LEGISLATIVE COUNCIL

Wednesday 22 June 2005

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The President (The Hon. Dr Meredith Burgmann) took the chair at 10.00 a.m.

The Clerk of the Parliaments offered the Prayers.

BUSINESS OF THE HOUSE

Precedence of Business

Motion by the Hon. John Della Bosca agreed to:

That on Wednesday 22 June 2005 and Thursday 23 June 2005 Government Business take precedence of General Business.

SESSIONAL ORDERS

Parliamentary Secretary

Motion by the Hon. Duncan Gay agreed to:

That, during the present session and unless otherwise ordered, Standing Order 25 be amended by inserting after "notice" the words "and speaking on a motion for the adjournment under Standing Order 31 4 (a)".

BUDGET DOCUMENTS

Production of Documents: Order

Motion by the Hon. Don Harwin, on behalf of the Hon. Melinda Pavey, agreed to:

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution the following documents in the possession of the Treasurer, Treasury or the Premier's Department:

(a) all advice, correspondence, briefing papers and budget kits provided to all members of Parliament relating to the 2004-2005 budget and not previously provided in return to an earlier order,

(b) all advice, correspondence, briefing papers and budget kits provided to all members of Parliament relating to the 2005-2006 budget, and

(c) any document which records or refers to the production of documents as a result of this order of the House.

LAND VALUATIONS

Production of Documents: Order

Motion by Ms Sylvia Hale agreed to:

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution all documents in the possession, custody or control of the NSW Valuer General and the Minister for Lands, relating to the valuation of:

(a) the CSR quarry site in Quarry Road, Hornsby,

(b) the site known as 16B Vernon Street, Hunters Hill,

(c) the site at the rear of 17 Belmont Avenue, Wollstonecraft, being lot 101 in deposited plan 1021615, and

(d) any document which records or refers to the production of documents as a result of this order of the House.

CIRCULAR QUAY PYLONS

Production of Documents: Order

Motion by the Hon. Michael Gallacher agreed to:

1. That, under Standing Order 52, there be laid on the table of the House within seven days of the date of the passing of this resolution all documents created since 1 January 2000, in the possession, custody or control of the Rail Corporation of New South Wales (RailCorp), the Roads and Traffic Authority (RTA), the Independent Transport Safety and Reliability Regulator (ITSRR), the Sydney Harbour Foreshore Authority and the offices of the responsible Ministers, and made public without restricted access, relating to:

    (a) maintenance, inspection, testing and repair of the Circular Quay pylons associated with the rail line at Circular Quay and the Cahill Expressway,

    (b) questions asked by members of Parliament relating to the Circular Quay pylons, and

    (c) any document which records or refers to the production of documents as a result of this order of the House.

2. That each document provided be marked with a unique identifying number and that an indexed list of documents tabled be prepared showing the identifying number, the date of creation of the document, a description of the document and the author.

LANE COVE TUNNEL

Production of Documents: Order

Motion by Ms Sylvia Hale agreed to:

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution any document created since 3 December 2003 and not previously provided in return to an earlier order, in the possession, custody or power of the Cabinet Office, the Roads and Traffic Authority, the Premier's Department, the Department of Infrastructure, Planning and Natural Resources, the Environment Protection Authority and NSW Health (including Central Area and South East Sydney Area Health Services), and related ministerial offices, relating to:

(a) any investigation, or cost benefit analysis, on the design and/or redesign of the ventilation and filtration system of the Lane Cove tunnel,

(b) health studies undertaken into internal and external air quality impacts of the Lane Cove tunnel,

(c) predicted air dispersion, air quality and compliances and exceedences of air quality goals relating to the Lane Cove tunnel,

(d) air quality data from modelling of in-tunnel, portal and in-stack emissions from the Lane Cove tunnel, including isokinetic analysis of stack emissions,

(e) any negotiations with the Federal Government regarding filtration of the Lane Cove tunnel,

(f) correspondence involving CSIRO in regard to air quality issues for the M5 East, cross-city and Lane Cove tunnels,

(g) any overseas visits made by, or intended to be made by officers of the RTA, DIPNR or consultants and contractors associated with the Lane Cove tunnel,

(h) the cost savings associated with the deletion of the 1600 metre 'third' ventilation tunnel to the eastern ventilation stack of the Lane Cove tunnel approved by the Minister for Infrastructure and Planning,

(i) documents showing predicted average and peak traffic volumes separating cars and light and heavy trucks (petrol and diesel) undertaken or received by the RTA for the streets listed in Table 8.5 of EIS Working Paper 4—Traffic and Transport for each hour on a typical week day and weekend in:

    (i) 2006 prior to the Lane Cove tunnel being operational,
    (ii) 2006/2007 after the Lane Cove tunnel opens to traffic, and
    (iii) in 2016, 10 years after opening,

(j) documents providing the actual traffic volumes separating cars and light and heavy trucks (petrol and diesel) undertaken or received by the RTA on streets listed in Table 8.5 of the EIS Working Paper 4—Traffic and Transport for each hour over a typical week for each year since 1996,

(k) documentation to show the estimated annual emission loads for CO, NOX and PM10 for the Lane Cove Tunnel as currently designed, and documentation to explain any differences (more than 10%) to the annual emission loads previously predicted by Holmes Air Sciences in:

(i) the Lane Cove tunnel EIS,
(ii) the revised ventilation design submitted by the RTA to DIPNR on 25 October 2002,
(iii) the RTA's internal consistency assessment for changes to the ventilation design dated April 2004, and
(iv) the proposed ventilation design for the Lane Cove tunnel,

(l) any document which records or refers to the production of documents as a result of this order of the House.

RESTRICTED RAIL LINES

Production of Documents: Report of Independent Legal Arbiter

Motion by Ms Lee Rhiannon agree to:

1. That the report of the Independent Legal Arbiter, Sir Laurence Street, dated 16 June 2005, on the disputed claim of privilege on papers on the audit of restricted rail lines, be laid on the table by the Clerk.

2. That, on tabling, the report is authorised to be published.

PETITIONS

Unborn Child Protection

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

Anti-Discrimination (Religious Tolerance) Legislation

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

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. Rick Colless**.

Brigalow Belt South Bioregion and Nandewar Bioregion Cypress Pine

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

Freedom of Speech

Petition opposing any legislation that would inhibit unencumbered discussion and freedom of speech regarding religion and introduce religious vilification in New South Wales, received from **Reverend the Hon. Fred Nile**.

Breast Screening Funding

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

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Notices of Motion No. 1 and Orders of the Day Nos 1 and 20 postponed on motion by the Hon. Tony Kelly.

RESTRICTED RAIL LINES

Production of Documents: Report of Independent Legal Arbiter

The Clerk tabled, pursuant to resolution this day, a report of the Independent Legal Arbiter dated 16 June 2005 on the disputed claim of privilege on papers on the audit of restricted rail lines.

Production of Documents: Tabling of Documents Reported to be Not Privileged

Motion by the Ms Lee Rhiannon agreed to:

1. That this House orders that the documents considered by the Independent Legal Arbiter not to be privileged be laid on the table by the Clerk.

2. That on tabling, the documents are authorised to be published.

TERRORISM LEGISLATION AMENDMENT (WARRANTS) BILL

Second Reading

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, Minister for Lands, and Minister Assisting the Minister for Natural Resources) [10.16 a.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The citizens of this State have a right to expect that their privacy will be protected from unjustified searches and interference from the State. Society recognises, however, that there are certain circumstances when an individual's right to privacy must be weighed against the greater public interest in order to allow law enforcement agencies to uphold the law and prevent criminal activity, especially when many lives are potentially at stake. The threat posed by terrorism clearly poses unique challenges. The Madrid bombings, which killed 191 people in March 2004, gave an indication of the type of threat and the devastation posed by terrorism in today's society. Closer to home, the Bali bombings in October 2002, which killed 88 Australians among the 202 lives lost, awakened our community to the possibility that Australians could be targeted by terrorist acts, both at home and abroad.

General criminal activity has never aimed to perpetrate the mass taking of life, the widespread destruction of property or the wholesale disruption of society in the way that terrorism does. The powers set out in this bill are not designed or intended to be used for general policing. Their use is restricted to the NSW Police Counter-Terrorism Co-ordination Command and to the units of the NSW Crime Commission assigned the task of investigating and responding to terrorism. Law enforcement agencies already have a wide array of investigation powers at their disposal and all these will continue to be employed in the fight against terrorism.

This scheme provides police with another tool that answers some of the more difficult characteristics of terrorist activity. For example, while both terrorists and organised crime gangs operate secretively and are aware of the possibility of official surveillance, terrorists operate over a much longer time frame. A terrorist operative may arrive in Australia years before any attack is planned, with no orders other than to lie low. So the first requirement of counter-terrorism covert investigative powers is that they be able to operate over a long period, enabling investigators to target terrorists from the early stages of their activities. Covertness is the second requirement. In the preparatory stages of a terrorist plot any hint to the terrorist operatives that their plans or activities have been discovered or that they are under surveillance could mean that they simply abort the entire terrorist operation, allowing the organisation the opportunity to regroup and change the object of its plans. What this scheme will allow police to do is enter private premises without the knowledge of the occupiers for the purpose of preventing or responding to these terrorist threats.

The Government sees this legislation not only as an investigative tool but also as a preventive tool. When preliminary or support activity is suspected there is a strong need to act to gather further information to prevent any possible future acts of terrorism that may cost innocent lives. This is recognised in the formulation of the applicable test to "prevent or respond to" the attack. Given the global nature of terrorism, information gathered here might be relevant to a planned or potential terrorist attack in another country. As such, the information derived from this scheme may be given to foreign law enforcement agencies, where its use may prevent a possible terrorist attack.

These powers are extraordinary and have been permitted only with the strictest of safeguards. These safeguards include the following. Warrants may be issued only when there is a reasonable suspicion or belief that a terrorist act has been, is being, or is likely to be committed. Annual reports must be made to the Attorney General and the Minister for Police regarding the exercise of these powers. Any complaint regarding the exercise of these powers can be investigated by the established bodies, the NSW Ombudsman, the Commissioner of Police and, where appropriate, the Police Integrity Commission. The scheme will be kept under constant legislative review through the existing review provisions in the *Terrorism (Police Powers) Act*, which requires yearly reports. The scheme is subject to independent monitoring by the Ombudsman for a period of two years.

Those safeguards are an attempt to balance the legitimate needs of law enforcement and the right of privacy that all citizens enjoy. The House will also note that schedule 4 to the bill creates an offence of membership of a terrorist organisation, which will be section 310J of the *Crimes Act 1900*. This offence is in the same terms as the Commonwealth membership offence. Of course, a terrorist organisation need not be a highly formalised structure, with a formal name or public profile. The Government considers that this is necessary as a temporary measure because membership of a terrorist organisation is not an offence known to New South Wales law, and New South Wales is constitutionally prevented from enacting a covert search warrant scheme for the investigation of Commonwealth terrorism offences.

Honourable members will note that this offence is subject to a sunset clause after a period of two years. It is hoped in that time that the development of a covert search warrant scheme can be dealt with at the national level by the Commonwealth and other Australian jurisdictions, and a Federal scheme enacted. I have written to the Federal Attorney-General to urge him to pursue this matter. My colleague the Minister for Police has also been successful in having the Australasian Police Ministers Council adopt a resolution requesting the National Counter-Terrorism Committee to draft such a proposal. This would be the more appropriate arrangement given the 2002 reference of power that New South Wales and the other States made to the Commonwealth in relation to terrorism; and if that should occur, New South Wales would consider repealing this scheme in order to avoid constitutional and operational inconsistencies.

I now turn to the details of the bill. I do not intend to canvass every section of the bill—many are self-explanatory. I will, however, highlight the more important details contained in the bill and elaborate on them where appropriate. Schedule 1 contains the principal amendments to the *Terrorism (Police Powers) Act 2002*. Proposed section 27A contains the definition of terrorist act. A terrorist act is defined to include the proposed State offence of membership of a terrorist organisation, created by schedule 4 to the bill. References to the commission of a terrorist act and to preventing or responding to a terrorist act are, in that case, to be construed as referring to the actual commission of the offence and as obtaining or providing evidence of the commission of that State offence.

The new offence of membership of a terrorist organisation will address situations where a person is a member of such an organisation but does nothing more in preparation for a terrorist act. The Commonwealth terrorism offences cover a broad range of terrorist activities and importantly criminalise preparatory or support activity, such as financing a terrorist organisation, or providing terrorist training, which may be conducted a long time before an actual terrorist attack, and may be committed in countries different to where any attack ultimately occurs, and by persons who do not ultimately play any other role. New South Wales has not sought to duplicate all of the existing Commonwealth terrorism offences because it considers that to do so would undermine the national approach to counter terrorism that is led by the Commonwealth, and because it considers that this bill provides sufficiently wide powers for preventing and responding to terrorist acts and potential terrorist acts.

The test that must be met when applying for a covert search warrant under section 27G is that the person giving the authorisation or making the application, as the case may be, suspects or believes on reasonable grounds that: a terrorist act has been, is being, or is likely to be, committed; that the entry to and search of premises will substantially assist in responding to or preventing the terrorist act; and that it is necessary for the entry and search of those premises to be conducted without the knowledge of any occupier of the premises. The important points to note in relation to that test are, firstly, there must be a reasonable suspicion or belief that a terrorist act has been, is being, or is likely to be committed. For instance, if police can demonstrate a reasonable suspicion that a person in Australia is financing terrorism or recruiting members for a terrorist organisation, with a view to planning or committing acts of terrorism, in Australia or elsewhere, this scheme will be available to prevent or respond to the potential terrorist threat.

Secondly, section 4A makes it clear that the ultimate act of terrorism may occur overseas. Clearly, the covert search of a terrorist financier's house in Australia may disrupt al-Qaeda funding and prevent acts of terror occurring, whether in Australia or elsewhere. Thirdly, the purpose of the covert search warrants is to 'prevent or respond to' a terrorist act. In practice, it would not necessarily be NSW Police or the NSW Crime Commission that would prevent the final act of terrorism. It may very well be that NSW Police locates information using a covert warrant which discloses preliminary or support activity occurring in London. NSW Police would obviously not act on that information itself, but would pass the information through liaison mechanisms to appropriate authorities in the United Kingdom. The warrants may be made in person and by telephone under sections 27H and 27I. Proposed section 27J sets out the matters that must be included in an application for a covert search warrant. An eligible judge may issue a covert search warrant under section 27K if satisfied that there are reasonable grounds for doing so.

When determining whether there are reasonable grounds to issue a covert search warrant, the judge is to consider, amongst other things: the reliability of the information on which the application is based; whether there is a connection between the terrorist act concerned and the kinds of things that are proposed to be searched for, seized, placed in substitution for a seized thing, copied, photographed, recorded, operated, printed or tested; the nature and gravity of the terrorist act; the extent to which the exercise of powers under the warrant would assist in the prevention of, or response to, the terrorist act; alternative means of obtaining the information sought; and the extent to which the privacy of a person who is not believed to be knowingly concerned in the commission of the terrorist act is likely to be affected if the warrant is issued.

Leaving aside the concept of membership of a terrorist organisation, terrorist act is defined to include an act or threatened act of force. As I have said, this act may come years after, and in a different country to, the various support or preparatory activities which this bill also is intended to cover. In some circumstances it may not be possible for a New South Wales agency to provide explicit detail of a final act of terrorism when applying for a warrant. The bill is drafted in a flexible way to allow a broad range of material to be placed before the court in order to support an application. Proposed section 27M provides that if an application for a covert search warrant has been refused, a further application may not be made for the same warrant unless the further application provides additional information that justifies the making of the further application. This is the same safeguard that applies to normal search warrants to discourage judge shopping.

Proposed section 27N sets out the matters that must be specified in a covert search warrant. Proposed section 27O sets out the powers conferred by a covert search warrant, which includes the power to enter, without any occupier's knowledge, the premises the subject of the warrant, and to use such force as is reasonably necessary when entering; to impersonate another person for the purposes of executing the warrant; to enter the adjoining premises, for the purpose of entering the subject premises; to search the

subject premises for any kind of thing described in the warrant; to seize a thing or replace a thing; to copy, photograph or record a thing; and to test a thing of that kind and any thing that the person finds in the course of executing the warrant if authorised in the warrant to do so.

An important issue that arose during drafting of the bill was the possible collection of DNA samples during covert searches. Given the desirability of regulating the covert collection of DNA samples for law enforcement generally—for example, in executing a search warrant, or by collecting discarded samples from used cups or cigarettes—it has been decided that the possible collection of DNA under a covert search warrant will be regulated as part of a general regulatory framework to be developed by my department. I have asked my department to consult with NSW Police in developing this policy. The warrant must be executed within 30 days of issue. Proposed section 27S requires a person to whom a covert search warrant has been issued to report back to the eligible judge who issued the warrant about the execution of the warrant.

Proposed section 27U requires an occupier's notice to be provided for the approval of an eligible judge, within six months of the execution of a covert search warrant. The proposed section enables an eligible judge to postpone, for a period of up to six months at a time, the giving of the occupier's notice if satisfied that there are reasonable grounds for doing so. This is in recognition of the fact that terrorist investigations may stretch over years rather than months. However, the giving of an occupier's notice must not be postponed for a total period of more than 18 months unless the eligible judge is satisfied that there are exceptional circumstances justifying the postponement. This formulation makes it clear that a fundamental tenet of the scheme is that an occupier's notice will be served at some time and that there is no provision for a court to approve a notice never being served.

The Government takes these powers seriously. Along with power comes responsibility. A new offence for a person to give false or misleading information to an eligible judge in an application for a covert search warrant is created by proposed section 27Z. The proposed offence is punishable by a maximum penalty of $11,000 or two years imprisonment, or both. Proposed section 27ZA makes it an offence, with certain exceptions and in certain circumstances, for a person to intentionally or recklessly publish an application for a covert search warrant, a report prepared under section 27S, an occupier's notice or any information derived from such an application, report or notice. The proposed offence is punishable by a maximum penalty of $5,500 or 12 months imprisonment, or both.

Schedule 1, item [2] inserts proposed section 29A into the *Terrorism (Police Powers) Act 2002*, which enables the Minister to enter into arrangements with the Commonwealth in relation to the transmission of things lawfully seized under the scheme. This is similar to a provision in the Search Warrants Act and recognises that vital evidence relating to Federal matters—for example, Commonwealth terrorism offences prosecutions—might be discovered during the execution of a warrant. Schedule 1, item [3] amends section 36 of the Terrorism (Police Powers) Act 2002 to enable the Attorney General to require the Commissioner of Police or the Commissioner for the New South Wales Crime Commission to provide information, for the purposes of the annual review of that Act, about the exercise of functions by members of NSW Police, members of the Crime Commission or members of staff of the Crime Commission.

The other important aspect of this bill is the amendment to the Listening Devices Act 1984 contained in schedule 3. Item [1] amends section 16 of the Listening Devices Act 1984 to extend from 21 days to 90 days the maximum period during which a warrant authorising the use of a listening device is in force in relation to specified Commonwealth terrorism offences. This again recognises the fact that terrorist investigations may extend over longer periods than normal criminal investigations. These are extraordinary powers that the Government is enacting in response to the extreme threat that a terrorist attack poses to the peace and stability of our society. They are only enacted with the strictest safeguards and strong and effective oversight. The Premier, when introducing the *Terrorism (Police Powers) Act 2002*, said that he looked forward to the day when the threat of terrorism had been eliminated from our State and laws and powers like this can be removed from our statute books. I echo those sentiments. I commend the bill to the House.

I commend the Bill to the House.

The Hon. DAVID CLARKE [10.16 a.m.]: For some time Australia, like all countries that believe in democratic values and principles, has faced a growing and unique threat to its peace, prosperity and security. We in Australia, like the people of other democratic nations, are facing a threat to the lives and property of our citizens. This threat comes from international terrorism, which is in many ways a unique form of crime. For example, it seeks to inflict as much destruction to life and property as is possible. It makes no distinction between civilians and military personnel. It seeks to spread fear and intimidation as widely as is possible. Terrorists act without mercy: in fact, the aura of cruelty, barbarity and mercilessness is an image that they deliberately seek to promote.

In recent years there have been numerous episodes of terrorism. We witnessed the infamous attack on the New York World Trade Center in which thousands of innocent civilians lost their lives. Of closer connection to us was the Bali bombings in which Australian tourists were specifically targeted. In Russia, terrorists targeted children in schools and in Egypt tourists became a special target. In other countries, places of worship have been the subject of acts of terrorism. The aim of terrorist fanatics is to make every person feel unsafe and vulnerable. We need to be vigilant against terrorist fanatics. We need to prevent acts of terrorism from occurring and defeat them. We need to detect and apprehend terrorists and bring them to justice.

Since the beginning of the new terrorist phenomenon, the governments of the Commonwealth and the States have co-operated to focus on measures to prevent acts of terrorism from occurring in Australia. There have been a number of cases of individuals being arrested and charged with assisting in acts of terrorism or in preparation for acts of terrorism. The Terrorism Legislation Amendments (Warrants) Bill that is presently before

the House for consideration enacts measures which should greatly assist in the fight against terrorism. The bill has the support of the Opposition. The bill amends, the Terrorism (Police Powers) Act 2002 to enable the covert entry and search of premises by specially authorised police officers or personnel of the New South Wales Crime Commission pursuant to a special covert search warrant that will be granted by an eligible judge of the Supreme Court for the purpose of responding to terrorist acts or preventing terrorist acts from occurring, and to obtain evidence of a new offence of membership of a terrorist organisation.

Before a warrant can issue there must be three pre-conditions. There must be reasonable suspicion that, first, a terrorist act whether in Australia or overseas has been, is being or is likely to be committed; second, the entry to and search of premises will substantially assist in responding to or preventing the terrorist act, and, third, it is necessary for the entry and search of those premises to be conducted without the knowledge of any occupier of the premises. In assessing whether there are reasonable grounds to issue a warrant, relevant considerations would include the reliability of the information on which the warrant application is based, the connection between the terrorist act and the things that are proposed to be searched for, the nature and gravity of the terrorist act, the extent to which the exercise of power under the warrant would assist in responding to the terrorist act, the alternative means of obtaining the information sought, and the extent to which the privacy of a person believed to be not knowingly concerned with the commission of the terrorist act is affected.

If an application for a warrant has been refused, no further application based on the same facts can be made. Only if there are additional facts can a further application be considered. In order to ensure that warrants are issue only in proper circumstances, it will be an offence to give false or misleading information in seeking a warrant. There is a requirement that a person to whom a covert search warrant has been issued report back to the judge who issued the warrant. Within six months of the execution of a covert search warrant an occupier's notice is to be provided for the approval of an eligible judge; and following that approval the notice is to be given to any person suspected of being knowingly involved in the commission of the terrorist act concerned. If no such person was an occupier when the warrant was executed, the notice is to be given to an occupier of the premises concerned.

An eligible judge can postpone for up to six months at a time the giving of such notice if there are reasonable grounds for doing so, but not for a period of more than 18 months unless there are exceptional circumstances. Matters relating to covert search warrants dealt with by an eligible judge are to be dealt with in the absence of the public. Each year the Commissioner of Police and the Commissioner for the New South Wales Crime Commission are required to report to the Attorney-General and the Minister for Police on the exercise of powers relating to covert search warrants. For two years from the commencement of the new Act the Ombudsman is required to monitor the exercise of powers pertaining to covert search warrants. Where relevant, the Attorney-General can enter into arrangements with the Commonwealth Minister for the transmission to or from the Commonwealth of things seized pursuant to a covert search warrant under the Act or seized pursuant to Commonwealth law.

Clearly this bill has put into place appropriate provisions to safeguard against any abuse or improper use of powers relating to covert search warrants. By amendment to the Listening Devices Act 1984 the maximum period of 21 days for a warrant authorising a listening device to remain in force in respect to certain specified Commonwealth terrorism offences and the proposed State offence of membership of a terrorist organisation, is extended to 90 days. The Crimes Act 1900 is amended to create a State offence that is equivalent to the Commonwealth offence of membership of a terrorist organisation. If, however, a person proves that he or she took all reasonable steps to cease to be a member of the organisation as soon as practicable after the person knew that the organisation was a terrorist organisation, the provision does not apply. This new offence will cover the position when a person belongs to such an organisation, even if there is no act in preparation or no support of an act of terrorism. By way of a sunset clause, provisions relating to this new offence will be repealed on the second anniversary of its commencement.

This is an important bill in the fight against terrorism. Through provisions authorising covert search warrants, the extension of the time for warrants authorising listening devices to remain in force and provisions prescribing membership of terrorist organisations, the bill will help safeguard our community from being a haven for terrorists and terrorist organisations. The bill will help prevent acts of terrorism here, or overseas for that matter. The bill establishes a sensible balance between effective counter-terrorism measures and the protection of the rights of citizens. The bill has multiple inbuilt safeguards to properly ensure that the new powers are not abused. This is necessary legislation in the fight against terrorism and, therefore, has the support of the Opposition.

Ms LEE RHIANNON [10.24 a.m.]: The Greens condemn this bill.

The Hon. John Hatzistergos: Of course.

Ms LEE RHIANNON: I acknowledge the Minister's interjection. The Greens condemn the bill because of the misguided ideological basis upon which it is founded.

The Hon. John Hatzistergos: Did your Bulgarian mates put out a template for this sort of stuff?

Ms LEE RHIANNON: Does the Minister want to explain his Bulgarian reference? He seems to have had many trips around the world lately.

The Hon. John Hatzistergos: I have not been to Bulgaria, but I know you have.

Ms LEE RHIANNON: I have not been to Bulgaria. How ridiculous!

The Hon. John Hatzistergos: Have you been to Cuba?

Ms LEE RHIANNON: No, I have not been to Cuba. The poor old Minister is hard up to say anything original. Michael Egan lives on while ever the Minister goes on like that. This bill is built on a basis of creating a mirage of security whilst eroding people's rights to privacy and protection from interference by the State.

The Hon. John Hatzistergos: I can see his ghost in here.

Ms LEE RHIANNON: I acknowledge the further interjection that the Minister can see Michael Egan's ghost. I do not know whether Michael Egan would be happy about that; I do not think he is dead yet. The bill will not achieve its policy objectives of intercepting and prosecuting terrorism. In fact, it will do the opposite by adding to the distrust that the community has of some security agencies. However, the bill will satisfy its broader objective of promoting the New South Wales Government as the law and order State government par excellence and of at least equal stature to its Federal counterpart as being keen to erode hard-won civil liberties. There is no need for this bill. While condemning the Government, let us remember that the Opposition would prefer to erode civil liberties than protect the community from interference by police.

