prime Minister, Federal Leader of The Nationals and Minister for Transport and Regional Services, the Hon. John Anderson. Mr Anderson presented a cheque for more than $2 million to the Mayor of Tamworth Regional Council, Councillor James Treloar. This is the first instalment of the Federal Government's allocation of more than $6 million to this project under that Government's popular Regional Partnerships Program. The Australian Equine and Livestock Centre project has been some years in the making, with an earlier proposal being the subject of an analysis by Professor John Chudleigh. Professor Chudleigh found that the earlier proposal had deficiencies in terms of the centre's probable viability.

Rather than abandon the dream of securing Tamworth's place as the regional capital for equine and livestock activities, Tamworth community leaders, including the Tamworth Regional Council and business leaders, together with many equine and livestock associations, banded together to produce a completely new proposal for the centre, which will be built near the Tamworth Regional Entertainment Centre at the southern gateway to Tamworth city. The Tamworth Regional Entertainment Centre is one of the main venues for the Tamworth Country Music Festival. With the Federal Government's financial support, boosting substantial funds to be contributed by the Tamworth Regional Council, Tamworth businesses and other stakeholders, development applications will now be lodged with a view to construction commencing at about the time of the 2006 Country Music Festival.

It is planned that the centre will be open for business one year later. As Mayor Treloar stated at the launch, inland communities must work particularly hard to build upon a district's existing features so as to attract new residents and build population. Tamworth is known worldwide for its Country Music Festival, and the building of a sophisticated northern home for the equine and livestock industry is a natural fit with the festival, providing a large venue for events year round.

It has taken a great effort by all concerned to bring together the parties relevant to creating the Australian Equine and Livestock Centre and to get them all to agree upon the site on which to build the centre. Despite some setbacks the dream can now materialise, thanks in great part to John Anderson and The Nationals New South Wales Senator Sandy Macdonald and his staff, and many others. John Anderson's approach to regional development is to work in partnership with communities, the Government and the private sector to foster the development of self-reliant communities and regions. In the latest Federal budget $360.9 million over four years from 2005-06 will go to the Regional Partnerships Program, which is the means by which that approach is delivered.

The Regional Partnerships Program focuses on projects which help communities, strengthens growth and opportunities, improves access to services, gives support planning and assists with structural adjustment, where required. Projects are assessed against the following criteria: they have to have clear outcomes that demonstrate the benefits for the region; partnerships and support have to be demonstrated, including financial contributions and support from the regional community; and the viability of the project and the applicant has to be demonstrable. The Regional Partnerships Program is designed to make it much easier for regional communities to access assistance.

Area consultative committees are also funded through the program. Area consultative committees are the primary points of local promotion, project and application development, and key providers of independent advice on regional partnerships applications from their region. The area consultative committees also facilitate whole-of-government responses to opportunities in their communities, foster regional development and are the link between government, business and the community. The New England and north-west area consultative committees are chaired by Mr Kevin Humphries, who has been of great assistance in working on the Australian Equine and Livestock Centre proposal.

Shortly, a Senate committee will hold Regional Partnerships Program hearings in Tamworth and Gunnedah. The committee will discover that the Regional Partnership Program is highly regarded in the New England and the north and north-west of New South Wales. However, the Federal parliamentary leader of the Labor Party has said he will abolish the program. That will only confirm the Labor Party's low vote in that region. Last week The Nationals held its annual general conference in Gunnedah. I am happy to say that the leader of the New South Wales Nationals, Mr Andrew Stoner, has taken up a suggestion I made that New South Wales should have a State version of John Anderson's Regional Partnerships Program. During the conference Mr Stoner announced that, indeed, the New South Wales Nationals, when they come to government in March 2007, will introduce a New South Wales version of the Regional Partnerships Program.

BILBY PROTECTION

The Hon. JON JENKINS [12.32 a.m.]: Tonight I want talk about bilbies, which are small nocturnal mammals who shelter during the day in burrows about two metres underground. They are omnivores and at night they roam in search of insects, spiders, seeds, bulbs and even other small mammals. Often the bilbies will stand up on their hind legs like a kangaroo. They also scamper on all four legs with a slight hop. They move extremely quietly through the desert. In fact, their main habitat is the western deserts of Queensland and New South Wales.

They are more unique than the mega fauna of Africa in geographical evolutionary terms. Australia is a very old and isolated landscape that produces mammals that are unique and extremely important in the world

context. We are only just beginning to understand the complexity of Australian mammal wildlife. There are numerous species endangered in Australia. For example, there are only 80 hairy-nosed wombats left that we know of. What makes the decline of the bilby of such concern is that they are generalists. As I mentioned, they do not have special needs for food and habitat, they live underground and they eat just about everything, they are on the moors and they breed very quickly. So if the bilby is in trouble and there are only, literally, a few hundred of them left in the wild, it tells us that there is something very wrong out there. I would like to now discuss two very special men. The first of those is named Frank Mantley, and I will quote from him about bilbies:

> Bilbies are mythical. They are like Santa Claus or Tooth Fairies. You hear about them but you never see them. Like most Australian mammals they are very hard to see.