I remind members that in voting for this bill they will support a regime that will allow homes in New South Wales to be secretly entered by police for no reason other than the proximity of their property to a suspect's property. It is quite extraordinary that anyone would sign off on that. We have just heard from the Opposition member Mr Clarke. That reminded me that we need to consider where the Opposition is these days. Where is the great Liberal Party tradition of protecting liberty and curtailing the power of a State that has at last, belatedly, started to resurface with the likes of Petro Georgiou and others in Canberra, but still appears long dead in this Parliament? I say "resurface" and I meant it, because the words of former Liberal Prime Minister Sir Robert Menzies are very relevant to this debate.

The Hon. Eric Roozendaal: He was a great libertarian.

Ms LEE RHIANNON: Yes, precisely. I acknowledge the interjection from Mr Roozendaal. That is the whole point, that is the standard against which one can make an interesting comparison today of where the Labor Party is at. In 1939 Mr Menzies said:

> … there must be as little interference with individual rights as is consistent with concerted national effort … the greatest tragedy that could overcome a country would be for it to fight a successful war in defence of liberty and to lose its own liberty in the process.

The Hon. John Hatzistergos: It would if Stalin were in power now. Stalin was in power then.

Ms LEE RHIANNON: Oh, good heavens above! Here he goes again, but he should speak loudly.

The Hon. John Hatzistergos: Stalin was in power then.

Ms LEE RHIANNON: The Minister has to say it five times; he is trying to show that he knows his history. These laws sacrifice our liberty. Members could consider a more contemporary esteemed commentator. In condemning the Australian Security Intelligence Organisation bills of 2003, George Williams, Professor of Law at the University of New South Wales, said:

> New laws must strike a balance between defence and national security on the one hand, and important public values and fundamental democratic rights on the other.
>
> We must not pass laws that undermine the same democratic freedoms we are seeking to protect from terrorism.
>
> It is a matter of balance and proportionality as well as a test of political leadership. If we fail this test we risk losing part of what makes this a great country to live in.

This bill fails that test because it promotes fear, suspicion and division in the community. This bill is the low liberty mark of civil rights in this State. The Government should withdraw this bill if it is to have any credibility as being aware of the need to balance the rights of individuals over the demands of investigative agencies. The bill will allow police to covertly enter, search and remove property from suspects' homes. It goes too far. I cannot accept the Attorney General's arguments supporting the introduction of this bill as it further eats away at the basic civil rights and freedoms enjoyed and so vigorously defended by the Australian people.

The Hon. John Hatzistergos: Civil liberties and terrorists.

Ms LEE RHIANNON: I again acknowledge the Minister's interjection. He is way off the mark. Time and again we have objected to terrorism. We have also objected to governments that misuse the word "terrorism" and attempt to take their law and order agendas from a State level to a national and international level to avoid dealing with the real crises, that is, hospitals, health, education and transport.

The Hon. John Hatzistergos: Transport?

Ms LEE RHIANNON: Yes. This legislation is a smokescreen. The Government is stating, "We are doing things. We are being tough."

The Hon. John Hatzistergos: Terrorism is a smokescreen?

Ms LEE RHIANNON: The Minister knows I did not say that terrorism was a smokescreen. This legislation is a smokescreen. At its core, suspects' homes can be covertly entered and searched, with police also being given the right to remove property without the suspect being aware of the search. On top of that this bill will permit police to enter the homes of people the police know are in no way associated with terrorism in order to conduct surveillance or search a suspect's property. Covert search warrants may be granted if the person giving the warrant believes on reasonable grounds that a terrorist act has been, is being, or is likely to be committed and that the entry to and search of premises will substantially assist in responding to or preventing the terrorist act, and that it is necessary for the entry.

The Hon. John Hatzistergos: Who is the person who gives the warrant?

Ms LEE RHIANNON: The Minister cannot deny that this is what can happen. He is trying to muddy the waters by interjecting but he is not achieving that. That is what is set out in this bill.

The Hon. John Hatzistergos: The Supreme Court judge gives the warrant.

Ms LEE RHIANNON: That has been said on many occasions. We know that to be the case. However, the Minister cannot deny that this is the regime this Government is setting up in New South Wales.

The Hon. John Hatzistergos: Is it a conspiracy?

Ms LEE RHIANNON: I did not say it was a conspiracy; I just said it is bad law. Covert search warrants may also be granted if the person giving the warrant believes on reasonable grounds that it is necessary for the entry and search of those premises to be conducted without the knowledge of any occupier of the premises. There are several problems with that approach. First, it will allow police to spy on citizens on the basis of preventing future acts. In itself that is a new proposal for law enforcement agencies.

As a rule, police are allowed to spy on citizens only after the act. However, this proposal turns that safeguard on its head and gives certain police the right to pre-emptively spy on the people of New South Wales. This new search power will enable police to become crystal ball gazers and enter the home of suspects. It also allows police to bust into the homes of new neighbours, euphemistically described as "using such force as is reasonably necessary" to search and spy on a suspect's property. When it comes to New South Wales police we know what that means—that they are not high on drugs or experiencing other problems.

[*Interruption*]

Does the Minister really want to go down that track? Is he really concerned about protests against the Iraq war?

The Hon. John Hatzistergos: Do you defend the protest?

Ms LEE RHIANNON: Of course I defend the protest. I think that most courageous and important action sent a message of opposition against war.

The Hon. John Hatzistergos: It is civil disobedience.

Ms LEE RHIANNON: The bill also allows the person who is granted a secret search warrant to use assistants to carry out the terms of the warrant. There is no obligation to accredit, train or vet that assistant who will then be tramping through innocent people's homes and bugging or searching others. That patently ridiculous proposition leaves a gaping hole in this bill. In addition to that, defects in the warrant do not necessarily invalidate the warrant's legality. In these circumstances, as we have seen, police can and do search the wrong house or do not get the warrant right, but the occupier may not have any form of redress.

Let us consider the recent work of the Australian Security Intelligence Organisation [ASIO], to some extent New South Wales' Federal counterpart. Mr Stephen Hopper, the previous lawyer for Mamdouh Habib, recalled that in 2001 ASIO detained people without warrant or charge; pointed guns at the head of a woman who was breastfeeding her baby; raided a house without a warrant because it got the address wrong, in keystone cops style confusing the house with another one down the street; and, to add insult to injury, allowed $7,000 to disappear from one house in the process. The complaint that followed has still not been dealt with and the money remains missing. If that behaviour was the face of Australian security services under governments that lacked the enhanced powers contained in the bill, the difficulties will worsen if the Parliament provides such organisations with more tools to trample the civil rights of people in New South Wales.

The bill seems to prepare for that eventuality as it also gives the Commissioner of Police or the New South Wales Crime Commissioner the power to destroy documents relating to the search of premises. When an aggrieved person uses those documents to challenge the lawfulness of a secret search, the Government effectively promotes the shredding of that important evidence. NSW Police cannot be trusted with additional powers. We have seen time and again that when police powers have been increased the result has been greater abuse of police powers and increased corruption. The 833 matters that the Police Integrity Commission considered in 2004 clearly demonstrate that corruption is alive and well in parts of the police force.

In short, this bill is unnecessary overkill that deserves to be condemned by all those who cherish civil liberties in this State. This bill is another step on the gangplank towards oblivion that occurs when people live in a police State that would be sure to make Menzies turn in his grave. I acknowledge that the Hon. Eric Roozendaal and the Hon. David Clarke have a united front on this issue. I am sure those who read *Hansard* will be interested in that fact.

The Hon. Dr PETER WONG [10.36 p.m.]: I speak to the Terrorism Legislation Amendment (Warrants) Bill and indicate that the innocent loss of life in any terrorist attack is a hideous and despicable act of humanity. We all have an obligation to prevent such attacks. However, I believe that this bill only expresses the right-wing views of neo-conservative hawks in the United States of America and their supporters abroad. It is an ad hoc reaction to emotions invoked within us that we are yet to deal with objectively. Introducing a bill that is in conflict with the most basic principles in the freedom of expression and the right to privacy of an individual within a democratic State is wrong and ill-conceived.

We cannot continue to introduce laws that restrict such freedoms. While such a law can act as a safeguard against perceived negligence on the part of government in the future, the costs of our freedom far outweigh any perceived risk. How do we deal with a perceived threat that may or may not eventuate? Are we expected to vote for a law that will unduly allow agents to trespass on the personal rights and liberties of New South Wales citizens with ill-defined administrative powers, or without sufficient powers of appeal by affected persons? The bill will significantly infringe on the rights to privacy of citizens in New South Wales by extending the period that a warrant must be served to two years.

I note that in introducing the Terrorism (Police Powers) Bill in 2002 the Government looked at corresponding legislation in the United States of America and in the United Kingdom. As the Premier stated at

the time, in drafting such legislation we need to balance the two competing imperatives. On the one hand we need to be prepared to act quickly, at short notice, to the threat of a terrorist strike, or in the immediate aftermath of such an attack. On the other hand we need to remain calm in the face of terrorism and not surrender unnecessarily civil liberties that are part of our working democracy. Police were given increased powers to counter existing credible terrorist threats and to guard against an incident occurring.

We have a change of tone in this bill. No longer is there any imperative to balance these two competing concerns. The Minister stated that the bill is drafted in a flexible way to allow a broad range of material to be placed before the court in order to support an application for a covert search warrant. I suspect that just what that broad range of material could or should include will be left to the discretion of agents. One would assume that the far-reaching powers granted to the Australian Security Intelligence Organisation and the Australian Federal Police, who have intelligence-gathering capabilities, will be more than sufficient in combating the threat of terrorism without having to resort to a law enforcement agency being granted odious "sneak and peak" provisions that allow agents to search a person's home but to delay admitting to such an intrusion.

I am not surprised by this shift in policy from a Government that prides itself on being a law and order devotee, and that has introduced draconian powers at an alarming rate. This year's budget attests to this, given that the only significant funding increase was directed at bolstering policing in this State. In the past few days the Government has answered questions about the Bulldogs pack rape case in a dismissive and cavalier manner. This Government may be happy to treat the serious deficiencies of NSW Police as a joke and to grant them Stasi-like powers, but I will not be a party to such contempt for democratic and civil rights.

Using the United States as an example, we are all aware that the Patriot Act was introduced advantageously at a time of trauma, fear and hysteria. It was inconceivable that anyone would vote against this Act at such a difficult time, for fear of being branded unpatriotic. It appears that just as the Patriot missile failed to protect Israel, so the Patriot Act has missed its target and seriously harmed the very thing that it was designed to protect. Three years later, the Act has been shown to have severely compromised the basic freedoms of the American people by going far beyond what was needed to pursue a terrorist threat. Republicans and Democrats alike in the United States Congress are now calling for these far-reaching draconian laws to be curtailed, not expanded. The Act has gone so far as to allow Federal agencies blanket powers to seize medical records and to obtain documents from libraries and bookstores for the purpose of tracking people's reading habits.

The terrorism hysteria that followed the 9-11 attacks has failed to abate—in fact, it is fuelled further from time to time by the media and politicians alike. It is only natural that at a time of fear and uncertainty for many within the community a person would become more intrigued about the threat that he or she is supposedly facing. How does one face these fears if one is unable to access information—if, for nothing else, to learn what it is that drives people to commit such acts of terror? How does one form an objective opinion if his or her access to information is restricted, not by force but by fear that one will be tracked down and labelled a terrorist for reading such material or attending a seminar or conference where the conduct of our foreign policy comes under heavy criticism? Or is this the intended consequence of a law that seeks to silence any dissent?

Freedom of opinion and freedom of expression are the two most fundamental rights of a representative democracy, and two of the most powerful tools to use to keep the Government in check and prevent it from introducing draconian laws that do not reflect true wisdom. Under this bill, it will be a State offence to be seen to be a member of a terrorist organisation. But what exactly does membership of a terrorist organisation mean? Do terrorists carry membership cards with them, or should we simply look twice when we see a person who appears alien to our traditions? Is the Government aware of any database in existence that lists these so-called "terrorist members"? If a member of a terrorist group is someone who commits a terrorist act or who aids in the commission of a terrorist act in one way or another, I have no problems. But if it is a person who sympathises with the plight of the Afghan and Iraqi people, is willing to make a vocal stand against the innocent loss of life when coalition bombers drop their payloads and who is placed under covert surveillance as a result, I have a problem—and so should every member in this House.

I fear that the powers conferred by the bill will, like the Patriot Act, unleash similar ramifications and restrict the basic freedoms and privacy we currently enjoy. As in the United States of America, can we also expect New South Wales public librarians and bookstore owners to act as informers after a person has looked at or purchased a so-called "book of interest"? How can we expect to check seriously a Government that would pass a bill such as this but materially protects us against terrorism by placing on the Sydney Harbour Bridge two security guards on foot patrol to stop it being blown up? I would have thought a sizable truck would be required for that purpose, not someone with a backpack. I can say only that this bill appears to reward incompetence and

ineptitude and that a properly functioning police service, operating on the basis of true intelligence, would not need the powers that this bill envisions. Powers based on intelligence and exercised by NSW Police would be less threatening than the current situation.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.45 a.m.]: The Australian Democrats do not support the Terrorism Legislation Amendment (Warrants) Bill. When speaking to the Motor Accidents Compensation Further Amendment (Terrorism) Bill on 3 December 2002, I said:

> The Federal Government has said that we need education on how to recognise a terrorist. I say that we need education on how to recognise a decent foreign policy. If we strut about, slavishly following the United States of America and basically blockading, with the Australian Navy, a country half a world away that had been buying our wheat we will get a reaction. We will identify ourselves as a country that is totally committed to whatever the United States of America does with its foreign policy, and we will get a response of terrorism such as only the United States of America and Israel seem to illicit.

In essence, the problem is that we have a bad foreign policy. Fundamentally, terrorism is the method that people with less power employ to attack those who have more power. Terrorism is said to be indiscriminate, but that suggests that those who bomb cities are being discriminating. The idea that cities can be bombed without harming civilians because that was not the purpose of the raid—the target was a power plant or a bridge—is fundamentally absurd and arbitrary. It is about the methods used in what is, effectively, a war.

Yesterday crossbench members received a briefing about peak oil. This is the idea that the world's supply of oil will peak sometime between 2007 and 2013, and that is as much oil as we will ever have. Our reliance on oil is increasing. The policies of this Government do nothing to identify and provide alternative fuels, and we will continue to experience problems as we build motorways instead of rail infrastructure in our cities. So the peak oil concept is important. It may be that the neo-conservatives in the United States of America are shoring up the supply of Iraqi oil, no matter what happens. That is one explanation for the rise of the neo-conservative philosophy.

Matthew Simmons, who wrote a book about Saudi Arabian oil, apparently briefed Dick Cheney, a former chief executive of the Halliburton oil services company, that Saudi drilling techniques—water and carbon dioxide is pumped into a well to push out the oil when the well begins to dry up—could cause a fall in oil production. If Matthew Simmons is correct, the world's oil supply will soon decline more quickly than ever before. So the neo-conservatives were shoring up America's oil supply through the Iraq raid, and discussions about Islam, terrorism and the appalling reign of Saddam Hussein are merely a smokescreen for that imperative.

Be that as it may, Australia has followed America uncritically, antagonising those who once simply purchased our wheat. I believe we do not have a strategic interest in what happens in Iraq in the way that the Americans do—we are not geopolitical world players. Yet we have been following a foolish foreign policy that has put us at risk. Australia has adopted a policy based on revived American McCarthyism, and this bill is just another step down that path—as defined by the Howard Government and its pro-war policy. Last week I attended a performance of the play *Two Brothers* at the Sydney Opera House, which told the story of two brothers and their reactions to the political situation in Australia. It is an excellent play, which I commend to honourable members. It reminded me a little of *The Crucible*, the famous Arthur Miller play that dealt with the Salem witch trials in America and led to much criticism of Miller during the McCarthyist era.

The playwright of *Two Brothers* has not been criticised yet, but if Australia continues with its foolish foreign policy one never knows what will happen. Australia has the ignominious reputation of ignoring the people whom the Americans arbitrarily locked up in Guantanamo Bay without any evidence to charge them. The United States Supreme Court struck down the process that removed these people from United States jurisdiction and allowed a United States military court to have a bash at them. Mamdouh Habib has been released without being charged. David Hicks may well be kept at Guantanamo Bay indefinitely; the Americans cannot charge him and do not seem willing to release him. It is an international disgrace that the Federal Government has ignored the voices of Australians who are supporting this unfortunate man's civil liberties. Will the Government ignore the interests of Australian who gets into trouble overseas? Surely the idea that these horrors can happen only to others and therefore should be ignored is abhorrent to all honourable members.

The Hon. Charlie Lynn: It is not to me.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The honourable member's interjection shows how ridiculous he is and what little respect he has for human rights. A medical student was arrested and held for six weeks because of a theory that he might be involved with a terrorist organisation, even though that term has

never been clearly defined. This week the newspapers revealed that in an attempt to release Douglas Wood in Iraq the Australians used poor intelligence and conducted a raid on the wrong man—on the very contact who was trying to liaise between the hijackers and the Australian negotiators. His house was invaded by a group of people, including Australians.

A study of organisations such as the Irish Republican Army shows that membership of those groups is very indefinite to ensure security. The Central Intelligence Agency [CIA] used indefinite private contracts to engage the people who worked for it, so it was never clear whether a CIA operative took part in any action. The idea that these organisations can be proscribed and their membership can be defined, including people who are not members who might later become members, is effectively a smear. That point is made in the play *Two Brothers* currently being staged by the Sydney Theatre Company at the Opera House.

A book entitled "The Secret State", a study of Australia's policy during the cold war, contrasts the ASIO analysis of the danger of communism to this country and the views expressed in the editorials in the *Sydney Morning Herald* and the *Australian*. Twenty years later, the ASIO analysis is clearly seen as a crazy, paranoid rant and the *Sydney Morning Herald* and the *Australian* editorials are obviously sensible analyses of what would most likely happen in foreign policy. That is what happened. Basically, sensible journalists got it right. The paranoid ranting of spies who live in their own little world and play games with spies on the other side is a much greater danger than the views of those they purport to protect us from. The Legislation Review Committee was asked to look at the legislation. Commencing at paragraph 35 the committee states:

> 35. The Bill … authorises the use of very significant powers against those who may not be involved in terrorist acts. In particular, it should be noted that:
>
> - the threshold for invoking the powers is suspicion on reasonable grounds (which will inevitably lead to the covert entry and search of premises of innocent people);
> - it is not necessary that all or any occupiers of the premises be suspected of any criminal acts, although the Judge is to consider the extent to which the privacy of a person who is not believed to be knowingly concerned in the commission of a terrorist act is likely to be affected; …
> - there is no requirement of imminent threat before a warrant may be issued;
> - once a warrant had been issued, the Bill allows the covert search powers to be used to seize "any other thing … that is connected with a *serious indictable offence*", without the need for any evidence of connection between that thing and a terrorist act; …
>
> 36. … the Bill opens the possibility for certain highly undesirable consequences which should not be allowed unless truly necessary and should be defended as far as is practicable. In particular, the Bill appears to enable:
>
> - persons not connected with a terrorist act who occupied the same premises as a person suspected of committing a terrorist act, or are visited by such a person, to be subject to the full force of a covert search warrant;
> - a covert search warrant to be used to gather evidence for a serious indictable offence unconnected with a terrorist act using powers that could not otherwise be used for an investigation of that offence; and
> - applications for a covert search warrant to be made without sufficient care being taken, given the gravity of the powers sought, to test the grounds of suspicion of the terrorist act …
>
> 39. There are clearly risks in this situation that an innocent occupier will react violently to an ineffective impersonation in purported exercise of a power of self-defence. While it would appear that in these circumstances the occupier would have available to them a complete defence of self defence under s 418 of the *Crimes Act*, the exposure to the risk of prosecution in these circumstances can be viewed as trespassing on personal liberties, particularly where the possible provocation and resultant risk is created by law enforcement agencies.
>
> 40. The Committee notes that the broad covert search powers significantly trespass on the personal right to privacy …
>
> 42. The Committee notes that the Bill provides for very significant trespassers on the rights and liberties of persons who are not suspected of being involved in the commission of a terrorist act …
>
> 43. The Committee also notes that the Bill provides no protection in relation to reasonable responses by occupiers discovering covert intruders who are executing a warrant …
>
> 49. The Committee refers to a parliament the question as to whether the extension from 21 days to 90 days of the maximum period for a warrant authorising the use of a listening device trespassers unduly on the right to privacy …
>
> 53. Article 22 of the International Covenant on Civil and Political Rights provides:
>
> 1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order … the protection of public health or morals or the protection of the rights and freedoms of others …

54. To help ensure the prescription of terrorist organisations is done on an objective basis, the Criminal Code provides that:

- before the making of the regulation, the Minister must be satisfied on reasonable grounds that the organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; …

55. The definition "member of an organisation" in Section 102 .1(1) of the Code, which the Bill adopts, includes:

a) a person who is an informal member of the organisation;

b) a person who has taken steps to become a member of the organisation; and

c) in the case of an organisation that is a body corporate—a director or an officer of the body corporate.

56. This is extremely broad definition extends considerably beyond the usual criminal law limits of inchoate offences …

58. The Committee notes that while many specific statutory offences erode this distinction, this is a particularly extreme example. Membership of an association is itself relatively remote from any offence of violence, but, in addition, *any* steps taken to become a member are sufficient under the Bill. The scope of "informal member" is also not defined and may be very remote from active participation in or support of any violent objectives of the organisation.

59. When this broad offence definition is coupled with the very extensive entry, search and seizure powers proposed in the Bill, it is evident that the Bill represents a very significant trespass on personal rights and liberties, both in terms of the right to privacy, and the traditional criminal law principle that offences should prohibit acts rather than mere status.

60. The Committee also notes that the Bill infringes on the presumption of innocence by placing the burden of proof on the accused to prove that he or she:

took all reasonable steps to cease to be a member of the organisation as soon as practicable after the person knew that the organisation was a terrorist organisation [proposed s 310J(2)] …

62. The Committee notes that Schedule 4 of the Bill criminalises membership of organisations specified as terrorist organisations in regulations made by the Governor-General under s 102.1 of the Commonwealth Criminal Code.

63. The Committee further notes that the definition of "membership" of a terrorist organisation is extremely broad and includes acts extremely remote from any acts of violence …

64. The Committee also notes that proposed section 310J(2) reverses the onus of proof.

It might be noted that there was immense fuss about the reversal of the onus of proof in the amendments to the Occupational Health and Safety Act regarding workplace deaths. I received a plethora of letters about that reversal provision from people concerned that if there were a death in their workplace, the general obligation of that Act to provide a workplace free of hazards would render them liable to prosecution. In the instant case of the reversal of proof, I have heard nothing. The reason for the lack of concern is that it is assumed that somebody else will wear the brunt of this reversal provision.

The looseness of the definition of "membership of an organisation" is extremely significant. Honourable members would remember that Tim Anderson was put in gaol for about 16 years supposedly because he was a member of the Ananda Marga organisation, which supposedly was responsible for the Hilton bombing. There was some doubt about whether Ananda Marga, a religious sect, had anything to do with that bombing. Tim Anderson, in a quite well-intentioned way, met some of its members quite tangentially as he looked for some peaceful philosophy in his university days—and he spent some 16 years in gaol for his trouble.

His conviction was based on totally unsatisfactory evidence. That conviction resulted from simply branding an organisation a terrorist organisation, concluding that it had therefore carried out a bombing, and therefore that someone who was really only peripherally associated with the group warranted 16 years in gaol—on the evidence of a false witness who rather enjoyed being the centre of attention because of a personality disorder.

I was involved in the group BUGA-UP [Billboard-Utilising Graffitists Against Unhealthy Products], which was a small protest group that raised issues about the power of advertisers to tell lies with total impunity. We wrote on the odd billboard and engaged in some street theatre that kept people amused but demonstrated the absurdity of the activities of the people we were attacking. Eventually the Special Branch—whom we regarded as our own personal police—was disbanded and the Keystone Cops nature of their activities in trying to get our membership list was revealed. Most of us were university students or of university student age.

One fellow, a heavy smoker in his late 40s who did not seem to be dedicated to any of our particular causes, turned up at our meetings and was very keen to help with the membership list. Of course, he stuck out like a sore thumb. Interestingly, he toddled off to take a photograph of one of our members—so called; we had no formal membership—who was particularly good at throwing paint bombs at high billboards, had a worthy aim, and did good work along Oxford Street. Be that as it may, one Sunday afternoon this person's house was being photographed. His next door neighbour, who was mowing his lawn, wondered why a chap would get out of his car and take a photograph of his neighbour's house. The neighbour noted the registration number of the photographer's vehicle.

When the group next met at a coffee shop in Glebe the fellow whose house had been photographed asked this man why he had taken a photograph of the house, and the man said, "Okay, fair cop; you're really not a bad mob of blokes; I'm out of here." He toddled off and was never seen again. Of course, this was not recorded in the absurd rantings and speculations about the membership of BUGA-UP that eventually became part of the Special Branch's files. Eventually, we obtained our Special Branch files. Mine was only six pages long, and I must confess that I was a little jealous that the President of this House had a 16-page file; I felt somewhat outshone by that!

The point is the absurdity of the secret State, and the vagueness of the definition. It is interesting that the Australian definitions of "terrorist organisation" varies from those in the United States of America. We have 18, four of which are not listed by the State Department of the United States. The United States has 23 definitions, and 20 of those do not appear on the Australian list. These organisations may or may not have formal structures. They probably do not. Most cells of the IRA did not. This concept of guilt by association appears to be a problem for Habib and David Hicks. It certainly was a problem in the BUGA-UP days. It led to absurd paranoia associated with what amounts to a bad foreign policy, and that is leading to this bad legislation. The Democrats will not support this further ratcheting up of McCarthyism philosophy.

Reverend the Hon. FRED NILE [11.04 a.m.]: The Christian Democratic Party is pleased to support the Terrorism Legislation Amendment (Warrants) Bill, which has a number of purposes. The first is to amend the Terrorism (Police Powers) Act 2002 to enable the covert entry and search of premises by certain officers of the New South Wales Crime Commission or the police force under the authority of a special covert search warrant allowed by an "eligible" judge. Covert entry and search of premises will be allowed for the purpose of responding to or preventing terrorist acts, including getting evidence of the proposed State offence of "membership of a terrorist organisation".

The bill will also amend the Listening Devices Act 1984 to extend, from 21 days to 90 days, the maximum period during which a warrant issued under that Act for the use of a listening device remains in force. This extension of time will occur only if the warrant is issued in connection with certain Commonwealth terrorism offences and the proposed State offence. Last, the bill will amend the Crimes Act 1900 to create a State offence that is equivalent to the Commonwealth offence of "membership of a terrorist organisation".

We support the bill because it is part of a movement by the United States of America, Australia, the United Kingdom, and other democratic nations to pursue the war against terrorism. That is why Australia supported the United States of America and the United Kingdom to bring democracy to Afghanistan and Iraq. We fully support working in co-operation with those nations, who are our main allies in the fight against terrorism and dictatorships. Having heard the contributions of a number of honourable members, particularly the Hon. Dr Arthur Chesterfield-Evans, one wonders whether they are aware of the realities of the threat of terrorism in the world, but particularly in Australia.

Why do we need this legislation? Is it just an imagined fear, or is it a reality? What are the facts? There is no doubt that there has been a dramatic change in the world as a result of the terrorist attack on the twin towers of the World Trade Centre in America and terrorist attacks in other countries, including Indonesia. Sadly, from 1990 onwards we have been facing a completely new type of threat: terrorism and threats against security that are without precedent. World War I and World War II were fought as what could be termed traditional wars. Obviously we all oppose wars, but those wars were forced on democratic nations that were compelled to defend their freedom. Australia, as always, rose to the challenge and volunteered to fight to meet those threats.

Now that we have the more sinister threat of terrorism we need to be able to mount various types of responses by our security forces and police forces. This requires legislation to enable various Australian organisations to carry out their roles. It is no good telling those organisations that we want them to maintain security in Australia without providing the resources and legislative power necessary to enable them to

discharge their roles. Is it a real threat that we are responding to? Yes, it is, without any shadow of doubt. Last November the head of ASIO, Mr Dennis Richardson, made a speech in which he summarised the terrorist threat facing Australia. He made a number of statements, including that:

> … the number of Australians confirmed or assessed to have undertaken terrorist training continues to grow.

So we have not only a threat of terrorism but people actually engaging in terrorist training, with the purpose of carrying out terrorist acts. Mr Richardson went on to say:

> … Australia has been a potential target for Al-Qaeda for at least four years and would continue to be so.
>
> In the past three years, an attack on the Australian High Commission in Singapore had been thwarted but the bombings of Bali nightclubs in 2002 and an attack on the Australian embassy in Jakarta in September had succeeded.

Had more adequate security measures been in place, those attacks and the loss of life, particularly in Bali, may not have occurred. Mr Richardson went on to say that attacks in Australia have been identified. One example is the plans by Frenchman Willy Brigitte, a convert to Islam deported to France last year and held since then under France's tough antiterrorism laws. Apparently he had planned an attack but security forces were able to prevent it. In late 2002 a raid in Pakistan uncovered details of a number of airports being cased by terrorists before September 11, 2001, including an Australian airport. He did not indicate which airport but the obvious one would be Sydney airport, which is the largest and most strategic in Australia. Since the 2001 attacks in the United States the Australian Security Intelligence Organisation [ASIO] has prevented 10 people suspected of tourism activities from entering Australia. We do not know how many attacks that intervention prevented.

We are all aware of the Muslim convert Jack Roche from Perth, who was convicted of and sentenced for terrorism offences for a planned attack on the Israeli Embassy in Canberra. These are realities, not myths. Mr Richardson said that four other people were awaiting trial for alleged offences in Sydney. He said that investigations are continuing, and that they could lead to the arrest of others. He added that the spy agency had been working to identify Australians worldwide connected to terrorism. Mr Richardson said, "That work has taken us from Indonesia to inside the Arctic Circle and to all continents but Antarctica." That work continues. He said that four Australians were in custody overseas, either awaiting trial for alleged terrorist offences or serving a sentence for such offences.

David Hicks is currently in American detention in Guantanamo Bay, Cuba, and Mamdouh Habib, who was being held in the same facility, has been released. Hicks was charged with a series of terrorism and related activities, and is awaiting trial by military commission. The Australian Security Intelligence Organisation 2003-04 report provides further factual details. For example, ASIO has uncovered six more Australians suspected of training in terrorist camps overseas, bringing the total to 20. All six have had their passports cancelled or denied, and remain under surveillance. ASIO successfully sought three warrants to interrogate suspected terrorists in Australia, from whom they gleaned valuable information. The aim of the covert warrants provided for in the bill is to glean information that can be used in further investigations, which may lead to charges being laid.

Four people are awaiting trial on terrorism charges in Australia: Zeky Mallah, Izhar ul-Haque, Faheem Khalid Lodhi and Bilal Khazal. Lodhi, a Sydney architect who picked up Brigitte from the airport when he arrived from France, faces seven terrorism-related charges. His arrest came one week after a Pakistani-born university student, Izhar ul-Haque, was charged with training with terrorists in Pakistan in January last year and making false statements to ASIO.

We have heard a lot about the Corby case involving drugs and baggage handlers. In June last year 34-year-old Bilal Khazal, a former Qantas baggage handler, was charged with collecting or making documents likely to facilitate terrorist acts. Zeky Mallah will stand trial for allegedly planning a suicide attack on the Sydney office of the Department of Foreign Affairs. ASIO continues to be active—perhaps it should be more active—in carrying out its role. This State legislation complements what is happening at the Federal level.

In November 2004 Jack Thomas, a Melbourne taxi driver, was charged with providing support to al-Qaeda. In early 2001 he spent up to three months in a terrorist training camp in southern Afghanistan. It is believed that Mr Thomas may have trained at the same camp and at the same time as Australian David Dicks, who is being held by American forces in Cuba. Mr Thomas arrived at the terrorist training camp in Kandahar for basic military training in April 2001, a month after leaving Australia with an Indonesian-born wife and baby daughter. For thousands of foreign supporters of al-Qaeda, Camp Farouq was the principal location for both basic and advanced terrorist training. I have seen on television, as other members probably have, videos found

by Americans and Afghanis showing the well-organised and disciplined training. The videos show raids carried out by people on motorcycles with one person on the pillion seat carrying a machine gun, probably for assassination purposes.

The video showed terrorists-in-training entering ancient buildings in Afghanistan used for training purposes. On the wall were cut-out figures of human beings, which are probably used for target practice. But I was shocked to see on the figures a prominent Christian cross, which seemed to be a clear incentive for the terrorists to execute Christian civilians—there may have been other targets, such as people from the Jewish faith. That should be condemned. For those reasons the Christian Democratic Party supports the legislation. We wish it were not necessary, but as I have outlined we are dealing with reality and real terrorist threats. We must balance that with maintaining our civil liberties. We hope that the terrorist threats will pass and that when they do the legislation can be repealed, but at the moment we need this type of legislation to ensure Australia's security.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [11.18 a.m.]: Given the contribution of my colleague the Hon. David Clarke, I will make only a brief contribution. It is important that members of all parties continue to put on the record their concern about the approach to counter-terrorism. There is no doubt that pressure must be applied to governments of all persuasions to achieve greater interagency co-operation. I hate to say it, but from time to time I feel that even though we pass this type of legislation and carry out mock terrorism exercises it is all about building a false sense of security. I am not convinced that we are necessarily taking the overseas experience seriously enough. We may be; it may be happening quietly. I hope the Government can assure us that everything is under control. Ultimately it falls to members of Parliament to continue to ask questions to ensure that the Government is doing everything it can to guarantee our safety.

I make that point because I simply do not have confidence in the Government's security measures, especially when I consider the recent exposure of lapses in security. Without a doubt, concerns related to Port Botany resonate in me through my experience in the ports portfolio. There is increasing pressure from the shipping industry for the greater involvement of police in port security. As I told the House on a previous occasion, one night I had the experience of driving out to Port Botany port with someone from the shipping industry. We were testing the veracity of the assertion that port security was working well. We were greeted with a wave from the security officer at the gate as we drove onto Port Botany port, and that was the only check on us during the entire visit. The security officer did not even bother getting out of his seat; he simply waved us through as we drove in.

The port was in operation and a number of ships were being loaded or unloaded. We drove up to a large ship that was being loaded with containers and walked up the gangplank. We were welcomed on board by someone from a Third World country who obviously had difficulty with the English language. We moved around the ship completely unchecked for approximately 30 minutes while it was being loaded. We spoke to other crew members as we moved around. One of them asked us what we were doing, but because we had a clipboard and we looked official, the crew seemed to imply that we were there for official purposes. I asked where the captain was and I was told he was on the bridge. I was asked whether we would like to be accompanied to meet the captain, but I said no, we knew we were going, and off we went. We continued to walk around the ship completely unchecked.

I would like to think that security has improved, but when I see evidence of the "office hours" approach the Government has taken to Water Police in Port Botany, my concerns intensify. There is a launch at Sans Souci, but the Water Police work office hours. Without being sarcastic, I point out that criminals and terrorists are aware of the hours of operation of police stations, and the criminals and terrorists do not work office hours. They know when premises are vulnerable to illegal entry, because they look for weaknesses in the chain of security. In the light of recent events, is it any wonder that there is concern about the Government not taking security matters seriously in relation to ports and airports?

Over the past couple of weeks the Government has made a big song and dance about the Federal Government's responsibility for airport security. Airport baggage handling has received a great deal of media attention. However, the airport's footprint in Sydney includes the airport police station at Mascot. The building is still there and many of the logos are still on the walls. It is still possible to see some of the imprints of words from the stains on the walls where the words used to be, but what is missing, apart from the words, is the police. At a time when the authorities are moving forward to increase security, the New South Wales Government is pulling the police out of a police station that was designed and situated primarily to look after international and domestic airports.

The Government has removed police resources, and I cannot but wonder why it is not taking notice of the telltale signs that are obvious to everyone. A couple of years ago there was a gas leak in the centre of Sydney. I am still not confident that contingency plans have been put in place to deal with simple matters of that type. It transpired that the fumes were caused not by the gas leak but, rather, by incorrect maintenance of a train. Nevertheless, the chaos affected the entire Sydney rail system and the metropolitan road system, which became absolute bedlam within a couple of hours. The city was in an absolute meltdown mode.

Again I make the point that total reliance upon closed-circuit television surveillance in our public transport system as an adequate security device may be unwise. Six thousand closed-circuit televisions are being monitored by 100 surveillance officers who rotate on a 24 hours a day, seven days a week roster, which means that, at best, 20 people are monitoring 6,000 closed-circuit television sets at any one time. The numbers simply do not stack up. Twenty people monitoring 6,000 closed-circuit televisions in our rail system cannot perform surveillance in a proactive manner.

I point out again that the approach adopted by the Government means that the closed-circuit television network is a valuable tool only for the Coroner's Court. It is not a preventive measure; it is a valuable tool in a retroactive sense only. The Government should learn the lessons from the incident in Madrid approximately 12 months ago. There, the closed-circuit television network showed offenders moving in and around the rail system and among trains. According to a public transport security conference that was held in Sydney last year, they had backpacks and were wearing balaclavas. The perpetrators were watched on the closed-circuit television network, and people were scratching their heads and wondering what the perpetrators were doing, but it was too late for anything to be done to save the poor souls who lost their lives or those who were maimed in the incident after the bombs were set off.

The question I keep asking the Government is whether security measures have changed since the Madrid incident. I cannot get an answer, and that is why I do not have confidence in the Government's approach. Security measures in Sydney seem to suggest the likelihood of an incident similar to what happened in Madrid—same story, different actors. I do not believe that the appropriate security measures are in place in this State, particularly in Sydney, that people are entitled to expect. I think this Government has much to learn.

The Hon. PETER BREEN [11.25 a.m.]: I am opposed to the Terrorism (Police Powers) Act 2002 and to this amending bill. The legislation provides for a covert search warrants scheme to amend the Listening Devices Act with respect to the duration of warrants for terrorism offences, and to amend the Crimes Act to create a State offence of "membership of a terrorist organisation". I will deal first with the last of the bill's objects. The new offence of "membership of a terrorist organisation" reminds me of the laws proscribing membership of the Communist Party. The Communist Party was seen as a great threat to the people of Australia, and the Government passed a law that made it illegal to be a member of that political party.

Ms Lee Rhiannon: And the Labor Party stood up against the bill.

The Hon. PETER BREEN: Not only the Labor Party, but the High Court as well. However, these days neither the Labor Party nor the High Court would be willing to oppose that type of far-reaching legislation that impinges on fundamental rights that have been in existence for longer than any of us have been alive.

The Hon. John Hatzistergos: To be a member of a terrorist organisation is a fundamental right, is it?

The Hon. PETER BREEN: It seems to me to be a retrograde step that a terrorist organisation can be labelled by the Commonwealth Attorney-General, Mr Ruddock, and that we in New South Wales will adopt his definition of what a terrorist organisation is.

The Hon. John Hatzistergos: Do you think we should have our own?

The Hon. PETER BREEN: I think we should at least rely on some other objective definition of what constitutes a terrorist organisation. I would prefer our Minister's definition than Mr Ruddock's.

The Hon. John Hatzistergos: I can understand that.

The Hon. PETER BREEN: But the reality is that we are tying to Mr Ruddock our civil laws, freedoms, and human rights that we have worked so long to achieve. I cannot understand why we would want to do that.

The Hon. John Hatzistergos: It is for two years.

The Hon. PETER BREEN: The Minister says it is for two years, but the reality is that this type of legislation has a benefit for governments that not only win elections by frightening people and creating fear but by maintaining fear as their policy and as a way of serving their electorate and the people who voted for them. It seems to me that this legislation offers some salutary lessons for all of us. Recently I was the subject of an investigation by the Independent Commission Against Corruption [ICAC]. As part of that investigation, a search warrant was executed on my parliamentary offices. After the inquiry was completed I was entitled, under the search warrants legislation, to a copy of the search warrant to see exactly what it was that the applicant for the warrant thought I was doing that was illegal. There were a number of anomalies in the application—in fact, not only anomalies, but also inaccuracies. One of the inaccuracies was that it claimed I was the owner of a certain property, and I was not. That piece of misinformation, together with other misinformation, was used to obtain the search warrant. People who apply for search warrants are fallible, irrespective of whether they are from the New South Wales Crime Commission, the police service, ICAC or any other investigative body. They are fallible; they make mistakes.

Under this bill we will not know what mistakes were made in an application for a warrant until two years after the warrant is executed. To my mind that is one of the most serious problems with this bill. If one has to wait two years before one knows what was looked for, what information was used to apply for the warrant, and on what basis the judge was asked to issue the warrant, it seems to me that one is automatically behind the eight ball. Two years after the event no-one will be too interested in what was wrong with the search warrant application. In fact, the Law Reform Commission looked at that issue recently. In a report published in 2001 on surveillance, the Law Reform Commission stated:

> The lengthening of time lags for the application for a warrant weakens the high degree of accountability which covert surveillance requires and which shorter time frames secure.

The importance of shorter time frames is that after 21 days the legality of the application for the warrant and for the warrant itself can be questioned. However, if people do not know that a warrant has been obtained—if it is a covert warrant, as will be created in this bill—they will not know that they are being investigated. Under this bill a person will not be entitled to know about that until a maximum of two years after the event. An investigation may be carried out for two years, and the currency of the warrant is 90 days, and then there is a further two years before the warrant can be questioned. Those time lags undermine very important legal rights that people otherwise have to question the origin of a warrant.

The last object of the bill to which I will refer involves the Listening Devices Act and extending its provisions to warrants involving terrorism. The Crime Commission already has extensive powers under the Listening Devices Act, and the Independent Commission Against Corruption has powers to obtain listening devices and telephone intercepts. The bill extends those powers to police officers involved in investigating terrorism. There is absolutely no need to do that. Currently police officers investigate criminal offences and the Crime Commission has a role to play, along with Federal authorities, in investigating terrorism. Why we would want to blur the line between the activities of the Crime Commission and the New South Wales police force escapes me. It is simply unnecessary and creates a burden on not only the people of New South Wales, and infringes their civil liberties, but also on the police, and that is unnecessary.

Police officers are subject to the scrutiny of the Police Integrity Commission, but under this bill the commission will not know about the warrants until two years after they have been obtained. On that basis alone this bill should be opposed. In my opinion the bill is unnecessary, it is a gross invasion of human rights principles and civil liberties. It is a retrograde step in the enforcement of law. The bill should be opposed.

The Hon. ERIC ROOZENDAAL (Parliamentary Secretary) [11.32 a.m.]: I will make a few comments in response to some members who have contributed to this debate. It is always a very difficult task to balance civil liberties with protecting democracy, and democracy does need to be protected. I will recount some of my experiences in this regard, because I believe that some members of this place live in a bubble. They think that this bill involves an esoteric discussion, and that it is all about civil liberties. Each day when I drop off my six-year-old son at school—he attends a Jewish day school—my car is checked and identified and an armed guard ushers my son into school. When I drop off my four-year-old at kindergarten—which has children from 3 to 5 years—an armed guard observes me arriving and ushers my son inside.

When I go to pray at my synagogue, police and armed guards usher me into the synagogue, and everyone entering the synagogue is subjected to a search by a metal detector. That is a daily occurrence for the

Jewish community in New South Wales. It is not done out of paranoia, or because we are frightened by government, it is done out of reality. The assessment of the Jewish community's own security consultants—and it has to have its own security consultants—the assessment of New South Wales and Federal police, and the assessment of various other security organisations is that my son's kindergarten, my son's school and my synagogue are potential terrorist targets. We are not having an esoteric discussion about what happens in Spain, Iraq or Bali; we are discussing a daily occurrence in this country.

A pertinent point was made earlier by the Leader of the Opposition about closed-circuit television. I understand the point he made, because even with the most sophisticated metal detectors, cameras and other devices, ultimately the prevention of terrorism relies mostly on intelligence gathering. If the last line of defence is an armed security guard outside premises, that is a pretty thin line of defence. That is why we need very strong legislation to deal with such situations. An earlier speaker said that terrorism is about those without power attempting to take power from those with power. I reject that. That is a nice, romantic assertion of the underprivileged rising up against the privileged, and I reject it. Many acts of terrorism throughout the world are carried out as religious acts. Suicide bombers are not political activists; they are making a religious statement. People are seeking religious enlightenment when they blow up a bus or take over a cinema or hijack a train in Spain. These terrorist acts are not political acts, although they may have political connotations. At the end of the day people commit a religious act because they believe it brings them religious enlightenment.

Some members of this House choose to treat terrorists as romantic heroes, and that is not what this bill is about. Terrorists are fanatics and they go to extremes to commit extreme, outrageous crimes. They have no respect for democracy or any laws. The problem with democracy and many of our laws is that they are based on dealing with normal criminal activity. Generally speaking, criminal activity is taking something from someone else, or doing something one should not do according to law. Terrorists ignore all of that, because they are not interested in a criminal outcome as such. Terrorists are interested in committing a terrorist act.

The Hon. Peter Breen: We didn't have these laws for the Baader-Meinhof.

The Hon. ERIC ROOZENDAAL: No, and we did not have planes flying into the World Trade Center either, comrade. I guess it is reflective—

[*Interruption*]

The DEPUTY-PRESIDENT (Reverend the Hon. Fred Nile): Order! The member should be permitted to continue his contribution without interruption.

Ms Lee Rhiannon: He is being hypocritical.

The DEPUTY-PRESIDENT (Reverend the Hon. Fred Nile): Order! He should be heard in silence just as other members were heard in silence.

The Hon. ERIC ROOZENDAAL: My point is that it is never ideal to tighten up some aspects of people's civil liberties. I understand that. But we are dealing with people who have no regard for Western democracy or Western social values. The Bali bombing was an horrendous act against many Australians, but it was not carried out because of Australia's foreign policy. It was carried out because the terrorist believed Westerners in Bali were living immoral lives and doing all sorts of things that the terrorists did not approve of. It was an act against all Western values. Most terrorist acts are attacks against our values. That is why the bill should be supported. It is important that we are able to gather intelligence, so that people in this country and this State can go about their daily lives with some level of safety. That is why I support the bill.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [11.38 a.m.], in reply: I thank all honourable members for their contribution to this debate, a number of whom have spoken from their own perspectives. It is important, as the Hon. Eric Roozendaal pointed out, that we should remember that potentially there is a terrible cost to pay for complacency or for lack of vigilance. One only has to look at the thousands of innocent lives lost in terrorist attacks across the world, including, regrettably, a number of Australians. This Government remains vigilant in looking for further ways to ensure the safety and security of our citizens, and also to play its part in the national and global effort to stop terrorism.

In meeting this challenge the Government is happy to stand by its record of ensuring that extraordinary powers are accompanied by strong and effective safeguards. I invite honourable members to compare the

existing covert search warrant schemes in Victoria and Queensland with the New South Wales scheme to confirm that our proposed scheme has the strongest safeguard and oversight provisions. When this issue is raised at a national level, as it should be, New South Wales will hold up its scheme as one that successfully balances the needs of strong law enforcement with the rights of law-abiding citizens to privacy and freedom from unjustified intrusion.

It is regrettable that in the course of debate Ms Lee Rhiannon attempted to downplay those safeguards. She referred to the issuing of the warrant by "a person". I interjected at that point and said that she should identify that person. It is, in fact, a Supreme Court judge. She tried to obfuscate that fact because it did not suit her particular brand of argument. If honourable members read proposed section 27K—regrettably speakers who spoke against this bill failed to do so—they will see an extensive provision about the eligible judge who will determine these issues. Incidentally, it will be a judge with Supreme Court status. It will not be some lay magistrate who makes these decisions; it will be a judge of the Supreme Court.

[*Interruption*]

If the Hon. Peter Breen read the bill, he would understand it. Proposed section 27K (2) states:

> (2) An eligible Judge, when determining whether there are reasonable grants to issue a covert search warrant, is to consider (but is not limited to considering) the following matters:
>
> (a) the reliability of the information on which the application is based, including the nature of the source of information,
>
> (b) whether there is a connection between the terrorist act in respect of which the application has been made and the kinds of things that far proposed be searched for, seized, placed in substitution for a seized thing, copied, photographed, recorded, operated, printed or tested,
>
> (c) the nature and gravity of the terrorist act,
>
> (d) the extent to which the exercise of powers under the warrant would assist in the prevention of, or response to, the terrorist act,
>
> (e) alternative means of obtaining the information sought to be obtained,
>
> (f) the extent to which the privacy of a person who is not believed to be knowingly concerned in the commission of the terrorist act is likely to be affected if the warrant is issued,
>
> (g) if it is proposed that premises adjoining, or providing access to the subject premises be entered for the purposes of entering the subject premises:
>
> (i) whether this is reasonably necessary in order to enable access to the subject premises, or
>
> (ii) whether this is reasonably necessary in order to avoid compromising the investigation of the terrorist act,
>
> (h) whether any conditions should be imposed by the Judge in relation to the execution of the warrant.

Proposed section 27L provides that there has to be a record of that. Proposed section 27S provides that there has to be a report to the eligible judge on the execution of the warrant.

The Hon. Peter Breen: What about proposed section 27T?

The Hon. JOHN HATZISTERGOS: Honourable members should read proposed section 27T. It has been suggested that this is some sort of cover up; that the judge can disregard his judicial duty and somehow the warrant will not be affected. The provisions in proposed section 27T are not invalidated by a defect other than a defect that affects the substance of the warrant in a material particular. What is wrong with that? Are honourable members suggesting that if someone slips up and it does not affect the substance of the warrant that somehow it should be invalidated?

The Hon. David Clarke: That is ludicrous!

The Hon. JOHN HATZISTERGOS: It is a ludicrous proposal. The only people who would advocate that sort of approach are those who fail to recognise the delicate balance that this bill strikes between civil liberties and the need for community protection. If honourable members are serious about protecting civil liberties—I think most people in this House ought to be—they should be concerned about the civil liberties of

innocent people who do not engage in these sorts of practices. Those are the civil liberties that people should be seeking to protect as much as possible.

I will deal with a number of issues that were raised about membership, which was also raised in the context of the report of the Legislation Review Committee. With regard to the creation of an offence of membership of a terrorist organisation the Legislation Review Committee noted that freedom of association is a fundamental right. The Government supports that view, but that right does not extend to protect a person's right to be a member of a group engaged in criminal activity, whether it is terrorism or commercial drug manufacturing. In criminal law that type of association is called a criminal conspiracy. Although the Legislation Review Committee made some comments about the form of the offence, honourable members will note that this is simply a mirror offence of an existing Commonwealth law; it is in exactly the same terms in order to avoid inconsistency. Honourable members will recall that we have passed legislation referring to Commonwealth laws relating to terrorism offences.

It would be absolutely abhorrent and unworkable if we were to add our own definition of a terrorism organisation separate from that to be found in Commonwealth legislation. We said we will adopt that definition and that there will be a two-year sunset clause in relation to it. It is hoped that in time a consistent national approach to these issues will be enacted at a Federal level, thus negating the need for this offence and for this scheme. Members would be aware that a number of organisations are covered by the existing regime. It is appropriate that this legislation is activated in circumstances in which people are involved in associations such as al-Qaeda and Jemiah Islamiah. My comments have adequately and appropriately addressed the concerns raised. I am always intrigued by whatever Ms Lee Rhiannon has to say in relation to these sorts of subjects. I was interested to learn that she crossed out, and did not read, slabs of her speech.

Ms Lee Rhiannon: You are so hung up about that. You have an obsession about it. How many times have you gone on about it?

The DEPUTY-PRESIDENT (Reverend the Hon. Fred Nile) Order! It is not question time. The Minister will continue.

The Hon. JOHN HATZISTERGOS: It indicates that she read her speech before she gave it in this Chamber—and that is unusual! One of the points she made was that the bill even allows for the destruction of documents. She made that statement as if to say that the world was going to collapse because the bill will allow the destruction of documents. Had she read the bill, she would know that the destruction of papers and documents will be authorised by the commissioner as a safeguard designed to protect private information that might come into the hands of police. That is the purpose of that provision; there is nothing sinister in it. Ms Lee Rhiannon did not refer to the Supreme Court judge, she went on up a bit about the destruction of papers and then she created an aura that somehow the world was going to cave in because this bill was being enacted, and all to support her—

The Hon. Michael Costa: Paranoid psychosis.