I will quote from the second man, Peter McRae, who is also very special:

> We decided let's get together and save the bilby, and it seemed like a big task. Let's go to the moon. But we were prepared to get off our derrieres and, I guess, do something.

This was a story of an unlikely friendship between two blokes from the bush and how they teamed together, with remarkable results, to save the bilby. When they started working together, Peter McRae was a zoologist with the National Parks in Queensland and Frank Mantley was a roo shooter turned park ranger. As Frank tells it, when he first encountered Peter running around chasing frogs he thought Peter had lost the plot and had been sent to the bush. But one night whilst having a drink he accepted Peter's invitation to try to catch a glimpse of the bilby. One glimpse of the bilby in their spotlight was all they needed to convince Frank that they should do something to try to save this special species before it was too late.

Bilbies are in fact the most endangered species in Australia. Frank and Peter's dream was to create a bilby sanctuary in Currawinya National Park near Charleville. It meant fencing off 25 square kilometres of the area with electrified predator-proof fence, but they had to raise $300,000. They did this over a number of years, raising sometimes $20 at a time. But finally, incredibly, the fence went up. In 2002 *National Australian Geographic* named Frank and Peter as conservationists of the year. The passion that drives these two men is unique. I have known Frank for many years. I met him literally running around the desert out western Queensland some considerable time ago, and last Wednesday I was honoured to be invited by the Senator the Hon. Ian Campbell to the launching of Australia's National Bilby Day. National Bilby Day is a testament to what two men scrambling around in the desert and running around with a passion to save a native animal can do. It is also a testament to the difference between what I like to call caring for the environment and caring about the environment.

The mad, ranting conservationists care about the environment but the real conservationists care for the environment. They get down and they get their hands dirty; there is no ranting, screaming ideology. I was honoured to be invited to Federal Parliament to celebrate the naming of National Bilby Day to be held on 2 September every year from now on.

INFRASTRUCTURE PROJECTS

The Hon. HENRY TSANG (Parliamentary Secretary) [12.37 a.m.]: I was pleased to hear the Premier announce the range of infrastructure spending in the State at the last Australian Labor Party [ALP] conference, which took place last weekend at the Town Hall. Members who have attended an ALP conference would know just how much of a grand event it can be. This one did not disappoint—for all the good reasons. The Premier announced a range of significant infrastructure projects and human services. The new infrastructure spending will cover the portfolio areas of energy, water, health and motor vehicle accident victims. The Premier announced that the four-year infrastructure plan would cost $35 billion—or the biggest investment in public works spending in our history. In transport alone, the Government will invest a whopping $8 billion in what is the biggest rail expansion project in the last 75 years in New South Wales.

The new project includes the construction of a new line in Sydney's south-west by 2012, to run from Glenfield to Leppington; a new underground city line to run to the North Shore, with a tunnel running under the Sydney Harbour; a north-west line by 2017; and extension to Bringelly in the south-west and Vineyard in the north-west by 2020. The people of New South Wales will welcome this announcement. Public transport investment is much needed and the new line will relieve the congested city corridor and offer commuters greater choice and access to various parts of the city.

In education, the Government has succeeded in reducing the average kindergarten class to below 20 students—down from 24 in 1997. The average kindergarten class in New South Wales is now 19.7 students. As

the Premier said, this is a milestone for the Government in its $583 million class size reduction program. The advantages of smaller classes for students of that age are significant, as students receive more one-on-one attention from their teachers. It makes learning easier with students at an impressionable age. With this grounding, students are better equipped to tackle the more difficult later years of schooling. We should note that smaller classes are better for teachers also—less stressful and more rewarding. Our literacy rates challenge those of Scandinavian countries. This level of education is essential in preparing students and young people for life in our modern technological age. It will help strengthen our economy—which has retained its triple-A rating—the highest possible credit rating.

With a strong economy, the Government can expand its measure to tackle the problems of drought and water conservation, as well as our rising energy needs. By the end of the decade, the amount of recycled water used in Sydney would have quadrupled, to around 70 billion litres per year. The metropolitan strategy is a comprehensive strategy that will secure Sydney's water supply. The Premier announced that 16 new schemes had been identified to increase the amount of water recycled each year by up to 20 billion litres. These are only a few of the projects that the Premier reported to delegates at the annual conference. They spelt a long-term plan for New South Wales—a plan to benefit the people with sound economic management and a vision for the State. I congratulate the Premier on the Government's bold plan for New South Wales and look forward to seeing him deliver the goods over the next few years.

Motion agreed to.

The House adjourned at 12.41 a.m. Wednesday 22 June 2005 until 10.00 a.m. on the same day.