The Hon. JOHN HATZISTERGOS: She did that to support her paranoid psychosis. I will adopt that term.

The Hon. Eric Roozendaal: Just because you are paranoid does not mean that no-one can hurt you.

The Hon. JOHN HATZISTERGOS: As my colleague the Hon. Eric Roozendaal pointed out, these days we live in a different world. These powers are extraordinary; we tried to balance them with civil liberties.

[*Interruption*]

The DEPUTY-SPEAKER (Reverend the Hon. Fred Nile) Order! It is not question time. I ask the Minister to conclude his speech.

The Hon. JOHN HATZISTERGOS: Why would one ban something that is defunct? Such an ideology has collapsed. The only people who still subscribe to it are those who do not support this bill. The ideology has been discredited. That Ms Lee Rhiannon now parades herself as a Green indicates just how discredited the term "communist" is. I do not think we need to worry about banning the Communist Party. If she believes that is an appropriate label, she should go out and campaign for it, and she will suffer the appropriate consequences.

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

The House divided.

Ayes, 30

Ms Burnswoods	Mr Gay	Ms Robertson
Mr Catanzariti	Ms Griffin	Mr Roozendaal
Mr Clarke	Mr Hatzistergos	Mr Ryan
Mr Colless	Mr Jenkins	Mr Tingle
Mr Costa	Mr Lynn	Mr Tsang
Ms Cusack	Mr Macdonald	Mr West
Mr Donnelly	Reverend Nile	
Ms Fazio	Mr Oldfield	
Mrs Forsythe	Ms Parker	*Tellers,*
Mr Gallacher	Mrs Pavey	Mr Harwin
Miss Gardiner	Mr Pearce	Mr Primrose

Noes, 5

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

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time and passed through remaining stages.

WORKPLACE SURVEILLANCE BILL

SURVEYING AMENDMENT BILL

SUPERANNUATION LEGISLATION AMENDMENT BILL

POULTRY MEAT INDUSTRY AMENDMENT (PREVENTION OF NATIONAL COMPETITION POLICY PENALTIES) BILL

PREVENTION OF CRUELTY TO ANIMALS AMENDMENT BILL

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

AUDIT OFFICE

Report

The President tabled, pursuant to the Public Finance and Audit Act 1983, a performance audit report of the Auditor-General entitled "Managing Disruptions to CityRail Passenger Services", dated June 2005.

Ordered to be printed.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL

Second Reading

The Hon. ERIC ROOZENDAAL (Parliamentary Secretary) [11.59 a.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The *Statute Law (Miscellaneous Provisions) Bill 2005* continues the well-established statute law revision program that is recognised by all members as a cost-effective and efficient method for dealing with amendments of the kind included in the bill.

The form of the bill is similar to that of previous bills in the statute law revision program. Schedule 1 contains policy changes of a minor and non-controversial nature that the Minister responsible for the legislation to be amended considers to be too inconsequential to warrant the introduction of a separate amending bill. The schedule contains amendments to 49 Acts and 4 statutory rules. I will mention some of the amendments to give honourable members an indication of the kind of amendments that are included in the schedule.

Schedule 1 amends a number of Acts within the Arts portfolio, including the *Art Gallery of New South Wales Act 1980*, the *Australian Museum Trust Act 1975* and the *Sydney Opera House Trust Act 1961*.

The amendments made to these Acts will enable trustees to participate in trust meetings by telephone or other means of electronic communication. This is consistent with existing provisions in Commonwealth and State legislation (including more recent legislation in the Arts portfolio). Other amendments in the nature of statute law revision are also made.

Schedule 1 also amends a number of Acts in the Commerce portfolio to remove the WorkCover Authority Fund as the primary source for the payment of costs of the operation of the District Court in relation to certain transferred residual jurisdiction of the (now abolished) compensation court. The proposed amendments are largely machinery provisions, transferring internal funding responsibility from WorkCover to agencies and organisations that are users and stakeholders.

Another amendment made by schedule 1 is to the *District Court Act 1973* so as to enable former judges of the District Court to finalise matters that they have heard or partly heard as a judge of the court. The amendment brings the position of permanent Judges in line with that of acting judges in this respect.

Schedule 1 also amends the *University of Wollongong Act 1989* to increase the student membership of the Council of the University of Wollongong from 1 to 2 students (being an undergraduate and a postgraduate student).

Schedule 1 makes a number of amendments to the *Apiaries Act 1985*, in particular, to permit the Director-General of the Department of Primary Industries to delegate his or her functions under the Act and to allow regulations to be made specifying offences for which penalty notices may be issued.

Schedule 1 also amends the *Lotteries and Art Unions Act 1901*. The amendments make lawful the conduct of tipping competitions in which the prize pool is distributed in accordance with the rules of the competition (broadening the current requirement that the prize pool be distributed only to the participant who accumulates the most points).

At present, the Legislation Review Committee may only report on a regulation while it remains subject to disallowance. Schedule 1 amends the *Legislation Review Act 1987* to enable the committee to consider and make reports to Parliament on a regulation that has ceased to be subject to disallowance if the committee resolved to review and report on the regulation while it was subject to disallowance.

The last schedule 1 matter that I will mention is the amendment of the *Interpretation Act 1987* to confirm that a declaration in an Act that a statutory body is a statutory body representing the Crown confers on the statutory body the status, immunities and privileges of the Crown.

This reflects the settled law confirmed by the High Court in the *Wynyard Investments Case* but recent cases before the courts have cast doubt on that decision. The proposed amendment will not affect any legal proceedings instituted before the commencement of the amendment.

Schedule 2 deals with matters of pure statute law revision consisting of minor technical changes to legislation that the Parliamentary Counsel considers are appropriate for inclusion in the bill. Examples of amendments in schedule 2 are those arising out of the enactment or repeal of other legislation, those correcting duplicated numbering and those updating terminology.

Schedule 3 repeals a number of Acts and Regulations and provisions of Acts. These include the *Police Department (Transit Police) Act 1989* and the *Police Department (Transit Police) Regulation 2000* (which are being repealed because there are no longer any transit officers employed under the Act nor are there intended to be in the future).

The Acts and instruments that were amended by the Acts or provisions being repealed are up-to-date and available electronically on the legislation database maintained by the Parliamentary Counsel's office.

Schedule 4 contains general savings, transitional and other provisions. These include provisions dealing with the effect of amendments on amending provisions, savings clauses for the repealed Acts and a power to make regulations for savings and transitional matters, if necessary.

The various amendments are explained in detail in explanatory notes set out beneath the amendments to each of the Acts and statutory instruments concerned. If any amendment causes concern or requires clarification, it should be brought to my attention. If necessary, I will arrange for Government officers to provide additional information on the matters raised. If any particular matter of concern cannot be resolved and is likely to delay the passage of the bill, the Government is prepared to consider withdrawing the matter from the Bill.

I commend the bill to the House.

The Hon. DON HARWIN [11.59 a.m.]: The Statute Law (Miscellaneous Provisions) Bill is part of a regular program of similar bills. Schedule 1 makes minor amendments to various Acts and regulations. Schedule 2 amends certain other Acts for the purpose of effecting statute law revisions. Schedules 3 and 4 repeal certain Acts, regulations and certain provisions of Acts and make other provisions of a consequential or ancillary nature. The character of all the changes is supposed to be uncontroversial, but the present frenetic pace of legislation through both Houses has hampered the Opposition's examination of this bill. I note that the Government will move two amendments in Committee. One is not controversial and will add a regulation to a list in subschedule 1.42. The second is to actually remove subschedule 1.14. Because the Greens have identified a controversial aspect to the proposed change—

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

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CHRISTOPHER JOHN LAYCOCK

The Hon. MICHAEL GALLACHER: My question is directed to the Minister for Justice, representing the Minister for Police. Will the Minister explain why Christopher John Laycock, a self-confessed corrupt cop, who took bribes and allowed a child pornographer to escape arrest, is still a free man, despite the fact that police recommended that he be charged and brought before a court six months prior to the very public hearings of the Police Integrity Commission?

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

TAFE PART-TIME CASUAL TEACHERS AWARD VARIATION

The Hon. IAN WEST: My question is addressed to the Minister for Education and Training. Will the Minister inform the House of recent developments in relation to casual teachers in TAFE?

The Hon. CARMEL TEBBUTT: I thank the Hon. Ian West for his good question. Recently the Industrial Relations Commission approved consent award variations that will significantly improve the pay and conditions of TAFE part-time casual teachers. It is fair to say that casual teachers in TAFE colleges are often unsung heroes who do an enormous amount to make the system work effectively. Not surprisingly, they are used quite extensively, particularly as TAFE courses are often offered at night and other times that suit part-time students. The agreement is a good outcome for TAFE part-time casual teachers and provides a telling contrast between the way a Labor Government deals with claims for wages and conditions and the future industrial relations landscape as envisaged by the Howard Government.

The Full Bench of the New South Wales Industrial Relations Commission concluded at the end of 2004 that it was satisfied that part-time casual teachers received less remuneration than full-time teachers performing the same teaching hours and the same range of duties, and urged that the situation be remedied. The response of the Department of Education and Training to the Full Bench decision and findings had two key components. The first component involves the use of temporary teachers, instead of part-time casual teachers, for approved programs of 19 hours per week over 12 weeks per semester. Temporary teachers receive pro rata salary and conditions. Long-serving temporary and part-time casual teachers will be entitled to priority consideration ahead of external applicants in the filling of such temporary teacher engagements.

The new arrangements will ensure that temporary teachers, rather than part-time casual teachers, are engaged to deliver such programs, that is, approved programs of 19 hours per week over 12 weeks per semester. The second component of the department's response involves the introduction of additional payments for related duties to part-time casual teachers teaching 10 hours or more per week. The settlement also makes provision for part-time casual teachers to use their sick leave entitlement for personal carer's and bereavement leave purposes. An in-principle settlement was reached based on the compromise proposal put forward by the department. I acknowledge the extensive efforts of the NSW Teachers Federation in seeking these changes over some time and their assistance in reaching agreement as to the means of resolving their members' concerns.

The Hon. Catherine Cusack: How are you going to pay for it?

The Hon. CARMEL TEBBUTT: The pay increases, which are substantial, were fully funded in the 2005-06 State budget, to answer the interjection from the Hon. Catherine Cusack. It is inconceivable that an outcome of this type could have been reached in the industrial relations world about to be imposed upon us by the Prime Minister. His Government is pursuing an agenda that sidelines the Industrial Relations Commission, puts aside collective bargaining and ultimately seeks to drive down wage costs. It is sad that the Federal Government seeks to impose this regime on New South Wales employees. It is particularly sad that the Federal Government seeks to do that through funding agreements that have nothing to do with industrial relations and should have everything to do with resolving the skills shortage that we know we are all confronting. The training agreement should be about skills shortages and the way training institutions, including TAFE, respond to it. It should not be an opportunity for the Federal Government to try to impose an industrial relations agenda that has no place in New South Wales.

[*Interruption*]

Yes, it is a shame. It is an outrage. [*Time expired.*]

OVINE JOHNE'S DISEASE TRANSACTION LEVY

The Hon. DUNCAN GAY: My question is directed to the Minister for Primary Industries. Is the Minister aware of concerns that the 2004 amendments to the Agricultural Livestock Disease Control Funding Act 1998 places an unfair burden on stock and station agents engaged in the ovine Johne's disease transaction levy? Given that the transaction levy will be reflected in the account statement from the stock and station agent to the producer, does the Minister recognise concerns that farmers in many cases may assume the levy is another agent fee and is an amount that forms part of the overall agent's fee? Will the Minister clarify how the transaction levy will be administered and whether it is optional for agents to collect the fee? Have other systems of collection been thoroughly investigated, given widespread concern that the levy in the sale yards will not address paddock sales and other meat producer sales that do not utilise agent facilities?

The Hon. IAN MACDONALD: I commend the honourable member for his interest in this area. Yes, we have to work out the fine detail of a number of areas. It is not intended for the levy to commence in the next few weeks, but our commitment is that it will commence. We are holding discussions with various agencies, such as stock and station agents, to sort out the issues that have been raised. We are aware of those concerns and we will address them in discussion with the industry.

GENETICALLY MODIFIED CROPS

Mr IAN COHEN: My question is directed to the Minister for Primary Industries. With the review of the Commonwealth Gene Technology Act underway, what steps is the Minister taking to protect the State's right to determine that its own needs for controls on GE-crops are protected? Will the Minister do everything in his power to ensure that he, as the Minister, will retain the power to assess the market and the economic impacts of GE-crops on the State's economy and maintain the right to make orders until such time as the community is satisfied that questions about liability and other unresolved matters have been adequately answered?

The Hon. IAN MACDONALD: We are always concerned to ensure that any potential negative impact is taken into account when considering whether we pursue genetically modified crops in this State.

The Hon. Duncan Gay: That would reflect a huge mindset change for you?

The Hon. IAN MACDONALD: No, that is not true. I have supported the legislation to ensure that we can conduct adequate research into all issues relevant to genetically modified crops. Canola was the one that was put forward a couple of years back. Due to the drought, of course, in the past year we have not had genetically modified canola. In fact, I do not think there were very many genetically modified crops, if any, last year due to the drought. This year there has been a very late break in the weather, as the honourable member would know, which puts canola well and truly outside that window of opportunity. No research has been conducted in New South Wales. Honourable members can rest assured that the Government is concerned about all those issues and they will be fully evaluated by the gene technology committee that we established under legislation in this State when, and if, there are applications. I will take its advice into account when making a decision.

PRISON SITE

The Hon. KAYEE GRIFFIN: My question is addressed to the Minister for Justice. What is the latest information on the location of the proposed 500-bed prison?

The Hon. JOHN HATZISTERGOS: I am aware that some honourable members have contacted my office regarding the construction of the announced 500-bed correctional centre. A number of councils around the State already have begun to discuss making a bid to bring the prison to their community. I am pleased that honourable members recognise the economic benefits that construction offers to a local community. It is estimated that the new facility will create 350 jobs during construction and between 180 and 200 permanent jobs when it is in operation. It would also inject approximately $10 million annually into the local economy in wages and salaries and $3 million annually in ongoing operational costs.

The decision for a community to seek to have a prison sited in their area is of course an important one. So I encourage honourable members and local councils to engage members of their communities in extensive consultation and discussion before they decide to submit an expression of interest. Obviously, that will take time. In light of this, I expect that the process will follow this timetable. Firstly, councils will be required to submit formal expressions of interest by the end of the year. Secondly, it is then anticipated that the most suitable local government area will be selected by mid-2006. Thirdly, it is anticipated that the site will be selected by the end of 2006. Fourthly, following that, the tender process would begin in early 2007.

Communities that are interested in submitting an expression of interest are encouraged to contact the Department of Corrective Services for further information. However, I can advise that the requirements for the site of the new centre include that it should be: close to a stable employment base; close to support services, such as hospitals, legal, police and emergency services; at least 40 hectares, and preferably up to 80 hectares, in size; be appropriately priced and available for acquisition—

The Hon. Duncan Gay: When will the decision be made?

The Hon. JOHN HATZISTERGOS: I have just said that.

The Hon. Duncan Gay: No, you did not.

The Hon. JOHN HATZISTERGOS: I did, and you did not listen.

The Hon. Duncan Gay: You did not say when the decision would be made to site it.

The Hon. JOHN HATZISTERGOS: I continue with the requirements for the site, including that it: be such that services including electricity, water and telecommunications are reasonably capable of being extended to the site—

[*Interruption*]

The Hon. Duncan Gay should save all that for the wind farm! I continue. The site will be such that it will: have either adequate access to town sewerage or sufficient space for on-site treatment; have access to regular public transport; be in an area with negligible risk from bushfires and flooding; be free from potential environmental impacts including any effect on the habitat of threatened flora and fauna; be free from Aboriginal and European cultural constraints; and have adequate sealed road vehicular access.

The Hon. Duncan Gay: What is the final date?

The Hon. JOHN HATZISTERGOS: As I have previously said, the site selected for the new prison will also have to be appropriate having regard to the location of other correctional centres and courts around the State, and the area of greatest demographic need. It is no secret that the mid North Coast correctional centre opened last year, and the new Wellington correctional centre is to be completed in 2007.

The Hon. Duncan Gay: When is the date? Is it finalised? There was no official date.

The Hon. JOHN HATZISTERGOS: While there is probably a greater need for a new correctional centre in the south of New South Wales than in the north, we are open to bids from any region and we will give all bids careful consideration.

The Hon. Duncan Gay: Give us the date.

The Hon. JOHN HATZISTERGOS: I note the Deputy Leader of the Opposition continues to interject. I can only assume that his comments are based on Opposition statements made in relation to the announcement that this facility is, to quote their words, "a mirage".

The Hon. Duncan Gay: It is.

The PRESIDENT: Order! I remind honourable members that interjections are disorderly at all times.

The Hon. JOHN HATZISTERGOS: If it is a mirage, why are Coalition members contacting our office with expressions of interest? Among them is the honourable member for Lachlan, Mr Armstrong. He does not think it is a mirage. He has contacted us, asking for more information. I have given him that information today.

The Hon. Duncan Gay: What is the date?

The Hon. JOHN HATZISTERGOS: The Deputy Leader of the Opposition asked, "What is the date?" The honourable member for South Coast said, "Labor should not make any hasty decision." That is what she said about this matter. The Deputy Leader of the Opposition should get communities together.

The Hon. Duncan Gay: What is the date?

The Hon. JOHN HATZISTERGOS: Listen to what I say. The answer was in my response. You were not listening, Duncan! [*Time expired.*]

LOCAL COUNCIL RATE INCREASES

Ms SYLVIA HALE: I direct my question without notice to the Minister for Local Government. As the Minister has begun granting councils substantial rate increases to help pay for the provision of essential infrastructure, which the State Government should be providing, what is the Minister's department doing to restrain cost shifting onto local government and ratepayers? What is the justification for Ku-ring-gai residents paying extra for grey water recycling, and Blacktown residents being levied to pay for essential infrastructure for new land release areas, when State government entities such as Sydney Water and Energy Australia have failed to invest in and maintain infrastructure while paying substantial profit dividends to the State Government?

The Hon. Ian Macdonald: Don't give the Greens in Marrickville a cent!

The Hon. TONY KELLY: I do not know whether among the interjections the honourable member mentioned Marrickville council. I was not quite sure whether the honourable member was supporting Marrickville council's proposal for a rate increase.

The Hon. Melinda Pavey: What was Marrickville council asking for?

The Hon. Robyn Parker: Seven per cent.

Ms Sylvia Hale: It is extraordinary that councils have to ask for any increases.

The Hon. TONY KELLY: I think it is something like that. I acknowledge the interjection that it is extraordinary that councils have to ask for any increases. New South Wales is the only Australian State that has rate-pegging. In every other State, councils can charge whatever they like, without any controls. Both major political parties in New South Wales supported rate-pegging, which for the past decade has meant that local government in New South Wales is much more efficient than are local government bodies in some other States. Both major parties have taken the view that, because New South Wales has rate-pegging and other controls on councils, we must recognise the responsibilities of councils for major infrastructure projects. There are a number of works for which the Government allows rate increases, for example, major infrastructure projects.

In country towns, for example, councils often require extra assistance with major water and sewerage infrastructure projects. Stormwater drainage is an issue for Ku-ring-gai council. I would have thought Ms Sylvia

Hale would be one of the last people to whinge about funding of environmental matters. So, if a council wanted to use efficient, effective and environmentally acceptable methods to water its parks and gardens by efficient, effective and environmental methods—in other words, using stormwater—I would have though the honourable member would support that council.

GROUP HOME PLACES

The Hon. JOHN RYAN: My question without notice is directed to the Minister for Disability Services. Does the Minister stand by admissions from his office, reported in today's *Sydney Morning Herald*, that the Carr government has created only 350 new group home places over the past six years? Did the Minister claim on 2GB radio and in the House last month that the Carr Government had created 1,000 new group home places since 2000? Which figure is correct, and what plans has the Minister made to address the significant and desperate unmet demand for new group home places in New South Wales?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for his question. I think I have answered the substantive question a couple of times previously. In the five years from 1999 more than 1,000 people with a disability have received new group home accommodation. This figure includes 400 people relocated from boarding houses that were substandard or closed down, 250 people relocated from large residential centres, 150 people housed under a program to free up blocked respite beds, and more than 200 people who were at risk of becoming homeless and were housed as a result of the Emergency Response Fund. In addition to those beds, a further 600 people have received accommodation support, 200 via the attendant care program and 400 receiving support via the Emergency Response Fund. If the honourable member were to go back and check the record on the program that he was talking about some time ago, he will see that I did talk about group homes. Then I also spoke about the additional beds, and I corrected myself to make sure there would be no misunderstanding, and I have done so publicly a number of times, both to him directly and also in the Chamber.

The Hon. Duncan Gay: You were caught out telling porkies.

The Hon. JOHN DELLA BOSCA: I have not been caught out doing anything of the sort. I have been caught out telling the absolute truth. I am not ashamed or embarrassed about that. The Carr Government has increased funding for disability services in 2005-06 to more than $1.1 billion under the Commonwealth-State Disability Agreement. That amount has more than doubled since the Carr Government was elected. We have provided more than a thousand people with disability with new group home accommodation since 1999. I have already indicated what that figure represents. We have continued to support the community in 2005-06 by providing more than 275,000 support places, at a total cost of $718 million.

These services include 24,000 places in disability and Home and Community Care respite, 4,275 places in school leaver programs, 2,500 places in day programs, 157,000 clients receiving personal assistance and 77,000 clients receiving therapy or related services. Honourable members would be aware that over the two-year program operated by the Commonwealth and State governments we have met the total growth target with total funding at the end of 2001-02 of $860 million. Over the same period Commonwealth funding increased, but the most important thing to recognise is that we need to go through a program of reform and produce a more comprehensive plan to meet targets for growth and need in the disability sector. I look forward to making further announcements and briefing honourable members on some of the initiatives we will take over the next six to nine months.

DEPARTMENT OF PRIMARY INDUSTRIES RESEARCH

The Hon. CHRISTINE ROBERTSON: My question without notice is directed to the Minister for Primary Industries. Will the Minister please update the House about the latest research carried out by the Department of Primary Industries to benefit farmers in New South Wales?

The Hon. Henry Tsang: Good question.

The Hon. IAN MACDONALD: Yes. I thank the honourable member for her excellent question. The Department of Primary Industries [DPI] is a leader in the field of agricultural research. Each year the State Government invests $110 million in science, research and extension work within the DPI, making it the largest provider of research within the New South Wales Government.

The Hon. Michael Costa: Amanda rides a pushbike.

The Hon. IAN MACDONALD: I like riding a pushbike don't knock it!; If the Hon. Amanda Fazio rides a pushbike she has good sense. In addition the latest State Budget allocated $4.2 million to upgrade facilities and equipment at DPI research centres across the State. The upgrades form part of the Carr Government's "Towards 2020" plan, which has seen millions of dollars invested in upgrading facilities and equipment for agriculture, fisheries, forestry and mineral resources. Our research centres are hothouses of innovation and practical research with a long and proud history of making important breakthroughs in science and technology. These include advancements in disease diagnosis and prevention, weed management, improved feed efficiency and the development of new crop varieties.

Producers, consumers and the general public in New South Wales reap the benefits of this work. For example, researchers at the DPI recently have developed two new varieties of chickpeas, which will deliver a huge boost to producers. More than 90 per cent of the New South Wales chickpea crop is sewn in north-west New South Wales, with about 90,500 hectares currently planted. The latest DPI figures indicate that around 900 primary producers are now growing chickpeas. They contribute more than $30 million to the State economy every year. But things are not easy for our farmers at the moment with the drought. We have released two new varieties, called York and Flipper, which will offer improved resistance to a devastating fungal disease, blight, which wipes out chickpeas.

The Hon. Michael Gallacher: What about googly?

The Hon. IAN MACDONALD: Googly would be a good one, and Howzat would be another good one. This will reduce the use of costly foliar fungicides, which farmers previously have needed to protect their crops. This is good news not only for farmers—it will reduce the amount spent on chemical controls—but also for the environment. Many producers would remember the devastating effects of the chickpea blight outbreak in 1998, which severely damaged or wiped out most crops in New South Wales and Queensland. These two new varieties will reduce the chances of a similar outbreak occurring. They were developed at the Tamworth Agricultural Institute, which is a centre of excellence for northern farming systems, after 10 years of research by leading chickpea breeder Ted Knights. Both varieties will be launched at Chickpea Focus 2005, an event to be held in Goondiwindi in September. Perhaps we should hold it instead in Dubbo or Cooma and then I could invite the Hon. Patricia Forsythe to help her preselection. Perhaps we could hold another one in south-western Sydney for the Hon. Ned over there. This latest breakthrough in crop development is just the most recent example of exciting and vital work being carried out by DPI scientists.

The PRESIDENT: I call the Hon. Jennifer Gardiner to order.

REDFERN MOBILE NEEDLE SYRINGE SERVICE

Reverend the Hon. FRED NILE: I ask the Special Minister of State who is responsible for drug policies, representing the Minister for Aboriginal Affairs, a question without notice. Is it a fact that the Aboriginal community, the Aboriginal Housing Co-operative in Redfern and the Block strongly oppose the daily distribution of heroin needles to adults, young people and children by the Government needle van because it encourages drug use and the breakdown of their culture? Is it a fact that the Carr Labor Government claims it supports Aboriginal self-determination? Why has the Government completely ignored the views and policy of the Aboriginal community in Redfern, especially in the Block? Will the Government show genuine support for Aboriginal views, policies and culture and immediately stop the daily distribution of heroin needles in Redfern?

The Hon. JOHN DELLA BOSCA: If I could clarify what I understand to be the case, the particular issue at the moment is the location of the needle exchange in Redfern. There is a separate legitimate argument—

Reverend the Hon. Fred Nile: The needle van.

The Hon. JOHN DELLA BOSCA: I understand that.

The Hon. Duncan Gay: Young children live next door to where you want to put it.

The Hon. JOHN DELLA BOSCA: I just conceded that point, if the Deputy Leader of the Opposition would listen. Obviously the Government has gone through an extensive consultative process, which is ongoing. There is a completely separate debate within the community—not just in Redfern but everywhere—about the

veracity of needle exchange. My view, and the Government's view generally, is that the needle exchange program in Australia—

The Hon. Duncan Gay: It's not needle exchange, it's distribution.

The Hon. JOHN DELLA BOSCA: The honourable member knows full well what I am talking about. It is an interjection that does not shine any light on the debate. The needle exchange program has been an overwhelming success at reducing levels of infection, particularly hepatitis C and blood-borne infections, such as HIV-AIDS. The overwhelming professional view is unanimous on that point. However, there are very serious concerns—

The Hon. Duncan Gay: Why are you putting this next door to families with young children?

The Hon. JOHN DELLA BOSCA: I am conceding that point. The Deputy Leader of the Opposition is continuing to interject. In relation to the views of the Aboriginal community on the Block and whether the location is suitable, the Government has embarked on ongoing consultations. The Minister for Aboriginal Affairs, the Minister for Police and the Minister for Health are the Ministers involved in consultation. I will consult them and I will come back with a more detailed answer for Reverend the Hon. Fred Nile.

Reverend the Hon. FRED NILE: I ask a supplementary question. Will the Minister give an assurance that the needle van will be stopped while these negotiations continue?

The Hon. JOHN DELLA BOSCA: I am not in a position to make a policy announcement about that, and I think Reverend the Hon. Fred Nile would understand the reasons why.

SOUTH GRAFTON HIGH SCHOOL COMPUTERS ACCESS

The Hon. CATHERINE CUSACK: My question without notice is directed to the Minister for Education and Training. What is her response to dissatisfied parents at South Grafton High School who were advised at a recent parents and citizens meeting that the school only has access to old outdated computers, that the school has a ratio of 10 students per computer instead of five to one, and that there may not be enough computers for all of the year 10 students to sit their Information Communication Technology online exam?

The Hon. CARMEL TEBBUTT: I am not aware of the particular situation at South Grafton High School referred to by the honourable member. I will follow up those issues and undertake to get a response back to the member as soon as possible. But I take this opportunity to provide some general advice to the House about the Computers in Schools Program. Over the next four years the Government will be providing significant funding—$795 million as announced in the 2004-05 budget—to give students and teachers in New South Wales schools access to state-of-the-art technology. I have seen some of the new computers in the schools and they are indeed impressive.

Last week I was at Wyong High School where there is a special technology centre. It is extraordinary to see the type of work that students are able to do with the computer technology roll-out that the Government is funding. There is $544.4 million for the Technology for Learning Program, which includes delivering 100,000 new high speed computers to schools together with 129 additional information technology support staff to provide technical help in classrooms. There is $156.6 million for upgrading band width in schools, $77.5 million for 1.3 million e-learning accounts for students and staff in schools and in TAFE, and $16.7 million for computer technology training for teachers.

There are over 139,000 government-provided computers in New South Wales public schools. The 75,000 computers in schools that are currently leased will be purchased so that the schools may keep them. For the first time the new roll-out of computers will be installed, connected and tested by the suppliers. They are covered by a four year on-site warranty which compares favourably to the previous three-year warranties. Nonetheless, I am not aware of the situation with regard to the Grafton South High School. I will follow up that issue.

FIRE BRIGADES BRAVERY AWARDS PRESENTATION

The Hon. GREG DONNELLY: My question is addressed to the Minister for Emergency Services. Will the Minister inform honourable members of the four Central Coast residents who received bravery awards from the Commissioner of New South Wales Fire Brigades yesterday?

The Hon. TONY KELLY: On Monday New South Wales Fire Brigades Commissioner, Greg Mullins, presented the Commissioner's Commendation to four Central Coast residents for their brave actions that led to lives being saved at two separate fires in the past 18 months. I take this opportunity to inform the House of their outstanding bravery in the face of great danger. Ms Patricia Singleton, Ms Eve Foster and Mr Daniel Wall were all employees at the Henry Kendall Hostel, Wyoming.

On 12 January 2004 a serious fire broke out at the hostel. The three staff members went to extraordinary lengths to evacuate elderly people from their units during the fire. When internal routes became smoke filled, Ms Singleton and Ms Foster scaled down a retaining wall that is 2½ metres high to obtain access to a room from outside. As the room filled with smoke, they lifted a woman from her wheelchair and carried her to safety through a narrow passageway. That would have been difficult for a fire officer with years of experience and training and wearing protective gear, but these two mature ladies had none of that. While all that was happening, Mr Wall was evacuating other elderly residents from danger areas.

The composure of Ms Singleton, Ms Foster and Mr Wall throughout the evacuation, which was carried out in a matter of minutes, helped to keep the residents calm and ensured that they all got out safely. I am pleased to report to the House that all three received a Commissioner's Commendation for bravery. Mr David O'Brien also received the Commissioner's Commendation for rescuing a girl from a house fire in Saratoga in November 2003 which tragically claimed the life of her mother. At the time of the fire, two children were in the house. The little boy escaped; however, the small girl was still trapped inside. Despite facing intense heat and smoke and with no thought for his own safety, Mr O'Brien threw a table through a window to get in to rescue the girl. Mr O'Brien was faced with an explosion, or what firefighters call a flashover. Wearing only a pair of pyjama pants, Mr O'Brien went inside and rescued the badly burnt youngster. This little girl probably would not have survived if it had not been for the bravery of Mr O'Brien and the assistance of others at the scene.

These four remarkable people risked their lives to save others. I am sure that all honourable members join me in thanking them for their brave and selfless acts. In recent weeks Commissioner Mullins, the Rural Fire Service Commissioner, Phil Koperberg, and I have been imploring all families and householders to follow simple fire safety precautions, such as the installation of working smoke alarms and a well-rehearsed evacuation plan. It is good to be able to speak about another example of fire safety measures being successfully implemented. After 13 home fire deaths in the past few weeks, I am pleased to report that last night at a fire in a unit at Leichhardt, a woman's life was saved by a smoke alarm. The woman was asleep inside her unit when a fire broke out. As we all know, smoke will not awaken someone, but a smoke alarm in a corridor outside her unit went off. Her neighbours heard the alarm and called 000.

Firefighters rushed to the scene and rescued the woman. She is currently recovering and I am sure all honourable members join me in wishing her a speedy recovery. In conclusion, I reiterate what I said yesterday—smoke alarms save lives. They give people precious seconds to escape or call for assistance, and those seconds could mean the difference between life and death. I urge everyone in New South Wales to install smoke alarms in their houses immediately.

POLITICAL ACTIVISM IN SCHOOLS

The Hon. DAVID OLDFIELD: My question is directed to the Minister for Education and Training. Does she recollect that yesterday, when I asked her a question with reference to her staff seeking to exclude from *Hansard* names uttered by her, that her excuse was that her staff had privacy concerns and sought advice from Hansard as to the appropriateness of those names being recorded? Is it not correct that the names were uttered by her in the first instance because she was reading an answer provided by her staff and the answer included the three names in question? If her staff genuinely had privacy concerns about naming these people, why in the first place did they include the names in the answer they provided for her use in case I asked a question on that matter?

The Hon. CARMEL TEBBUTT: I answered this question yesterday. I refer the Hon. David Oldfield to the answer that I gave yesterday. I reiterate that at all times my staff acted appropriately. They sought advice from Hansard. They accepted that advice when it was provided by Hansard and when it was then qualified and clarified by the Clerk of the Legislative Council.

The Hon. DAVID OLDFIELD: I ask a supplementary question. Did the Minister's staff seek to exclude the names because the previously prepared response they supplied to her had no relationship to my question, hence she made the mistake of mentioning the names unnecessarily?

The Hon. CARMEL TEBBUTT: I have nothing further to add to the answers I have already given.

DEPARTMENT OF PRIMARY INDUSTRIES AQUATIC ECOLOGY POSITIONS

The Hon. JENNIFER GARDINER: My question without notice is directed to the Minister for Primary Industries. It is a fact that six of the 12 conservation manager positions within the Department of Primary Industries aquatic protection unit will lose their jobs on 30 June? Will his department continue to receive Treasury funding for those positions, despite the jobs being abolished? How does he justify this penny-pinching activity that will result in the Department of Primary Industries filling its coffers at the expense of the loss of valuable specialist expertise in aquatic ecology and habitat protection?

The Hon. IAN MACDONALD: I do not think the question is correct because I do not think that those people are finishing up their positions as of 1 July. I urge the Hon. Jennifer Gardiner to watch this space. My understanding of the issue is that those six will not be finishing up.

TEACHER MENTOR PROGRAM

The Hon. HENRY TSANG: My question is addressed to the Minister to Education and Training. What is the New South Wales Government doing to support beginning teachers?

The Hon. CARMEL TEBBUTT: I think that every member of this House recognises the importance of encouraging, developing and supporting the careers of new teachers. There is no doubt that people join the teaching profession as their vocation, with enormous enthusiasm, dedication and passion. The Government wants to encourage that enthusiasm from the outset of a teacher's career. We want to ensure that they remain in teaching. That is why am pleased to inform the House of the outstanding work the Government is doing to support teachers at the beginning of their career and to ensure the quality of all teachers in New South Wales.

Firstly, we recognise that teachers come into the New South Wales public school system from a variety of pathways. A beginning teacher may be a recent graduate. They may be an experienced casual, or a temporary teacher who is taking up their first permanent appointment. The beginning teacher may have been trained overseas or may be transferring from another State or education system, or may have retrained from another career. Whatever the case, we welcome the diversity which I think adds to the quality of the classroom experience. We value the skills and experience that beginning teachers bring to schools. We are committed to supporting them. Unlike other professions, previously there has not been a professional teaching body in New South Wales to support and develop the careers of teachers. The Government has taken the initiative and has established the Institute of Teachers as a much-needed investment in the future of teachers and the future of education in New South Wales.

At the core of the institute is a framework of professional teaching standards against which teachers will be accredited. That is a major initiative, and it means that teachers arriving in the classroom on day one are able to deliver quality education. The institute will ensure also that teachers are able to demonstrate ongoing growth in their professional expertise and skills. Experienced teachers providing guidance and support as mentors of beginning teachers is a long-established practice in New South Wales schools. The department has developed a specific Teacher Mentor Program, which was introduced as a two-year pilot in 2003-04. The Government expanded the program in 2005 to support more beginning teachers in public schools.

The pilot program initially featured 50 teacher mentors working in 51 schools. The $5.12 million 2005-06 program features 58 teacher mentors working with beginning teachers in 90 schools across the State that have significant patterns of beginning teachers. Teacher mentors work with beginning teachers to establish effective classroom routines, vary their teaching methods to meet the needs of individual students, and manage classroom discipline. Of the 90 schools participating in the program in 2005, 19 are primary schools, 66 are secondary schools and five are central schools. Teacher mentors may work across more than one school, supporting new teachers working in permanent and temporary positions.

An English-History teacher with more than 20 years experience is working with beginning teachers at three campuses of Dubbo College. A typical day for a teacher mentor with a new teacher will include outlining outstanding teaching practice, developing quality teaching programs, observing lessons in progress and providing feedback and guidance. Teacher mentors ensure that students in public schools receive the best education and that public schools retain the best teachers. Feedback about the program from teacher mentors, principals and beginning teachers is very positive, with reports that it is having a significant impact on the retention of new teachers in our schools.

On a number of occasions I have met with new teachers who have had the benefit of the mentoring program. They spoke very highly indeed of the support that it has offered them. The Government has developed also a number of other initiatives that provide beginning teachers with induction programs, mentoring, professional learning, career development and consultancy support. Beginning teachers in schools are supported by induction programs which include orientation to teaching as a career, structured supervision, collegial support and professional networking.

CLEANER VEHICLE ACTION PLAN

Ms LEE RHIANNON: I direct my question to the Minister for Roads. Why has the Government not honoured the Premier's promise, made almost four years ago in November 2001, to introduce a cleaner vehicle action plan, including stamp duty reductions on new clean cars? How can the Minister justify continuing to issue media releases to get his treasured *Daily Telegraph* headlines—

The Hon. Michael Costa: Oh!

Ms LEE RHIANNON: Well, you did well today. The media releases fool the public into thinking that the Minister is acting on greenhouse—

The Hon. John Della Bosca: How many did you get out of 10, Lee?

Ms LEE RHIANNON: How many did I get? I got 10 out of 10, including the one about running over cyclists. The Minister is failing to follow through and do the work he promised.

The Hon. MICHAEL COSTA: I do not know what the honourable member was referring to when she said I did well today: I do well every day. One thing this Government cannot be accused of is not taking the environment seriously. In fact, some of us in Government think at times that some measures deal with important problems and need to be dealt with in an holistic way. I am sure the environment movement, other than the Greens, who are not environmentalists—we all know that the Greens are really political opportunists—would acknowledge that fact. Air standards and air quality have become better in Sydney over the past decade, and that has been generally acknowledged. The Government can be very proud of its record in those areas.

STUDENT ACADEMIC ACHIEVEMENTS

The Hon. CHARLIE LYNN: My question without notice is directed to the Minister for Education and Training. Why does the Government refuse to give parents of schoolchildren information about student academic achievements, to allow them to compare results over time and with other schools, when principals, teachers, parents and regional parents and citizens bodies are provided with that information?

The Hon. CARMEL TEBBUTT: The question provides me with an opportunity to provide the House with some important information regarding school annual reports.

The Hon. Michael Costa: Give him the answer.

The Hon. CARMEL TEBBUTT: I am very happy to answer the question. I have indicated on many occasions, when similar questions were asked, that the Government acknowledges that school annual reports, published by each New South Wales public school, need to improve. Parents want more meaningful information. The Government has made it very clear that we do not support the publication of league tables.

The Hon. Catherine Cusack: What about student results, not school results?

The Hon. CARMEL TEBBUTT: The Hon. Charlie Lynn asked about student results that parents can access. Does the Hon. Charlie Lynn want to know about annual school reports or individual school reports?

The Hon. Charlie Lynn: Individual.

The Hon. CARMEL TEBBUTT: I am happy to address individual school reports, because the Government acknowledges that there needs to be changes there.

[*Interruption*]

That information is already provided to parents. For the clarification of honourable members I advise that the department has been involved in two processes. Firstly, it has been involved in the process of revising annual school reports so that they provide more meaningful information to parents, including information about how schools perform in basic skills tests and value adding. Some schools already provide that information. The department is working on a process under which it will be made much clearer to all schools that there is to be a consistent format for reporting information to school communities.

The department has been involved also in a project, working with Parents and Citizens Associations New South Wales and other interested stakeholders, for revising individual reports provided to parents, particularly for primary school students. That work has been done in conjunction with a project undertaken by the Board of Studies about the overcrowded curriculum and whether there needs to be mandatory outcomes for the primary school curriculum. Individual school reports will provide more detailed information to parents. I have seen a number of individual school reports that are sent to parents and on the whole they are pretty good. They are clear and easily understood. However, parents are seeking consistency across schools so that if a student changes schools the parents are more easily able to understand individual reports and are able to compare the new report to an earlier report.

The Government will provide that information to parents through individual school reports. We are working closely in conjunction with Parents and Citizens Associations New South Wales and there will be ample consultation and ample opportunity for parental feedback about whether the proposed format for individual reports meets their needs. The Government rejects the fairly simplistic approach taken by the Federal Government regarding reporting individual school achievements. For example, the Federal Government claimed that it is useful to rank kindergarten students; that is not something that the majority of parents want. I do not believe that parents see a need to rank kindergarten students. That is something that the Federal Government is trying to impose.

I believe that parents have moved beyond simply seeking an A, B, C, D, E report. Parents want more information, and the Federal Government has underestimated the knowledge of and interest that parents take in their child's progress. Nonetheless, we accept that parents are looking for clear reports in easy to understand language and for a level of consistency in school reports across the system, and the Government will provide that.

DRUG ACTION WEEK

The Hon. PETER PRIMROSE: My question without notice is directed to the Special Minister of State. Given that this week is National Drug Action Week, will the Special Minister of State inform the House about community events taking place and, in particular, initiatives to discourage drug and alcohol abuse by young people?

The Hon. JOHN DELLA BOSCA: I commend the honourable member for his interest in this important issue.

The Hon. Melinda Pavey: Tell us about what Amanda did.

The Hon. JOHN DELLA BOSCA: She does a lot of good things, I can tell you that for a start. As this is National Drug Action Week I am pleased to inform the House that there are many activities taking place this week to raise awareness of drug and alcohol issues. This year's Drug Action Week will mark the fifth anniversary of community drug action teams.

The Community Drug Action Team [CDAT] Program was developed following the New South Wales Drug Summit. It enables communities to tackle alcohol and drug problems in their own areas. This week community drug action teams will host more than 50 events across the State. The CDATs were set up in communities across New South Wales and comprise people from those communities. They identify alcohol and other drug issues affecting their own communities and they look at solutions to tackle them. Community drug action teams have gone from strength to strength over the past five years, growing from only three to over 70 across New South Wales.

The diversity of different projects undertaken by community drug action teams illustrates the different issues affecting communities and reinforces the importance of localised activity. To illustrate the growth of the program, National Drug Action Week will result in six new CDATs receiving endorsement from the New South

Wales Government. These are: Griffith, Clarence Valley, Dubbo, Wingecarribee, Cowra and Forbes. Funding to support the work of the teams has been generous. This financial year 75 grants have been approved, totalling nearly $200,000. The work of the CDATs is immensely important. The growth and success of the program over the past five years has been impressive. This is mainly attributed to the hard work of local people wanting to make their communities a better place by tackling drug and alcohol problems on their doorsteps.

As part of National Drug Action Week activities I also announced today the release of a new drug and alcohol information card for teenagers. The Drug Smart z-card has been produced as part of the Government's ongoing action to tackle drug and alcohol abuse through prevention, education, enforcement and treatment. The Drug Smart z-card dispels common myths about some of the drugs that young people may encounter and it provides accurate information on drug and alcohol related issues. Contact details for services that give further information or help are included. The card presents real life situations that young people may encounter. It encourages young people to think about their behaviour and to get help if they need it.

The card was produced with the assistance of experts in the alcohol and drug field as well as services that work with and represent young people. Young people also played a key role in the development of the card. Drug Smart was first produced in 2002 and was extremely popular with young people. Approximately 400,000 of the cards were distributed over 12 months and 400,000 copies of the second-generation card have been produced and will be distributed during National Drug Action Week. Drug Smart will also be distributed by services for young people—schools, libraries, community drug action teams and, for a limited time, by Civic Video outlets. Civic Video has generously agreed to include three special offer coupons as part of Drug Smart. That offer adds to the appeal and retention of the card at no cost to the Government. I commend Civic Video for its support and I commend the new Drug Smart z-card.

SCUBA DIVING FEES

The Hon. JOHN TINGLE: My question without notice is addressed to the Minister for Primary Industries. Will the proposed fee for scuba diving in some marine national parks apply to all underwater activity? Will this fee differentiate between people who want to dive in these parks just to experience the underwater environment and those who want to dive to go spearfishing—those being two very different activities? What evidence exists that divers who are not spearfishing have seriously disturbed or threatened sharks in affected habitats? Will commercial operators be allowed to enter these park waters but private citizens in private boats will not be allowed? If so, why is there a difference?

The Hon. IAN MACDONALD: The question asked by the Hon. John Tingle relates in essence to spearfishers. It is not envisaged to encompass spearfishermen in this proposal. In fact, spearfishermen already pay the recreational fishing licence. This proposal is about making it fair for users of these areas. Recreational fishers, spearfishers and charter boat operators pay licence fees and commercial fishers outside these areas pay various types of fees. The groups that contribute significantly to habitat restoration and protection will not be encompassed in this proposal. I made it clear yesterday that the Government will be consulting with industry in relation to the proposed fee. All these issues will be addressed during that consultation phase.

The Hon. Duncan Gay: But you have already said no.

The Hon. IAN MACDONALD: Opposition members have not heard what I have said. They are not even bothering to listen. They should listen to what I have to say. The Government will approach industry, discuss this issue with it and make a decision in due course.

The Hon. JOHN TINGLE: I ask a supplementary question. I wish to clarify one issue. I was referring earlier to all underwater activity. What about snorkelling? Will that be covered and will it require a fee? How will that fee be enforced and policed?

The Hon. IAN MACDONALD: That enforcement issue will be dealt with when other issues are being discussed with stakeholders. We will look at those issues in that context. At this point in time I have not considered snorkelling. However, as the honourable member raised the issue I will ensure that it is discussed.

The Hon. Rick Colless: You are ruling it out.

The Hon. IAN MACDONALD: I will not rule anything out. The worn-out members of The Nationals are carrying on during question time as though they have been on speed—

The PRESIDENT: Order! I remind members that interjections are disorderly at all times, and ask them to reflect on what happened in the New Zealand Parliament earlier this week.

The Hon. IAN MACDONALD: In due course those issues will be canvassed during stakeholder consultations. It would be more productive if I had a general discussion with the Hon. John Tingle rather than introducing complex matters that are not understood by Opposition members.

WORKCOVER AUDIT MANAGEMENT UNIT

The Hon. DAVID CLARKE: My question without notice is directed to the Minister for Commerce, and Minister for Industrial Relations. Will the Minister confirm that in 2003 WorkCover established the Audit Management Unit to conduct "rigorous audits of its approved service providers"? Will the Minister also confirm that despite that pledge WorkCover has not yet conducted one audit of explosive power tool and formwork assessors?

The Hon. JOHN DELLA BOSCA: The answer to the first part of the honourable member's question is yes. The answer to the second part of his question is that I do not have at my disposal immediate information about the number of audits conducted in particular sectors. I will obtain that information and provide it to the honourable member as soon as I can.

BUSHFIRE MITIGATION PROGRAM

The Hon. TONY CATANZARITI: My question without notice is addressed to the Minister for Emergency Services. Will the Minister explain the role of the Bushfire Mitigation Program?

The Hon. TONY KELLY: Last Friday the Federal Minister for Local Government, Territories and Roads, Jim Lloyd, joined me for the launch of the Bushfire Mitigation Program. The program launch was held at the Gosford Rural Fire District Emergency Operation Centre at Kariong. The Bushfire Mitigation Program is an important initiative that highlights the value of all levels of government and all land managers working together to try to reduce the risk of bushfires. It represents a partnership between State and Federal governments, with both contributing dollar-for-dollar funding. The program is designed specifically to enhance the construction, maintenance and signage of fire trail networks across the State.

This year the New South Wales Government and the Commonwealth each contributed $1.3 million to this important work. The Government is strongly committed to reducing the risk to the community from bushfires. It has adopted a co-ordinated and cohesive approach to bushfire management, including a carefully planned and prioritised schedule of hazard reduction works. Land management agencies, the Rural Fire Service and NSW Fire Brigades are now working to carry out carefully targeted hazard reduction work ahead of the next bushfire season. As well as burning, this also includes mechanical reduction and grazing.

Fire trails are fundamental to our fire management strategies by providing access to remote areas, forests and bushlands for firefighters and tankers. They can also be used to help form containment lines and firebreaks during firefighting operations. This program will help to improve existing fire trails so they are readily accessible to firefighters, and to upgrade signage and avoid confusion for fire crews.

New trails are needed to get fire crews into areas that are currently inaccessible, to help them to respond rapidly and safely. More than 460 projects are funded in New South Wales. This work includes maintenance and construction activities on 956 fire access roads, which represents more than 6,300 kilometres of trails that have been improved to increase firefighter and community safety. In New South Wales the joint funding is being used to support projects conducted by local government and State land management agencies, such as the National Parks and Wildlife Service and State Forests. We also have a list of reserve projects that we can implement quickly if further Federal funds become available.

I take this opportunity to thank the members of our land management agencies and the two fire services for their hard work on hazard reduction and fire trails. Our firefighters work tirelessly during the bushfire season and then back up through the cooler months to carry out important preparation work for the next bushfire season. As I am concerned about their safety and wellbeing I am pleased to see this funding being used to construct and improve fire trails. I look forward to the continuation of the Bushfire Mitigation Program.

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

Questions without notice concluded.

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

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. DON HARWIN [2.32 p.m.]: Before question time I was telling the House about the two amendments to the Statute Law (Miscellaneous Provisions) Bill that the Government will move in Committee. The first amendment will, uncontroversially, add a regulation to a list in subschedule 1.42, which concerns podiatrists. The Opposition will support that amendment. The second amendment seeks to remove subschedule 1.14 because the Greens have identified a controversial aspect to the proposed change due to some ongoing litigation. I understand that the Government has met the Greens concerns in that respect, and the Opposition will not oppose that amendment. The Opposition has no objection to the bill.

As a footnote, I should add that I have probably played a role in generating subschedule 1.15, which amends section 9 of the Legislation Review Act. At present the Legislation Review Committee has jurisdiction only over regulations that are subject to disallowance. The committee therefore adopted a policy of moving what we call motions of protected disallowance to preserve its jurisdiction. Two examples arose in November 2003 when the committee sought to inquire into the Landlord and Tenant (Rental Bonds) Regulation 2003 and the Pawnbrokers and Second-hand Dealers Regulation 2003.

On 18 November 2003 I gave notice of two motions of disallowance in relation to those regulations so that the committee's jurisdiction was preserved. Later that day I made a brief personal explanation and was granted leave to table a letter sent by the former committee chair, the honourable member for Miranda, to the then Minister for Fair Trading, explaining what was being done. Despite taking this step to show clearly that I had acted at the request of the committee, utilising an established procedure, Minister Meagher issued an untruthful document, claiming that the Opposition wanted to do terrible things to landlords, tenants, pawnbrokers and second-hand dealers.

I had met the committee's convenience by moving the disallowance motion but the Minister sought to embarrass the Opposition. I believe that underlines the Minister's contempt for the work of parliamentary committees, and the scrutiny function of the Legislation Review Committee in particular. The changes in subschedule 1.15 are sensible and have the full support of the Legislation Review Committee. The committee will now be able to examine any regulation when it ceases to be subject to disallowance, as provided for by the Subordinate Legislation Act. I commend the bill to the House.

Reverend the Hon. FRED NILE [2.35 p.m.]: The Christian Democratic Party supports in principle the Statute Law (Miscellaneous Provisions) Bill, which effects minor and non-controversial amendments to various Acts of the New South Wales Parliament. The bill continues the statue law revision program that was established in 1984 as a cost-effective and efficient mechanism for making such amendments. The bill—particularly schedule 2—makes minor technical amendments that obviate the necessity to introduce individual bills to make small legislative changes. The Parliamentary Counsel, which drafts legislation, has proposed minor technical changes designed to improve various legislation previously passed by Parliament, and schedules 3 to 5 make those administrative amendments.

We can never be absolutely sure of the impact of any proposed legislative change. For example, the Government regarded as minor the legislation regarding a jury's use of religious text when taking oaths in court. However, it became quite a controversial issue, and several articles on the subject appeared in the *Sydney Morning Herald*. However, we accept and support this bill on the basis of the Government's assurance that it will effect only minor and non-controversial amendments to various Acts of Parliament.

I believe there must be close scrutiny of these changes in case they have unintended consequences in the long term that the Government did not anticipate. In such circumstances I assume the Government would adopt a practical and co-operative attitude and take action to reverse the change. With those qualifications, the Christian Democratic Party supports the bill.

The Hon. HENRY TSANG (Parliamentary Secretary) [2.38 p.m.], in reply: I thank honourable members for their contributions to the debate on the Statute Law (Miscellaneous Provisions) Bill and I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 6 agreed to.

Subschedules 1.1 to 1.13 agreed to.

The Hon. HENRY TSANG (Parliamentary Secretary) [2.41 p.m.], by leave: I move Government amendments Nos 1 and 2 in globo:

No. 1 Page 20, schedule 1.14. Omit schedule 1.14.

No. 2 Page 52, schedule 1.42. Insert after line 17:

(a) the *Podiatrists Regulation 1995*,

Subschedule 1.14 was intended to confirm existing decided cases which establish that statute bodies which were presenting crime also hold immunity of the crime. As such it does not change the existing law. The draft bill also made it clear that the amendment was not intended to affect existing legal proceedings. While it has been made clear in the bill, there remains a concern about the impact on proceedings already before the courts. Accordingly, the Government has agreed to withdraw the schedule.

Our second amendment permits the continuation of the Podiatrist's Regulation 1995, which was due to lapse on 1 September 2005. This 1995 regulation was made under the Podiatrists Act 1989. It is intended that an Act replacing the Podiatrists Act 1989 will commence sometime after 1 September 2005, so the Podiatrists Regulation 1995 needs to remain in force until this replacement Act comes into effect. The regulation specifically regulates aspects relating to the registration of podiatrists, the lodgement and handling of complaints against podiatrists, advertising by podiatrists, and the practice of podiatry partly through specification of infection from true offenders, which are spelt out in schedule 1 to the regulations. The regulation is therefore a key instrument for ensuring that public health is protected in the practice of podiatry. Its provision remains relevant. I commend the amendment to the Committee.

Amendments agreed to.

Subschedule 1.14 omitted.

Subschedules 1.15 to 1.41 agreed to.

Subschedule 1.42 as amended agreed to.

Subschedules 1.43 to 1.53 agreed to.

Schedule 1 as amended agreed to.

Schedules 2 to 4 agreed to.

Title agreed to.

Bill reported from Committee with amendments and passed through remaining stages.

STATE REVENUE LEGISLATION AMENDMENT BILL

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [2.48 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of this bill is to make amendments to the Duties Act 1997, Fines Act 1996, Health Insurance Levies Act 1982, Payroll Tax Act 1971, Public Finance and Audit Act 1983, State Owned Corporations Act 1989 and the Taxation Administration Act 1996.

The bill makes a number of amendments to these revenue Acts to ensure that the legislation remains consistent with current commercial practices, and is more equitable and certain in its application. The proposed amendments are the result of monitoring of business practices by the Office of State Revenue, ongoing liaison with industry and professional bodies, and consultation with revenue offices in other States.

I will deal with the amendments to each Act in turn.

Amendment of the Duties Act

Put and call options

The amendments close 2 loopholes in the duties legislation which had the potential to allow duty to be avoided. The first relates to the use of put and call options. Simultaneous put and call options can have a similar effect to an agreement for sale of the property, so that an assignment of the call option is effectively a sub-sale of the underlying property. There is evidence that put and call options have been used to avoid duty on sub-sales of property, particularly in relation to purchases "off-the-plan".

The bill provides that an assignment of a call option over property in respect of which a put option is also in existence will be liable to duty as if it were an agreement for the sale or transfer of the property. This liability will fall on the assignor, as this would impose the same liability to duty as applies to the purchaser under an agreement prior to a sub-sale.

As the amendment only applies upon assignment of an option, it will not inhibit the granting of put and call options as a legitimate commercial practice. As a further safeguard, the provisions will not apply if the Chief Commissioner is satisfied that the options are being used solely for financing purposes or have been entered into under arrangements relating to the continuation of a business by its proprietors.

Vendor Duty Avoidance

The second area closes an opportunity to avoid vendor duty. There is an exemption from vendor duty if there is no more than a 12 per cent increase in value between the time the vendor acquired the land and the time of sale. An entity, being a member of a corporate group may intend to sell land but transfers the land to another member of the group and obtains a corporate reconstruction exemption.

If the new "owner" then sells the land for a price that is no more than 12 per cent above the value at the time of acquisition they can utilise the exemption to avoid duty on the transaction. The bill closes this potential loophole by ignoring the corporate reconstruction exemption for the purpose of this vendor duty exemption.

Exemption: transfer of property following a relationship breakdown

The amendments made by the bill also clarify and expand on a number of exemptions from duty. It is not uncommon, following the breakdown of a marriage or de factor relationship, for arrangements to include the transfer of property to a trustee to hold in trust for the children, particularly where a non-custodial parent wishes to provide for his or her children's future without providing the former spouse with ownership and control of the property. The bill extends the exemption for transfers which follow the break down of such relationships to include a transfer of property to a trustee for the child or children of a party to a marriage or relationship.

First Home Plus scheme

The amendments remove an anomaly in the First Home Plus scheme. When determining eligibility for First Home Plus, the Chief Commissioner will be required to disregard a prior interest in a home or prior benefit received under the scheme if satisfied that the interest was held or acquired as trustee for a person under a legal disability, or as trustee of a resulting trust. This will further improve consistency between First Home Plus and the First Home Owner Grant scheme.

Intergenerational transfers of rural property

The bill redrafts the duty exemption for intergenerational transfers of rural properties. The transfer of a family farm to the next generation, or even between siblings, is exempt from duty. The exemption currently operates subject to guidelines, approved by the Treasurer, which primarily identify the nature of the relationship between the parties to the transfer. The amended provision will clarify the extent of the exemption and will remove the need for guidelines outside the Act.

Minor amendments to other exemptions

The bill makes minor amendments to other exemption provisions. These include exemption from transfer duty for certain transactions whereby property vests by statute, from lease duty for fit-out costs, and from mortgage duty for charges contained in contracts for the sale of land.

Cost of obtaining a valuation of property

The amendments clarify some administrative provisions that outline the powers and functions of the Chief Commissioner of State Revenue in relation to duty. Most notably, the bill will authorise the Chief Commissioner to recover the cost of obtaining a valuation of property in any case in which the liability for duty or the amount of that liability is determined by reference to the value of the property. To protect taxpayers from incurring unnecessary costs, the Chief Commissioner will not be able to recover the cost, and will have to refund any amount recovered, if the liability to duty is not determined by reference to the value of the property.

Estimation of lease duty

The bill also clarifies the provisions that allow the Chief Commissioner to estimate lease duty where the total amount is not ascertainable at the time of assessment.

Partnership transactions

The bill includes a provision to prevent double duty on some partnership transactions, an amendment limiting the concession for partitions of property to partitions of land, and an exemption for transfers to correct conveyancing errors.

Some of the amendments I have referred to are based on similar provisions in the Duties legislation of other States and Territories. The remaining duties amendments are essentially minor statute law revision.

The combined effect of the amendments to the Duties Act is to improve the certainty of the legislation, making compliance and administration easier.

Amendment of the Fines Act

The bill makes amendments to the Fines Act to clarify enforcement and privacy provisions.

Form of statutory declaration

The bill clarifies the form of statutory declaration required under the Act to permit a wider range of people to witness declarations, thereby making it easier for fine recipients to find a witness when the need arises.

Protection and permitted disclosure of information

The bill also amends the Act to insert a general prohibition on the disclosure of personal information except with the consent of the individual or as required or permitted by law. The Act currently permits disclosure to prosecuting agencies and to agencies on whose behalf penalty notices were issued. The amendments extend the list of permitted collections and disclosures of personal information to include current and past employers, for the purposes of garnishment of wages. These amendments align with the information protection principles under the Privacy and Personal Information Protection Act 1998.

The bill also makes a minor amendment to correct an incorrect reference to the Criminal Procedure Act 1986.

Amendment of the Health Insurance Levies Act

The Health Insurance Levies Act lists four health funds as prescribed organisations that may be appointed by the Minister for Health as authorised agents for the purposes of collecting contributions and performing other functions under the State Ambulance Insurance Plan. In addition, the Grand United Friendly Society Limited is prescribed in the Health Insurance Levies Regulation 2003 and has also been appointed by the Minister for Health as an authorised agent.

The bill adds the Grand United Friendly Society Limited to the list of prescribed organisation of the Act. As the Regulation does not deal with any other matter, it is repealed.

The bill also deletes an obsolete definition of "New South Wales revenue law".

Amendment of the Pay-roll Tax Act

The bill incorporates provisions currently in the Regulation into the Act to allow greater Parliamentary scrutiny of any further changes to the relevant provisions. As a consequence, the Pay-Roll Tax Regulation 1998 is repealed.

The bill also makes a number of changes to the types of payments categorised as wages for the purpose of determining liability to pay-roll tax.

Share scheme benefits

The pay-roll tax definition of taxable wages was extended from 1 July 2003 to include benefits provided under share schemes for employees, contractors and company directors. The New South Wales legislation was based on similar legislation introduced in Western Australia and the Northern Territory.

Employer groups have raised a number of issues with the administration and interpretation of the legislation. In particular, under several schemes it is difficult to determine precisely when an employer is deemed to have made a taxable contribution to the scheme, or to determine the taxable value. In some circumstances employers may incur a liability to pay tax on excessive values, or pay tax on both the contribution of shares to the scheme and the issue of the same shares at a later time to a particular director or employee.

To overcome these problems, a number of amendments to the legislation have been developed in consultation with industry and employer bodies.

The bill provides that pay-roll tax liability will arise at a time determined at the election of the employer, being either when rights to the shares, or when the shares themselves, are granted to a director or employee. This will remove an anomaly whereby a liability arises when the employer contributes money or share scrip to a scheme, which can occur before a director or employee obtains any right to the shares.

Instead of having to pay tax when options are granted, employers will be able to elect to pay tax at the time the options are exercised. If an employer chooses this option, the taxable value of the shares will be determined on the date of exercise, and not on the earlier date of the grant of the right.

If the grant of shares is subject to a condition, such as a performance target or a minimum length of service, but the right expires, is withdrawn or is cancelled due to a failure to satisfy the condition, the employer will be entitled to claim a reduction in taxable wages. Currently there is no provision for refunds or offsetting reductions in tax in such circumstances.

In view of the administrative difficulties and inequitable treatment afforded by the current provisions in the Act, employers were advised last year that they could choose to pay tax on the basis outlined above for the 2003-04 financial year. Consequently, the Bill contains transitional provisions which give effect to this concession without penalties or interest being imposed for late payment.

The bill also makes a number of other amendments to clarify and simplify aspects of the share scheme legislation. Contributions to a share scheme which relate to the grant of rights or options made prior to 1 July 2003, will be exempt, to avoid imposing retrospective liability. The valuation rules for listed options and shares will be made consistent with the Commonwealth's capital gains tax provisions.

Exemption of financial planners

In a September 2002 report, two special advisers, Associate Professor Neil Warren and Penny Le Couteur, recommended an exemption for remuneration paid to financial planners who are not common law employees. The bill implements this recommendation, thereby extending an existing exemption that applies to insurance sellers.

This exemption recognises that there have been changes in the financial planning industry since the 1980s which has seen the role of independent life insurance sellers expand into sales of other forms of investments. These salespeople are required to act in the interests of the investors, and are therefore working for those investors rather than the investment house.

The criteria for the exemption were developed in consultation with representatives of professional and employer bodies, including the Financial Planners Association and the Investment and Financial Services Association, and are based on the Commonwealth exemption from the alienation of income legislation for certain agency arrangements.

In order to remove uncertainty about the application of the current legislation to financial planners, holders of Australian financial services licences under the Commonwealth Corporations Act 2001 were granted approval to apply the exemption from 1 July 2003, pending the passage of retrospective legislation to confirm the exemption. The bill contains transitional provisions giving effect to this approval.

Termination payments to deemed employees

Legislation was implemented from 1 July 2003 to include eligible termination payments in the definition of wages for pay-roll tax purposes where the payment is subject to income tax. However, eligible termination payments are generally limited to payments to employees, whereas similar payments to contractors are subject to income tax under other provisions.

It is therefore proposed to apply pay-roll tax to the income taxable component of termination payments paid to contractors who are deemed employees for pay-roll tax purposes. This will remove any tax benefit that might be gained by employing contractors in place of common law employees.

Indirect payments to directors and deemed employees

Pay-roll tax is payable where an employee's wages are paid by an employer to someone other than an employee or deemed employee, such as to a spouse. Payments are also taxable if the employee's wages are paid by someone other than the employer, such as a related company.

These provisions do not currently extend to directors and trust distributions made in lieu of wages. For example, directors of companies may be paid a director's fee or may receive benefits such as superannuation or share scheme benefits from another member of the company group. In the case of a beneficiary who provides unpaid services to a trust, pay-roll tax on trust distributions provided in lieu of wages may potentially be avoided by channelling the trust distribution through another trust.

The bill extends the deeming provisions relating to indirect payments of wages to ensure these arrangements are subject to tax.

Motor vehicle and overnight accommodation allowances

Allowances for work-related use of a worker’s own motor vehicle, and overnight accommodation allowances, are exempt from pay-roll tax if paid in accordance with an award rate, or in any other case, as specified by the regulations.

The prescribed rates are currently 53.5 cents per kilometre for a car used for work-related travel, and $130 per night for an overnight accommodation allowance where the travel was work-related. These rates were last adjusted in 1998.

It is proposed to incorporate the prescribed rates and the related administrative provisions in the Act, enabling the regulations to be repealed. It is also proposed to increase the rates to reflect increases in costs since 1998, and to provide for automatic future adjustments. This will be achieved by linking the motor vehicle rate to the rate prescribed for a large car for income tax purposes, and by linking the overnight accommodation allowance to a New South Wales public sector award rate based on reasonable benefits limits approved by the Commonwealth Commissioner of Taxation for income tax purposes.

In relation to motor vehicle allowances, the rate applicable for pay-roll tax purposes in 2005-06 will be 63 cents per litre, while the rate applicable to overnight accommodation allowances will be $191.55.

Trust distributions to beneficiaries

The pay-roll tax definition of wages was amended from 1 July 2003 to include distributions from trusts to beneficiaries where the beneficiaries perform work for less than the market rate specified in the relevant State or Federal award.

This closed a loophole under which beneficiaries may be remunerated for work performed without attracting pay-roll tax, and achieved greater consistency between the pay-roll tax and workers compensation legislation.

Where there is no relevant award, the regulation specifies that the market rate is based on full-time adult ordinary time earnings for New South Wales published by the Australian Bureau of Statistics.

As the rate determines the amount of tax payable by employers, the bill transfers the relevant provisions from the regulation to the Act.

Amendment of the Taxation Administration Act

Tax equivalent regime

The bill clarifies the application of the tax equivalent regime (the regime) to government businesses. The regime notionally applies Commonwealth income tax law to designated government businesses.

The regime arose under commercial and competition policies of the State, Federal and Territory governments as they relate to state-owned entities and other government businesses. The intention is that such entities will operate on a commercial basis to the extent that they are able to do so in the market in which they operate.

There are two components to the tax equivalent regime—the National Tax Equivalent Regime (the national regime) which applies to those government businesses which are State-owned Corporations or others which are fully commercial in their operations and the State Tax Equivalent Regime (the State regime) which applies to government trading entities that are not yet operating on a commercial basis.

To date the state regime has operated under administrative agreements and guidelines. Whilst this has worked well, the environment in which government businesses operate is now more sophisticated and so it is appropriate that the state regime is fully supported by appropriate legislation.

The amendments will link the state regime to the New South Wales Taxation Administration Act 1996. However as the State regime applies solely to government businesses, the amendments include provision for review by the Treasurer rather than through an independent review process.

The amendments will align the administration of the New South Wales State regime with that of the national regime and also with the regimes of those other jurisdictions which have specific legislation—Victoria, the Northern Territory and the Australian Capital Territory.

The bill makes consequential amendments to the Public Finance and Audit Act and the State Owned Corporations Act.

Definition of "decision"

The bill also confirms that the type of "decision" from which a taxpayer may seek a formal review is the same as that defined in the Administrative Decisions Tribunal Act 1997. This will ensure that rights of review are consistent at all stages in the process.

Disclosure of information

The bill further provides for the disclosure of information to States and Territories for the purposes of the administration of their respective First Home Owner Grant Acts. This aligns with current provisions which allow disclosure for the purposes of administration of the scheme in New South Wales and is appropriate, as the scheme is a national regime.

The bill also allows disclosure of information to the Independent Commission Against Corruption, consistent with current permitted disclosures to such organisations as the Ombudsman and the Auditor General.

Tracing provisions

The bill also incorporates tracing provisions into the company grouping provisions of the Act which apply for pay-roll tax purposes, to allow a person's interest in a business to be calculated by combining two or more interests held indirectly via different legal entities. This will combat complex business structures which result in avoidance of the current grouping provisions, whether intentionally or unintentionally.

Matters to be considered by the Legislation Review Committee

Under section 8A of the Legislation Review Act 1987, the Legislation Review Committee is required to consider each bill and report to both Houses of Parliament on the impact of the bill on certain matters affecting personal rights, liberty and obligations, and parliamentary scrutiny of delegated legislation.

I am pleased to say that even though this bill relates to revenue and tax matters, it contains provisions which are reasonable and necessary to protect the revenue without unduly trespassing on personal rights or liberties, nor do the amendments create non-reviewable decisions.

Additional regulation making provisions will be incorporated in the Pay-roll Tax Act, but these powers will only be applicable if the relevant provisions in the Act become inoperative.

The bill transfers certain matters affecting the pay-roll tax liability of employers from the Pay-roll Tax Regulations to the Act in order to improve transparency and taxpayer awareness of the provisions. These relate to exemptions for motor vehicle and overnight accommodation allowances, and taxable trust distributions made in lieu of ordinary wages.

I table a summary of the bill for the assistance of honourable members and seek its incorporation into Hansard.

I commend the bill to the House.

The Hon. GREG PEARCE [2.49 p.m.]: This is the second State Revenue Legislation Amendment Bill to come before the House in a couple of weeks and, again, this bill features what the previous one featured: more new taxes by the Carr Government. The Opposition is opposed to those new taxes and in Committee will move amendments to remove them. The bill amends the Duties Act 1997, the Fines Act 1996, the Payroll Tax Act 1971, the Tax Administration Act 1983, and the Health Insurance Levies Regulation 2003 to provide for certain concessions and exemptions and to provide some definitions regarding what is dutiable.

The first and most important amendment—one the Opposition does not support—introduces a new put and call assignor duty. I do not propose to deal with the detail of that duty; honourable members may read the Treasurer's speech delivered in the other place. It is a new business tax, and it is therefore to be opposed. The second new tax is on the way partitions are treated. Honourable members might like to read proposed section 30, which explains what a partition is. The Carr Government has imposed the highest taxes of any State in Australia. As a result of its incompetence, waste, and mismanagement, everyone is aware that this State has crumbling infrastructure. It has reached the stage where, notwithstanding the ever-greater spinning by the Premier and his Ministers, no-one believes that the Government is capable of delivering the sorts of infrastructure improvements, maintenance, and renewal that are absolutely essential for New South Wales.

The bill makes a number of other amendments that are not opposed by the Coalition. If the bill is defeated, we intend to introduce a private member's bill to restore the provisions of the bill that we do not oppose. Among them is the provision to allow the Chief Commissioner of State Revenue to seek valuations. This provision arises from the case of *Schipp v The Chief Commissioner of State Revenue*, which queried the chief commissioner's power to seek those valuations.

The Fines Act is to be amended regarding powers to access information about past employers or past employers of fine defaulters and to limit the purposes for which information can be disclosed. The Public Finance and Audit Act and the State Owned Corporations Act are to be clarified regarding tax equivalents. The Pay-roll Tax Act is to be amended, I understand at the request of employers, regarding the base extension provided five years ago to clarify that indirect payments to directors, for example to a spouse, are dutiable as they are already employees, and, further, to insert car and accommodation allowance rates in the Act, not in the regulations.

The Health Insurance Levies Act is the subject of a fairly specific amendment to include in the Act the Grand United Friendly Society as a group that can collect the levy, rather than leaving that to the regulations. The Taxation Administration Act is to be amended. The grouping provisions already exist, but the bill further prevents people from fragmenting businesses to avoid payroll thresholds. The test is still a 50 per cent interest, but the amendment will make it easier for the Office of State Revenue to get to an aggregate of 50 per cent. The bill provides for sensible clarification provisions, such as about exempting from duties transfers made to correct conveyancing errors. Some trustee and children issues are clarified, and there are clarifications of exemption for intergenerational transfers on farms and so on.

One of the concerns the Opposition has about the introduction of the new taxes is that, once again, the Treasurer and his officers do not seem to be able to explain the reasons for the new taxes, and they do not seem to have any projection or basis upon which to justify the introduction of these new taxes. Numbers seem to have been plucked from the air to fill a hole. We are likely to see once again a situation that we had with the vendor tax, in particular. In that case the Treasurer admitted that proper studies or projections had not been done—which would have been normal procedure for any competent government or business properly attending to its affairs. The Opposition opposes the new taxes. The Government has shown itself to be undeserving of any new tax and therefore the Opposition will move amendments in Committee to remove those two new taxes from the bill. If those provisions are not removed, the Opposition will oppose the bill.

The Hon. HENRY TSANG (Parliamentary Secretary) [2.55 p.m.], in reply: The Opposition has foreshadowed an amendment to remove from the bill measures to deal with tax avoidance practices that have come to the attention of the Government. They are not new taxes. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

The Hon. GREG PEARCE [2.55 p.m.], by leave: I move Opposition amendments Nos 1 to 3 in globo:

No. 1 Page 3, schedule 1 [1], lines 3-8. Omit all words on those lines.

No. 2 Page 4, schedule 1 [4] and [5], lines 1-21. Omit all words on those lines.

No. 3 Pages 6-10, schedule 1 [14], line 23 on page 6 to line 4 on page 10. Omit all words on those lines.

As I said in the second reading debate, the Opposition is most concerned that the Government—already the highest taxing government in Australia—has introduced new taxes in the budget to increase the insurance tax rate from 5 per cent to 9 per cent and to change the mortgage refinance duty. This bill continues to wring every possible cent from New South Wales taxpayers by introducing two new taxes: the duty extensions to put and call options and changes to the tax treatment of partitions. The Opposition believes that a stand has to be taken against the Government's rampant charge to new taxation. As people are fond of saying: the Premier has never seen a tax he did not like, and has never heard of one he could not hike. Here we go again, with two new taxes.

The first of the Opposition amendments essentially removes a heading. The second removes the provisions of the bill relating to a new tax on partitions. The third Opposition amendment removes put and call options provisions. As I said in my contribution to the second reading debate, if the amendments are passed the Opposition will support the bill because a number of the other tightening-up provisions are acceptable. If the amendments are lost, the Opposition will oppose the bill. If the bill is defeated, the Opposition will bring in a private member's bill to introduce sensible amendments to deal with our concerns.

The Hon. HENRY TSANG (Parliamentary Secretary) [3.00 p.m.] The Opposition's assertion that the bill introduces extra taxes is not true. The two measures are not new taxes: They are important corrections to ensure that avoidance measures identified by the Government are not allowed to be exploited. To do otherwise would be irresponsible. The Government must enforce the law as it stands. I will deal with Opposition amendments Nos 1 and 3. As I mentioned previously, the bill imposes a liability to duty on simultaneous put and call options when the call option is assigned to a third party. In some instances simultaneous put and call options can have a similar effect to an agreement for sale, which is liable to stamp duty whereas the grant of one option is not. The mere granting of such options does not avoid duty because duty will be payable upon the exercise of the options when an agreement is entered into or transfer is effected.

However, the assignment of a call option when a put option exists at the same time is similar in effect to a sub-sale of the underlying option property. A sub-sale should be liable to duty regardless of how it is documented. There is evidence that put and call options have been used to avoid duty on sub-sales of property, particularly for purchases off the plan. By using options, an off-the-plan property can be acquired and on sold for considerably less duty than would be payable if the property were acquired under a contract. Under the proposed amendments the assignment of the call option over property in respect of which a put option is also in existence will trigger a liability to duty on the call option as if it were an agreement for the sale or transfer of the underlying property.

The Hon. Duncan Gay: It is a new tax.

The Hon. HENRY TSANG: It is not a new tax. The bill corrects an avoidance scheme. This would impose the same liability to duty as applies to the purchaser under an agreement prior to a sub-sale. The proposal would not impose a liability to duty unless there is an assignment of the option, therefore it will not inhibit the granting of put and call options as legitimate commercial practice in circumstances that facilitate

finance of a proposed property development or to ensure that partners in a business can retain control in the event of the retirement of one of the partners. It is not a new tax.

The Hon. Duncan Gay: It is.

The Hon. HENRY TSANG: It is not a new tax; it is prevention of avoidance. The Government rejects Opposition amendments Nos 1 and 3. Opposition amendment No. 2 would remove measures that deal with tax avoidance practices that have come to the attention of the Government. It is not a new tax. Opposition amendment No. 2 would remove anti-avoidance provisions from the Duties Act. The measures deal with avoidance of transfer duty on the sale of land through the use of put and call options and the use of the partition concession. I will give an example of how the concession is intended to work. Assume A and B jointly own two parcels of land in New South Wales, one worth $500,000 and the other worth $1 million. Each has an entitlement to $750,000 of joint assets. They decide to partition their joint assets.

The term "partition" in the Duties Act does not mean "split up each joint asset", it means "to hold joint assets separately". If A takes the $500,000 parcel of land and B takes the $1 million parcel of land, B will pay A $250,000. Under the partition concession B will receive an entitlement to duty paid on the $750,000 they previously owned as their share of the joint asset. However, they will pay duty on any land transferred into their name in excess of this entitlement, in this case $250,000. The amendment clarifies that the concession is available only in the case of land that has partitioned. The value of other assets partitioned will not be counted because duty can be avoided, as in the following example.

Assume A and B jointly own a parcel of land in New South Wales worth $1 million. B wishes to buy the land outright. They jointly buy $1 million worth of listed shares on which no duty is paid. They then partition their assets with B taking the land, as intended, and A taking all the shares. Without the amendment A and B can use the purchase of the shares to mask the transfer of ownership to B of $1 million worth of land. B can then avoid paying transfer duty on the $500,000 of land acquired. The Government rejects Opposition amendment No. 2.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [3.06 p.m.]: The Government is just too cute by half. It takes a legal process—if it were illegal, it would prosecute people—that is not currently taxed. The Government says it is a tax avoidance scheme, but it is not. Under the current regime one does not pay tax in these circumstances. The Government then introduces a tax and says that it is not a tax. How cute can the Government get? It is imposing a new tax on legal transfer. It is a particular form of transfer that did not attract tax. It now attracts a tax. Is that, or is that not, a new tax? To my mind that is a new tax. How cute can these guys get? Who are they trying to con? Who are they trying to kid? It is a new tax. We are against the new taxes the Government is trying to sneak into the bill.

Reverend the Hon. FRED NILE [3.07 p.m.]: The bill raises the question of the purpose of stamp duty. Originally stamp duty applied to an actual sale. These amendments affect people who divide property they own together and take half each. The bill makes them liable for stamp duty, as if they are selling the property when they are not selling anything. All they are doing is dividing the property into two. It seems that stamp duty is to be used as another form of taxation on any financial changes within property ownership.

The Hon. Henry Tsang: The owners have changed. They were joint owners but now there is only one owner.

Reverend the Hon. FRED NILE: But no-one is selling anything. That is where it seems to be confusing. It can be done, but the Government will treat the change as a sale. A property is jointly owned, half by each party. Nothing has been sold to anyone.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 18

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

Noes, 22

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

Question resolved in the negative.

Amendments negatived.

Schedule 1 agreed to.

Schedules 2 to 7 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

The Hon. Patricia Forsythe: Point of order: Madam Deputy-President, I draw your attention to the fact that the President is in the House.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! Now that the President has left the Chamber, the Minister may proceed.

Motion by the Hon. Henry Tsang agreed to:

That the report be adopted.

Report adopted.

Third Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [3.17 p.m.]: I move:

That this bill be now read a third time.

The House divided.

Ayes, 22

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

Noes, 18

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

Question resolved in the affirmative.

Motion agreed to.

Bill read a third time.

JAMES HARDIE FORMER SUBSIDIARIES (SPECIAL PROVISIONS) BILL

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [3.25 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

On 21 December 2004, the Government entered into a non-binding Heads of Agreement with James Hardie Industries NV, the Australian Council of Trade Unions, Unions New South Wales and Bernie Banton, representing asbestos victims.

The Heads of Agreement represent a major breakthrough for asbestos sufferers.

The Heads set out a framework for a legally binding agreement with James Hardie to provide long-term funding for the victims of its former subsidiaries' asbestos products.

The Heads record James Hardie's intention to provide annual contributions for at least the next 40 years to a Special Purpose Fund. The Fund will use that money to pay compensation to asbestos victims.

Since December, the Government and James Hardie have been negotiating the legally-binding final agreement.

The Government had expected that the final agreement would be settled in time to introduce supporting legislation this Budget Session.

Negotiations have proved to be slower and more complicated than expected, however, with many complex issues under Australian, Dutch and US law.

The Government now expects that the final agreement will be settled in late July or early August, after the Budget Session has concluded.

The Bill before the House is the first legislative step in implementing the long-term arrangements for James Hardie to provide funding for victims of its former asbestos subsidiaries.

The Bill will protect the rights of future claimants.

Tragically, some 9,000 Australians are predicted to develop asbestos diseases over the next 40 years as a result of exposure to James Hardie asbestos products.

This Bill will ensure that James Hardie's former asbestos subsidiaries remain in existence over that period so that these people can claim compensation.

As Honourable members will be aware, Commissioner Jackson highlighted the difficulty with the current arrangements available to the former subsidiaries under the Corporations Act to manage their liabilities.

As Commissioner Jackson recognised, none of the external administration mechanisms under the Corporations Act recognises the position of future asbestos victims.

Claimants cannot bring a claim until they have suffered damage, which may not occur for some thirty or forty years after their exposure to asbestos.

We know that these people will one day need to claim against the former asbestos subsidiaries, but we do not even know who they are at this stage.

The existing external administration provisions of the Corporations Act make no allowance for people in this position. They are unascertained, future creditors and their interests would not be considered if the former asbestos subsidiaries were to be wound up today.

In other words, if the former asbestos subsidiaries were to be wound up or deregistered, future claimants would go uncompensated because there would be no entity from which they could claim compensation.

The actual funding to pay future compensation claims will flow from the final agreement with James Hardie. This Bill is an important first step to preserve the former asbestos subsidiaries so that claimants will be able to make claims for compensation.

The Bill will also ensure that the status of the former subsidiaries does not change before any final agreement is settled and Parliament resumes.

This Bill will need to be amended in the Spring Session to reflect the detailed structure and governance arrangements in the final agreement and to include any additional matters from the negotiations.

In addition to including customised governance arrangements to reflect the final agreement reached with James Hardie, the further legislation next session will also need to deal with other matters.

This legislation will include necessary provisions to implement James Hardie's announcement that it will extend the compensation arrangements to cover asbestos mining operations in the Baryulgil community, both during and after the period in which James Hardie owned and operated the mine.

Legislation next session will also include necessary provisions to implement releases of James Hardie and its officers.

I note that the Bill now before the House does not contain any releases from liability for James Hardie or its officers.

These releases are subject to negotiation and will be settled as part of the final agreement with James Hardie.

The Heads of Agreement provide for James Hardie to be released from civil liability. The issue that has been in dispute is James Hardie's request that these releases extend to civil penalty orders under the Corporations Act.

The Government is obtaining legal advice on whether the New South Wales Parliament has any power to enact legislation to override the civil penalty provisions under the Commonwealth Corporations Act.

It is only if that legal advice shows that New South Wales does have such power that the Government will need to consider the policy issues involved.

The Government has received the views of the Australian Securities and Investments Commission on the policy issues and, of course, ASIC's views are very important.

If it becomes necessary to consider this issue further, the Government will also want to consult with the ACTU, Unions New South Wales and Mr Banton as parties to the Heads of Agreement.

Before I turn to the provisions of the Bill, I wish to say something about why this Bill is urgent and why the Government could not introduce it any earlier.

The Government is asking the Parliament to pass this Bill urgently this week. I thank Members for dealing with this Bill as a matter of urgency.

It is necessary that this Bill be passed before Parliament rises to ensure that there is no change in the underlying structure of the former subsidiaries.

The Government and James Hardie will conclude the final agreement on the basis of this underlying structure. Implementation of the final agreement will require the Government to make certain changes to that structure by legislation next session.

This Bill will ensure that implementation of the final agreement is not frustrated by changes in the structure of the former subsidiaries between now and the time when the final legislation is enacted.

The Government could not introduce this Bill any earlier in this session. In the absence of a final agreement with James Hardie, it is important that these controls on the former subsidiaries not be imposed any earlier than the last opportunity before Parliament rises.

The Government is only introducing this Bill now because it expects that a final agreement will be reached with James Hardie in the parliamentary recess. If the Government doubted that the final agreement would be concluded before Parliament resumes in September, it would not have introduced this Bill and requested its urgent passage before Parliament rises.

I turn now to the provisions of the Bill.

The Bill generally applies to James Hardie's former asbestos subsidiaries. The main companies are "Amaca Pty Limited" and "Amaba Pty Limited". The other relevant company is "ABN 60 Pty Limited", which used to be "James Hardie Industries Limited".

Part 2 of the Bill also applies to the corporations that own the shares in these former subsidiaries.

The "Medical Research and Compensation Foundation" and "MRCF (Investments) Pty Limited" ultimately own the shares in Amaca and Amaba.

The "ABN 60 Foundation Limited" owns the shares in ABN 60.

Part 2 of the Bill ensures that Amaca, Amaba, ABN 60 and the companies that own them will remain subject to New South Wales law.

Clause 8 of the Bill prevents their registered offices being moved outside the State without the approval of the Minister administering the Act. Clause 9 makes similar provision with respect to their Member Registers.

Clause 10 gives the Minister the power to issue instructions to the companies and their directors to relocate their offices or Members registers to New South Wales in the unlikely event that they are moved contrary to clauses 8 or 9.

Similarly, clause 11 of the Bill provides that the companies that own the shares in Amaca, Amaba and ABN 60 must not transfer any of those shares without the written approval of the Minister.

In the unlikely event that shares are transferred, clause 12 enables these transactions to be reversed by way of an order of the Minister to the company or its directors.

The Minister's power to issue orders in relation to these matters will apply to conduct between the date of introduction of the Bill and its assent, as well as after assent.

I want to emphasise that there is no suggestion that the entities or their directors are intending to take action to move outside the jurisdiction of New South Wales.

Nor does the Government believe that they would take such action.

While the Government has not had any particular reason to deal with the ABN 60 Foundation, the Government has received considerable support from the Medical Research and Compensation Foundation.

The Medical Research and Compensation Foundation assisted in bringing this issue to the Government's attention. It fully supported the Government in establishing the Special Commission of Inquiry and it has continued to assist in the course of the Government's negotiations with James Hardie.

I take this opportunity to thank the directors of the Foundation for their assistance and support.

These provisions in Part 2 of the Bill are simply intended to make absolutely certain that no changes occur in the structure of these companies between now and when legislation can be enacted to implement the final agreement with James Hardie.

The relevant clauses are declared to be Corporations legislation displacement provisions. This means that any provisions of the Corporations Act which are inconsistent with these clauses will not apply.

Part 3 of the Bill places Amaca, Amaba and ABN 60 under a NSW-supervised "external administration" regime.

Under clause 15, the external administration period will commence on the date of assent of the Act and will end on a day appointed by the Governor by proclamation.

Clause 16 provides that any external administration of Amaca, Amaba and ABN 60 can only proceed in accordance with the provisions of this Part of the Bill.

No proceedings may be brought in any Court or Tribunal for external administration, including liquidation or winding up proceedings, except in accordance with this Part of the Bill.

This displaces part of the Commonwealth Corporations Act and ensures that these companies cannot be wound up or deregistered under that Act.

At the request of the Commonwealth and the Australian Securities and Investments Commission, clause 16 now includes an express provision to put beyond all doubt the fact that the Bill does not limit the ability of the former subsidiaries to provide assistance to ASIC.

The affairs of the former subsidiaries generally will be subject to the supervision of the New South Wales Supreme Court and the Minister.

By enacting this legislation to place the former subsidiaries under NSW external administration, there is no suggestion that the companies are insolvent.

Nor does the Government wish to change the day-to-day management of the former subsidiaries in any practical sense. As I have already mentioned, the Government has received considerable support from the Medical Research and Compensation Foundation in this process to date and looks forward to this support continuing.

What is important in a legal sense is that the Bill will ensure that the former subsidiaries are placed in external administration under the supervision of the Minister and the Supreme Court.

Clause 18 of the Bill requires the former subsidiaries during the administration period to carry on their business so far as is necessary for the management of claims, including the payment or settlement of claims.

The intent of this provision is to ensure that the resolution of claims remains the core of their business and essentially their only business.

Division 3 of Part 3 of the Bill establishes a regime which will apply if at any time during the period of external administration insufficient funds are available to meet claims as they fall due.

If such a situation emerges, the Minister may apply to the Supreme Court for an order approving a scheme to prioritise the payment of claims against the companies.

The Government does not anticipate that any such priority scheme will be required. We understand that the former subsidiaries have sufficient assets to continue to meet claims as they fall due.

It is necessary, however, that we deal with this possibility—no matter how remote it is—to ensure that any shortage of funds is dealt with in a fair and sensible manner.

Clause 26 of the Bill provides that priority will be given under such a scheme, first to operating expenses and claims processing expenses, and second, to claims for damages for personal injury or death. This priority will be given over all other claims arising during the period.

Any priority scheme that might be required will ensure that the former subsidiaries can continue to function so that they can deal with claims by paying their day-to-day operating expenses.

After this, they will be required to give priority to personal injury claims over all other claims, such as commercial or pure economic loss claims.

Any priority scheme will require an application by the Minister and the approval of the Supreme Court. I must emphasise that the Government does not expect to have to make any application to the Court for a priority scheme—this measure is included for completeness only.

To ensure that the Government is kept informed of the position of the former subsidiaries, clause 27 imposes obligations on the companies to provide certain information, including verified accounts, while clause 28 provides for the inspection of records.

Clause 29 imposes general obligations on the former subsidiaries and their directors to co-operate with and assist the Minister as the Minister may reasonably require.

Divisions 5 and 6 address various matters relating to enforcement, including dealing with contraventions of Part 3.

The Supreme Court will have jurisdiction to enforce the requirements of Part 3.

The Bill provides for an authorised applicant, being the Minister or a person who has been authorised by the Minister, to apply to the Supreme Court for relief.

The Bill also enables the Minister to apply to the Supreme Court to remove any directors if they do not perform their duties as directors or do not comply with the Bill.

Pursuant to clause 33, the former subsidiaries may apply to the Minister or the Supreme Court for advice or direction as to the discharge of their functions under Part 3.

Similarly, the Minister may apply to the Supreme Court for advice or direction on the exercise of the Minister's functions.

Division 7 of Part 3 displaces the operation of the Corporations Act in relation to matters in Part 3 of the Bill. This ensures that, where the Bill is inconsistent with the Corporations Act, the Corporations Act provisions will cease to apply.

As this legislation displaces the operation of parts of the Corporations Act, it has been necessary to obtain the approval of the Ministerial Council on Corporations.

I express my gratitude for the speed with which my colleagues were able to grant approval for the legislation to enable it to be introduced today.

The Government expects that a final, legally binding agreement with James Hardie will be settled in the coming weeks.

This legislation is intended to preserve the "status quo" until such time as that agreement is finalised and legislation can be introduced next session to implement the terms of the final agreement.

I commend the Bill to the House.

The Hon. GREG PEARCE [3.26 p.m.]: The Opposition will not oppose the James Hardie Former Subsidiaries (Special Provisions) Bill. Along with many other Australians, Opposition members have become fully aware of the concern and suffering of potentially 9,000 individuals affected with asbestosis or mesothelioma. Every member of the Opposition wishes those affected a speedy recovery and the opportunity to be properly compensated and looked after. On behalf of the Opposition I congratulate Bernie Banton, who was awarded membership of the Order of Australia in the Queen's Birthday 2005 Honours List. Bernie has been very much the public face of people suffering these terrible diseases and has carried himself with incredible dignity while working very, very hard.

The Government has again—on the third or fourth occasion—introduced a complex bill with a degree of urgency, and that leaves one wondering what this is really all about. Having had only a short time to read the Attorney's second reading speech and the bill, I would have to conclude that the bill is, in some sense, a bit of a

smokescreen by Bob Carr to make sure that he is not blamed for the final settlement negotiations with James Hardie not being completed by June, the time set down for completion. No cogent reason has been given for the failure to complete the negotiations and implement the agreement that will ensure certainty for the 9,000 victims and their families, other than the Attorney saying that the matter is a bit complex and there are difficult issues to be dealt with.

The heads of agreement were signed in December 2004. The entire community expected the final agreement to be signed in the time frame outlined by the Government. It is quite distressing that Bob Carr and his union mates have not been able to complete the negotiations and the documentation on time. But we have come to expect that from this Government, with its ongoing incompetence and inability to manage anything. Its incompetence has been demonstrated clearly with the inadequate provision of infrastructure. However, in this case the inability to settle an agreement for which all the terms and conditions were agreed last December is a cause for considerable concern and a great deal of disappointment for all victims.

I am a little confused about whether this complex bill will serve any purpose at all. The Attorney General made it plain in his speech in the other place that the Government introduced this bill with great urgency to get it into the media and to enable it to state that Bob Carr had done everything he had to do in relation to it. At the same time as the Government is spinning that yarn the Attorney General is happily telling members in the other place that the Government will have to introduce another bill either in late July or in early August when the final agreement is reached. The community will hold Mr Debus and Mr Carr accountable to those dates if that final agreement is not concluded by early August.

People will then be entitled to be really angry about the failure of this Government, once again, to manage anything. I said earlier that the Attorney General made it plain that the Government is ramming this bill through. However, it has not given anyone an opportunity to understand its provisions or its consequences. The Attorney General said that this bill is not just a stopgap; it will enable the Government to say it has done everything that it had to do. The Government will amend this legislation or introduce new legislation in the next session of Parliament when the agreement has been signed off. The Opposition is concerned about the way in which this legislation was introduced and it is concerned about the urgency claimed by the Government. The Attorney General said in the other place:

> It is necessary that this bill be passed before Parliament rises to ensure that there is no change in the underlying structure of the former subsidiaries.

He went on to state that no-one expected there to be any change to the underlying structure. No-one has any reason to suspect that that will be the case. In an amazing piece of gobbledegook, obfuscation, and goodness knows what, the next paragraph of the Attorney General's speech deserves to be read into *Hansard*. Anyone who can make any sense of it will be doing a lot better than I have done. The Attorney General's said in the other House:

> This bill will ensure that implementation of the final agreement is not frustrated by changes in the structure of the former subsidiaries between now and the time when the final legislation is enacted. The Government could not introduce this bill any earlier in this session. In the absence of a final agreement with James Hardie, it is important that these controls on the former subsidiaries not be imposed any earlier than the last opportunity before Parliament rises. The Government is introducing this bill now only because it expects the final agreement to be reached with James Hardie in the parliamentary recess. If the Government doubted that the final agreement would be concluded before Parliament resumes in September, it would not have introduced this bill and it would not have requested its urgent passage before Parliament rises.

The Attorney General made that statement in the other place. If we got a comedy writer to try to come up with a bit of gobbledegook we could not find one that could do much better than that gobbledegook by the Attorney General. This bill is quite unusual. I refer to a point that the Attorney General kept making: he is trying to ensure that there is no change in the underlying structure of former subsidiaries. Part 2, division 2 introduces a number of offences. For example, it is an offence for a company to do any of the following things without the written approval of the Minister:

> (a) change the address of its registered office to a location that is outside of the territorial limits of the State,
>
> (b) have its registered office at a location that is outside of the territorial limits of the State.

Another provision relates to the transfer of shares. The maximum penalty for these offences is 1,000 penalty units, which is currently $110,000. Is the Government fair dinkum in relation to this issue? We are talking about companies having their shares transferred outside New South Wales or moving their registered office and location outside New South Wales, so what on earth would a penalty of $110,000 achieve? For a start, on whom

would the Government impose such a penalty? It just does not make any sense at all. It is supposed to be supported by provisions that should enable the Minister to order the relevant company to instruct its directors and other officers to take steps necessary under the Corporations Act to remedy the offences of transferring shares or moving outside the territory. If the company was outside the territory, how on earth would the Minister do that? It is complete nonsense.

The second major area that the Minister talked about was the provision for placing companies under administration in New South Wales. Clause 15 provides that the external administration period will commence on the date of assent of the Act and will end on a day appointed by the Governor by proclamation. Other provisions are designed effectively to ensure that the companies remain in place and are capable of being sued for the 40 or so years it is expected to take to resolve all these things. We really have to ask ourselves whether the Government is fair dinkum in relation to this issue. I suspect that this bill will never be assented to. These provisions will have to be redrafted. They are not yet capable of reflecting what will be in the final agreement.

I conclude by stating that this bill is more about the Government trying to spin itself out of trouble. It is trying to claim that it has done everything it had to do and it is trying to shift the blame for the failure to document and conclude the agreement this month, which quite rightly will disturb and upset many of the victims and their families. This Government simply cannot manage anything that involves dealing with the outside world. It spins its media and puts its union mates into negotiating positions and onto boards and all the rest of it. These very deserving people had their expectations raised last November when the heads of agreement were entered into. They are entitled to have seen the final agreement by now.

We have had no explanation from the Carr Government as to why it has not been able to conclude that agreement. Instead, legislation was introduced on the run with no real justification for urgency. We have been told that this legislation will have to be amended or new legislation will have to be introduced to implement the agreement when it is finally signed by early August. Bob Debus, Bob Carr and their union mates should make sure that they get that deal signed by early August. I am sure a number of people will be very upset if they do not.

The Hon DUNCAN GAY (Deputy Leader of the Opposition) [3:38 p.m.]: I support the comments made by my colleague the Hon. Greg Pearce, and I wish to make a few personal comments. For a long time I believed that James Hardie deserved to be chased. That company got itself into this situation as a result of some reprehensible and silly acts. However, James Hardie is not the only villain in this sorry saga. The Premier chose to use James Hardie as a distraction but James Hardie provided the Government with that opportunity by not behaving appropriately and not being as adept as it should have been. That tends to hide the fact that there are other concerns in this area.

We must remember that James Hardie produced materials to government standards and that, in some cases, State and Federal governments compelled the company to use particular raw materials in its products. We should also remember that the State Government has run power stations in New South Wales that used asbestos extensively. People have worked in those power stations for 40 or 50 years. Building janitors have looked after boilers and pipes and conducted maintenance on government-owned houses that contained asbestos. As recently as the late 1960s—I was still travelling on steam trains in New South Wales then—firemen were at risk from asbestos. Many people in those industries face potential harm. The State Government has a responsibility to care for those people, and that responsibility will increase over time.

As I said, it is just too cute for the Premier to constantly beat up on James Hardie. That action obscures the other problems. If we simply beat up on James Hardie—it certainly deserves a beating in just about every case—and go away believing we have fixed the problem, we will be kidding ourselves. The Premier is constantly beating up James Hardie about asbestos but is less than forthright when it comes to addressing the greater issues affecting New South Wales workers in particular industries. That is an ongoing problem. This is a personal view but one that I felt I should express during debate on the bill.

The Hon. PATRICIA FORSYTHE [3.42 p.m.]: I commend my colleagues for their contributions to debate on the James Hardie Former Subsidiaries (Special Provisions) Bill. There is absolutely no doubt that asbestos has left a terrible legacy for workers who suffered exposure to that material. I do not seek to resile in any way from recognising the responsibilities of James Hardie or the terrible legacy of asbestos in our community. I certainly acknowledge the objectives of the bill in seeking to limit the ability of certain James Hardie subsidiaries to reorganise and restructure and in trying to place certain companies in external administration. It is easy for this Government to wave a big stick at James Hardie, a huge multinational company. But the Government also has policy and asset provision responsibilities with regard to public health in this State.

I contrast the Government's willingness to take on James Hardie—I do not suggest for one moment that it should not do so—with its inaction on a potential time bomb. The Government has been alerted to the fact that a number of houses and other buildings across the Eden-Monaro area—probably numbering in excess of 60 dwellings in Queanbeyan, more dwellings in the Cooma-Monaro region and other dwellings on the coast near Batemans Bay—have been identified as being likely to contain, at least in principle, a form of asbestos. Amosite—a 100 per cent pure form of asbestos—was blown into these dwellings and used as insulation during the 1960s. A few weeks ago I made a speech in the House on this subject. A complete review and decontamination of houses in the Australian Capital Territory occurred in the late 1980s and early 1990s. That was not a cheap exercise but I believe the people of the Australian Capital Territory can derive some comfort from the fact that buildings containing asbestos have been identified.

This issue came to the fore earlier this year when the doctor responsible for the asbestos review in the Australian Capital Territory in the 1980s wrote some letters to the editor of the *Canberra Times*. I contacted that doctor, and Queanbeyan council has subsequently taken up the issue. Queanbeyan council is very keen to see a review of property in its local government area. But any will or commitment on the part of the Carr Government is lacking. So, although I do not step back from the advances made in this legislation, I believe the Government cannot have it both ways. Asbestos is a problem not just for James Hardie; it could still be a problem for the community. Not two weeks ago a 38-unit dwelling in Queanbeyan was identified as containing asbestos when someone cut a hole in the ceiling to gain access to the roof and was allegedly sprayed with loose asbestos. No-one knew the building contained asbestos.

Queanbeyan council and other councils in the area want the Carr Government to come on board and allocate some money to fund a proper review of dwellings and buildings throughout the region in the interests of the entire community. If the Carr Government wants to wave the big stick at James Hardie—as it should—it must accept that it also has a public health responsibility in terms of policy and resources. The Government must take action on this problem that has been drawn to its attention. Queanbeyan council is already pursuing the issue. I urge the Carr Government not just to act with regard to James Hardie but to accept its responsibility for eradicating asbestos in our community and allocate some resources. The bill should be just part of a much broader approach to this problem. Wider action on the part of the Government will assure the community that it is fair dinkum about dealing with asbestos and its related problems and is not just beating up on James Hardie.

Reverend the Hon. FRED NILE [3.47 p.m.]: The Christian Democratic Party supports the James Hardie Former Subsidiaries (Special Provisions) Bill. The purpose of the bill is to provide for the external administration of certain companies that were part of the James Hardie group of entities. It also intends to place certain limitations on the ability of liable entities and certain associated companies to reorganise their corporate structures during the period of external administration. Some honourable members have questioned why the bill is necessary when positive discussions are continuing with James Hardie. However, because of the company's earlier action in shifting its headquarters to Holland, we must be suspicious and aware of the potential for future changes. There is no evidence that James Hardie will act so I believe it is better to be safe than sorry.

The Government has introduced legislation that we hope will not be needed in the long run. But the Government has a responsibility to the public and to all those people who are suffering from the effects of asbestos exposure. Huge amounts of money are involved—not millions of dollars but billions of dollars in compensation—so financial administrators and lawyers attached to the company could urge it to avoid its responsibility by taking certain action. Corporate entities can be created as easily as they are disbanded. In order to escape legal sanctions corporate entities have been known to shut down and resurface under another name with another structure or to disappear without a trace.

As that is the case, this bill must be passed urgently in order to protect the claims of asbestos victims. Together with other honourable members, the Christian Democratic Party commends the actions of Bernie Banton, who is a courageous spokesman for all men and women who are suffering from the effects of asbestos in our country. This bill is necessary to ensure that certain asbestos-related entities falling within the James Hardie Group remain intact and face the claims of asbestos victims rather than disappear into the corporate ether.

During the crossbench briefing by Government advisers I asked whether it is possible, even though the structure of the company, or the shell, may stay in place, that its assets can be shifted away? I have no evidence that James Hardie would do that but apparently this bill will prevent that happening. This bill is the first step in implementing a raft of legislation to support long-term arrangements for James Hardie Industries NV to provide for funding of its former asbestos subsidiaries, being Amaca Pty Ltd, Amaba Pty Ltd and ABN 60 Pty Ltd. It is

estimated that approximately 9,000 Australians will develop asbestos-related diseases during the next 40 years through exposure to James Hardie asbestos products.

A seminal arrangement was entered into by the Government, James Hardie Industries, the Australian Council of Trade Unions, Unions NSW and Bernie Banton late last year for James Hardie to provide annual contributions for at least the next 40 years into a special purpose fund, from which asbestos victims will be compensated. From late last year onwards, the Government and James Hardie have been negotiating a legally binding final agreement which we had hoped would be finalised by now as it seems to have dragged on longer than it should. However, no agreement has been finalised but it is expected it will be settled in July. This bill will be amended after the final agreement is made conclusive but it is needed as a matter of priority to preserve former asbestos subsidiaries. It is important that their status does not change before the final agreement is settled and then implemented.

Part 3 of the bill places former asbestos subsidiaries of James Hardie under an "external administration" regime. This will be a New South Wales supervised regime, where the entities will be subject to the supervision of the New South Wales Supreme Court and the Attorney General. For example, the bill ensures that Amaca, Amaba and ABN 60 remain subject to law in New South Wales and will prevent their member registers or registered offices from being moved outside the State, or shifted overseas, and will prevent transfers of shares in them without the approval of the Attorney General. The bill will put those companies in a special category because it displaces some of the Federal Corporations Act provisions ensuring that the companies cannot be wound up or deregistered under the Act. Apparently, the approval of the Ministerial Council on Corporations was given for that to occur.

This bill is peculiar in that the New South Wales Parliament is legislating in relation to corporations that normally come within the purview of Federal jurisdiction. It is very important, and it must be stressed, that this bill does not include any releases from liability for James Hardie Industries or any of its executives. In the future, legislation will deal with that particular issue and other more general legislation will deal with the compensation of asbestos sufferers by James Hardie. The Christian Democratic Party supports this legislation because it is better to be safe than sorry.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.54 p.m.]: I support this legislation as it is necessary to have restraints on James Hardie, which moved to The Netherlands. I believe that if James Hardie did not have substantial investment in Australia it would never have agreed to anything. The Government has had to negotiate. The bill is a credit to asbestos victims and Bernie Banton. The unions recognised the importance of this ongoing tale and could not leave these victims in difficult circumstance, even though many of them were no longer working. The Construction, Forestry, Mining and Energy Union and the AMU got together with Unions NSW and put pressure on both the Federal and State governments to take some action. Under Australian workplace agreements, where effectively ants negotiate with elephants, that may not have happened.

In fact, because of the strong line taken by the unions, Bernie Banton and fellow asbestos victims, although historically there were some slip-ups at Wittenoom, it was important to take the company to task. Fortunately, the company had sufficient investments in Australia to be forced to come to the table. I will give credit where credit is due to the Labor Government. As I recall, when the first lot of legislation was introduced the Liberal Party had a series of amendments, approximately 16, that would limit quite severely who in New South Wales could get compensation. Claimants who had not lived a substantial part of their lives in this State were going to be left out. I remember the Liberal Party moved the amendments to water down the legislation so that fewer people could get compensation. The crossbench decided not to dignify the amendments with a response. The Opposition moved the amendments and looked keenly to find out how the crossbenchers were going to vote, and we voted the first lot down. The Opposition proposed the second amendment, nobody spoke and it was voted down again. The Opposition recognised that would be the pattern for all the amendments and so withdrew them. That did no credit to the Opposition. Once again the credentials of the Opposition are not boosted when it nit-picks the legislation and says it should do this or that.

If the legislation is needed to stop further actions by liable entities from among the James Hardie subsidiaries, so be it. If the legislation needs modification after final agreement is reached, so be it. The tobacco industry has reorganised itself. One company changed its name from R. J. Reynolds to R. J. Nabisco and has now dropped the "R. J." and is just Nabisco. Philip Morris has changed its name to Altria Group Inc. and has bought out Lindt chocolates and General Foods with money it generated from tobacco. The Lindt chocolate shop in Martin Place has whopping great ashtrays on its outdoor tables that give the message "Yes, we are selling flash chocolate and we are perpetuating the smoking habit as well." What a coincidence. The big irony is that the name "Altria" has the connotation of altruism.

Because there has not been organisation amongst tobacco victims, corporations have reorganised, shot through, limited their liability and have not been successfully sued, and the Government has not moved against them. The model of Johns-Manville Corporation being wound up in the United States of America and all its profits going to asbestos victims is a good model and should have been followed here. We have been a little kinder but we very nearly missed the bus when we allowed the medical research and compensation fund—a laudable name but I do not know whether it did any research—to be set up and to be totally inadequately funded. The Jackson inquiry found it was funded at the minimum level to have any credibility at all, and the money was not available in the fund for asbestos victims. If the Hardies companies had not still been relatively successful in Australia selling products and receiving earnings here that they could have lost, they could have successfully closed down under corporate law because there was no reciprocity agreement with The Netherlands. They could have escaped without paying asbestos victims a bean.

Luckily, following that process—with encouragement from asbestos victims and support from the unions, and because the Government to its credit has taken up the cudgels—James Hardie will have to do the right thing. This bill is part of a suite of legislation that is needed. I wish the Minister well in his negotiations with the company. I long for the day when the tobacco murderers who killed so many people throughout the world get their comeuppance in this way. I suggest that time is running out for that hope because those companies will restructure. As the smoking rate decreases so the funding base which might fund compensation to the many tobacco victims will be lost. I congratulate the Government on this legislation, and I will certainly support it.

Ms LEE RHIANNON [4.00 p.m.]: The Greens support this legislation. While things are not moving as fast as the Government promised us they would, we are moving slowly towards obtaining some justice for the victims of the appalling actions of James Hardie Industries in knowingly exposing workers and others to deadly asbestos. It has been reported that the timetable for new asbestos compensation payment by James Hardie has been delayed for a couple of months, with the agreement between the Government and the company due for signing in late July or early August. The Premier has said publicly that the draft agreement releases Hardie directors from civil liability. The Government says it has no plans to release directors from civil penalties. In the Greens' view, these directors should not be released from any type of liability. The heinous acts of the company and the directors should see them face the full weight of the law, which, after all, was intended to apply to all people in New South Wales, big or small. There should be no exceptions.

We need the Government to do everything it can do to step up pressure on this multinational giant. One tool at the disposal of the Government, which the Greens proposed late last year, is to levy a stamp duty on share trades in James Hardie. This would put further pressure on the company and its board and send a very strong message to corporate Australia regarding its responsibility towards workers and consumers. The revenue raised could go towards asbestos victims. Alternatively, it could help defray the cost to the Government of doing things like holding an inquiry, writing legislation, and getting legal advice.

When I raised this possibility late last year the Premier claimed he was sympathetic towards it. The Premier said he was sympathetic to any device to drag this company towards doing the right thing. He said its viability would be something on which he would have to get advice because the States no longer impose stamp duty on share transactions. As it has been more than six months since the Greens raised this issue with the Premier, I would like to know what his advice was. I hope that, in his reply to this debate, the Minister will inform the House about that matter.

The Hon. Duncan Gay: I would have thought the advice would have been that it would hit only the shareholders, not the company.

Ms LEE RHIANNON: This measure has been put in place before. It is not unusual for the Deputy Leader of the Opposition to say anything that would protect corporate Australia, without looking rationally and reasonably at the issues. We must be wary of the Premier's line, as he so often throws his hand in and claims the State does not have power to do things—as he did in relation to the Greens' proposal to legalise same-sex marriage. When the Government does not want to do things, it hides behind the Commonwealth's coat tails. This is not good enough, especially when the outcome of not doing something will impact unfairly on asbestos victims. At the very least, the Premier could take a leading role in lobbying the Federal Treasurer to adopt the Greens' stamp duty proposal to achieve further justice for asbestos victims. I ask the Minister to also address this issue also in his reply.

I congratulate all asbestos victims, their families, union members, and community groups who have campaigned so hard for this outcome. When I make public speeches I often say that legislation that goes through

Parliament has come about not because of the good ideas of the parliamentarians but because of strong social movement. This bill is a case in point. We would not have been considering it today if it had not been for the courage and hard work of many individuals and organisations in this country.

The Hon. HENRY TSANG (Parliamentary Secretary) [4.04 p.m.], in reply: I thank honourable members for their contributions to the debate. In particular I thank the House for its assistance in dealing with this legislation urgently. I join the Hon. Greg Pearce in congratulating Bernie Banton on his inclusion in the Australian honours list. Bernie is a lifelong member of his union and represents well the Asbestos Victims Association, which is a collective bargaining organisation that the Government is very proud to work with for the benefit of people who suffer from asbestos-related disease.

The Hon. Greg Pearce should understand that the heads of agreement sets some key terms and otherwise provides a framework for negotiating the final, binding agreement. It does not contain anywhere near all the terms of the deal. If it had, we could have signed a binding agreement last December. As the Hon. Greg Pearce should also understand, the Government and James Hardie cannot sign a binding agreement in late July or early August, while leaving open the possibility that the underlying structure might change before the final agreement is implemented. That is why the bill is urgent. The Government has introduced the bill with the support of the unions and victims.

The bill is the first legislative step in the process to secure funding to support the victims of asbestos diseases. The Government is introducing the bill to protect the rights of future claimants against James Hardie's former asbestos subsidiaries. The bill protects the rights of future claimants in two ways. First, it ensures that former subsidiaries cannot be wound up or be deregistered under the Commonwealth Corporations Act. This is important because it means those companies will continue in existence until all future victims have been able to make claims. This might take another 40 or more years.

Second, it ensures that the former subsidiaries will remain in New South Wales and be subject to the further legislation we will introduce next session. The bill will implement the final funding agreement with James Hardie. In response to Ms Lee Rhiannon, the only way to get adequate funding for asbestos victims is by reaching a final agreement with James Hardie. A new stamp duty on share transfers would not raise anywhere near the $1.5 billion needed. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

TRANSPORT LEGISLATION AMENDMENT (WATERFALL RAIL INQUIRY RECOMMENDATIONS) BILL

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [4.08 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

Today I bring forth the Transport Legislation Amendment (Waterfall Inquiry Recommendations) Bill 2005.

One of the first of the major challenges the Minister faced coming into the Transport portfolio was responding to the Final Report of the Special Commission of Inquiry into the Waterfall rail accident.

As Members are aware the Government provided a detailed response to Justice McInerney's report on the 22nd of February.

Of the 127 recommendations in the report, 114 were supported by the Government, 8 required further detailed review and 5 were not supported.

The five recommendations not supported concern the regulatory framework around the Independent Transport Safety and Reliability Regulator (ITSRR) and do not affect the addition of any recommended new safety systems.

The Government's response required some legislative amendments. These are contained in this bill.

This bill is another step in the implementation of the Government's response to the Waterfall rail accident and is part of our commitment to the victims and their families, and the people of NSW to deliver a safer and more reliable rail system.

The bill also makes changes identified in the legislative review of the rail safety legislation enacted by the Government in 2003. This review was tabled in another place on Tuesday the 24th of May.

In November 2003 the Government introduced legislative reforms which included the establishment of ITSRR—the Independent Transport Safety and Reliability Regulator.

ITSRR was established to regulate the safety of rail operators and provide the Government with independent advice in relation to the reliability and safety performance of public passenger transport services.

At that time, however, the Government was conscious of concerns that these reforms may pre-empt the Final Report of the Waterfall Special Commission of Inquiry.

Therefore the Government committed to reviewing the 2003 safety legislation to consider the final report handed down by the Justice McInerney in January this year. This has been done.

The Legislative Review suggests a number of legislative changes to implement the Government's response to Waterfall.

The Transport Legislation Amendment (Waterfall Rail Inquiry Recommendations) Bill 2005 will achieve a number of outcomes intended by Justice McInerney's final report.

The bill will remove the Office of Transport Safety Investigation (OTSI) from ITSRR and establish a new, statutory position of the OTSI Chief Investigator who will be independent from ITSRR.

Consistent with recommendation 79 of the Special Commission of Inquiry, the Chief Investigator will be given powers to initiate investigations into transport accidents or incidents.

The Chief Investigator will be responsible for " just culture" type investigations of transport safety accidents or incidents. That means investigations are conducted for the purpose of advancing transportation safety – not to assign fault or determine civil or criminal liability. The Chief Investigator will report directly to the Minister for Transport.

The Chief Investigator will not be subject to Ministerial direction and control in his investigative and reporting functions.

The Chief Investigator will deliver his reports directly to the Minister consistent with recommendation 81 of the Commission's Final Report. These investigation reports will continue to be tabled in Parliament.

Consistent with recommendation 80 the bill provides for information sharing agreements to be entered into between the Chief Investigator and ITSRR to ensure that any findings made by the OTSI can be quickly reported to the ITSRR.

The bill provides scope for officers from the federal agency, the Australian Transport Safety Bureau —ATSB—to be involved in the investigation of rail accidents or incidents in NSW.

The bill also includes new provisions designed to reinforce the independence of ITSRR.

ITSRR will no longer be required to seek the advice of the Advisory Board before it may exercise certain statutory functions. The bill removes the management role of the Chair of the Advisory Board in relation to accident investigations.

The Government did not support the recommendations for the complete abolishment of the Advisory Board. Instead the Board will be retained as a valuable source of expert advice to both the ITSRR and the Minister.

ITSRR now has greater autonomy in the exercise of its functions, but can at the same time seek the advice from the experts on the Advisory Board.

The Government did not accept the Waterfall recommendation that ITSRR be removed from the transport portfolio. As the Minister for Transport is responsible for the safety and reliability of public transport in NSW and it is entirely appropriate that the Regulator should report to me.

ITSRR makes a substantial contribution to the portfolio in terms of overall transport safety and in particular it allows for better co-ordination of safety policy across all other transport modes such as buses and ferries.

The Regulator reporting to the portfolio Minister is also consistent with international practice in jurisdictions such as the United Kingdom and Canada.

A number of consequential amendments have also been included to support the above initiatives.

The bill sets out much clearer processes for the conduct of investigations by the Chief Investigator and inquiries. The separation of OTSI and ITSRR necessitated a number of changes to the existing provisions relating to inquiries.

The Legislative review defines an " investigation" as the gathering of physical, scientific and other evidence outlining the sequence of events leading up to and including an accident.

An "inquiry" is described as the conduct of formal process to obtain witness inputs, documentary evidence and other relevant materials and may consider evidentiary material gathered by an investigative team. An inquiry will culminate in a report on the outcomes to the Government.

The inquiry provisions are not new—both the Passenger Transport Act and the Rail Safety Act have had provisions for inquiries in relation to transport safety accidents or incidents.

However some structural changes were required to ensure these provisions work better with the new institutional arrangements for OTSI's transport accident investigations.

The bill makes it clear that inquiries are a part of the investigative process, but are not always required.

In most cases, transport accidents and incidents will only require investigation and report by the Chief Investigator without the need for the investigation to be elevated to the inquiry level.

The Government will also retain the option of holding a Special Commission of Inquiry or Royal Commission in relation to any transport accident.

The new arrangements for transport safety investigations and the functions of the Chair of the Advisory Board mean that new " triggers" for the calling of an inquiry are required.

This function needs to be separate to ITSRR's compliance and enforcement role and the Chair's investigation functions which have been transferred to the Chief Investigator of OTSI.

The function also needs to be separated from the Chief Investigator, as his investigation may form part of the overall evidence to be submitted to any particular inquiry much like a police investigation may constitute evidence at any Coronial inquiry.

Therefore the Minister will have the responsibility for calling inquiries. This is consistent with the inquiry model for mine safety investigations where the portfolio Minister can establish an inquiry into any mining accident.

The Chief Investigator may recommend that an inquiry should be held. If there was ever a case where the Minister of the day did not agree, then the reasons supporting that decision must be tabled in Parliament. This is a further protection of the Independence of OTSI.

The bill also includes a number of additional regulation making powers in the Rail Safety Act and provisions clarifying the obligations of rail operators with respect to their safety management systems.

Commissioner McInerney made specific recommendations concerning the need for regulations specifying requirements for safety managements systems (Recommendation 121). The amendments ensure that these requirements can be prescribed and if necessary supported by relevant guidelines made by ITSRR.

These new regulation powers will ensure that ITSRR can prescribe standards applying to such matters as train communications, rolling stock, passenger security and safety and rail infrastructure. ITSRR will be able to provide more explicit guidance for industry as to expectations of safety performance.

Justice McInerney recommended that changes be made regarding rolling stock, data loggers and train communications. This bill provides a better basis for such regulations to be made and supported by prescribed conditions of accreditation.

The bill also makes a number of other amendments as a consequence of the Legislative Review.

These amendments clarify the regulatory responsibility for safety in other transport modes and make some amendments in relation to the membership and functions of the Transport Advisory Group (the TAG) established under the Transport Administration Act.

The current requirements provide for the TAG to be chaired by the Chair of the ITSRR Advisory Board. Given that the Chair no longer has a separate statutory role other than being part of the Advisory Board, this is no longer appropriate.

The bill provides for the TAG be chaired by a person appointed by the Director-General of the Ministry of Transport. This is consistent with the statutory role of the TAG in relation to the setting of performance standards that transport operators are required to comply with.

Reporting requirements have also been modified. The TAG will report to the Director-General of the Ministry of Transport. This is appropriate given the TAG's advisory role in relation to setting of performance standards for contracted transport service providers.

The bill has been drafted with key input from ITSRR and consultation with industry and employees representatives.

The amendments proposed in the bill represent a more workable framework for the delivery of the key safety recommendations of the Waterfall Commission of Inquiry.

I commend the bill to the House.

The Hon. GREG PEARCE [4.08 p.m.]: This bill is part of the Government's response to the waterfall rail inquiry recommendations, and it makes some changes identified in the legislative review of rail safety legislation. The main thrust of the bill is to separate the investigation role of the Office of Transport Safety Investigation and the compliance and enforcement role of the Transport Safety and Reliability Regulator. On the advice of the newly created Chief Investigator, the Minister will commission boards of inquiry into accidents or incidents. The Opposition does not oppose the bill. However, we are concerned that the arrangements relating to

safety regulators and investigators lack real independence. This is yet another example of the Government's lack of any commitment to deal with serious problems the State faces.

The objectives of the bill are to establish an independent office of Chief Investigator of the Office of Transport Safety Investigations to investigate transport accidents, and to enable the Minister to establish boards of inquiry. The bill will also clarify provisions of the Rail Safety Act 2002 dealing with safety management systems; permit regulations under the Rail Safety Act 2000 to be made in relation to standards for railway operations, requirements for registers of information held by operators of railways, passenger safety and security, train safety recordings, and conditions of accreditation; and to prescribe conditions of accreditation. It will also provide for certain regulatory functions that previously were undertaken by the Independent Transport Safety and Reliability Regulator to be undertaken by the Waterways Authority and the Director General of the Ministry of Transport, and encourage information sharing between the two bodies.

At the end of his inquiry Justice McInerney stated emphatically that everything that led up to the Waterfall train crash was avoidable. That is a matter of great regret to all of us who are concerned about safe and efficient public transport in this State. And it is regrettable that three years later nothing has changed. Various rail sections have been reorganised in a musical chairs fashion, and we are again playing the reorganisation game with the safety regulator and investigator. The Opposition remains concerned that the legislation does not truly ensure independence. The shadow Transport spokesman in the other place, the honourable member for Vaucluse, described as Orwellian an assertion by the Minister that the independence of the Chief Investigator is reinforced because he will report to the Minister for Transport. We are most concerned about that shortcoming in the legislation.

The Carr Labor Government's commitment to the people of New South Wales to provide safe rail services was shown up again today in the Auditor-General's latest report, which details a catalogue of rail commuter concerns and confirms that the Carr Government's political management has failed commuters; confirms that communication between parties in the rail management centre, and between the rail management centre and other parts of RailCorp, was inefficient and often failed. He said that the reporting and command structures were ambiguous, controllers could not see the precise location of trains on parts of the network, and dark areas now comprise 33 per cent of the CityRail network.

The Auditor-General sad that this issue is so important that the 2008 target the Carr Labor Government whimsically seems to think is satisfactory is a long way away. The Auditor-General also found that the communications technology used by RailCorp to advise of train movement changes is cumbersome and obsolete. Currently, only three of 44 metropolitan signal control locations have been computerised. These findings confirm that the Carr Labor Government does not have the political will to deal with these major problems. Experience shows that it is simply incapable of managing any of the State's assets, particularly transport assets. The Opposition will not oppose the bill, but it is in no way an answer to the mismanagement and incompetence of the Government or its failure to have the political will to deal with the safety concerns that New South Wales commuters quite rightly have.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.14 p.m.]: On 31 January 2003 seven people died as a result of a terrible train derailment near Waterfall train station. Mark Hudson, John Raymond Burt, Marie Genevieve Goder, Andrew Ludmon, James Ritchie, Yi Zhang and the driver, Herman Zeides, tragically had their lives cut short. On behalf of the New South Wales Democrats I extend my deepest sympathy to their loved ones for their loss.

Justice McInerney's report into the accident at Waterfall is extremely detailed. A former intern in my office was employed to catalogue items of evidence, and they numbered in the thousands. Of the 127 solid recommendations to improve the safety of CityRail, the Carr Government rejected five and put another 14 on the backburner. I note the recent history of Labor governments in New South Wales. When Wran had no money he implemented a number of legal reforms, which kept him looking active while costing him no money. This Government has been very good at defining what ought to be done legally—with regard to the Mental Health Act, the Disability Services Act, and now, perhaps, the regulation of transport—without putting money where it is needed.

It is all very well to say that somebody must do this or that, but if they do not have the money to do it, it almost becomes a farce. The Campbelltown Hospital inquiry revealed that people did not have enough money to do what they were supposed to do pursuant to the lofty measures in the Act. It was a bad joke. Committee members on the Mona Vale Hospital inquiry heard evidence that the woman supposed to do cardiac testing was instructed not to buy paper to print out the results to send to general practitioners until after the end of the financial year.

We heard evidence that water coolers were taken out of Manly hospital by Neverfail—a division of Amatil, which can considerably withstand late payment if it wishes—because the Department of Health failed to pay its bill. The Government is a bit inclined to making lofty statements but it is not willing to pay its bills. It is not willing to put money into public infrastructure. When the Government says it cannot afford to pay for public infrastructure I refer it to an article that appeared a couple of weeks ago in Saturday's *Sydney Morning Herald* detailing the supernormal profits of Macquarie Bank.

What has Macquarie Bank been doing? Building public infrastructure at a huge profit, of course, with its chief executive officer [CEO] on $18 million a year. I ask why Macquarie Bank can make supernormal profits and pay its CEO $18 million a year when the Government cannot afford to buy anything and cannot afford to fix anything. The answer is in the flaw that will probably cost the Government office: it simply is not willing to borrow. Perhaps that would offend the merchant banks that want to keep their snouts in the trough for a little while as they tee up the loans. The old system, which was used for hundreds of years, of the Government selling bonds to fix the infrastructure and pay it off gradually has been forsaken. The Government has been trying to fund infrastructure from recurrent revenue, but it is not succeeding. People will lend you money if you have assets. If you borrow to accumulate assets, you will not be declared bankrupt while ever you have those assets.

Governments can go broke, Third World countries do go broke, and some local government authorities would go broke if they were not bailed out. However, the fact of the matter is that astute purchasing of infrastructure has made the Macquarie Bank extremely rich, and if this Government had had the wit to do what it needed to do, it could have done the same with rail. When we say that this is quite a good regulatory arrangement, I do not have a problem with that, but we always have to tie ourselves back to reality. Quite simply, this Government has to borrow to provide infrastructure. The silly nonsense that is being circulated that government debt should not be more than a certain percentage of State domestic product is just that. Basically if there is asset backing for debt, there is nothing wrong with debt per se, and our rail system needs to be fixed.

At one stage I provided assistance through my office for a person who had worked for the railways as a safety officer. He retired on stress leave, having been drummed out because he said the dead man's handle on trains did not work and that one day there would be a huge accident. Guess what? He lives in penury in the Blue Mountains and the accident he predicted has happened. That is simply not good enough. This legislation makes changes to the structure of the role of the regulator and the investigator, but we really have to concentrate on the fact that no rail infrastructure is being built despite the fact that the peak oil crisis is also looming and that the only people who have a vision for a transport network in New South Wales are the Roads and Traffic Authority and Ron Christie, who did such a good job of getting rail into shape for the Olympics and who recently updated a vision for rail in New South Wales that seems to be more honoured in the breach than in the observance.

This week's story in the *Sydney Morning Herald* about the Commonwealth Government ignoring the recommendations of parliamentary and judicial inquiries and other good advice is quite timely. One hopes that the *Sydney Morning Herald* will persist with its series and examine the very poor record of the Carr Government, which ignores and dismisses recommendations by parliamentary committees and people such as Ron Christie when they point out what needs to be done for rail.

The April 2001 report of the special commission of inquiry into the Glenbrook rail accident, which is known as the McInerney report, contained a number of recommendations relating to the structure of rail safety management. The report recommended the establishment of the Office of the Rail Regulator, the Office of the Co-ordinator General of Rail, a Rail Safety Inspectorate and a Rail Accident Investigation Board.

The Glenbrook rail disaster occurred just before the Sydney Olympics. One of the more ironic experiences of my term as a member of this Parliament occurred when the then Minister for Roads, and Minister for Transport, the Hon. Carl Scully, was keen for the crossbench not to support calls for an investigation by a parliamentary committee into rail safety in New South Wales. He promised that he would assemble the chief executive officers from the Rail Access Corporation, State Rail, and the Rail Infrastructure Corporation and that crossbench members would be able to ask any questions they liked. He said that there was no need for an inquiry because the State Government had to prepare for the Olympics, and that inquiries would distract people who are working on Olympics projects. In other words, they would be trying to fix the matters raised in the inquiry and fix the rail system, and they would not be able to complete the Olympics projects. He felt it was really important for us to meet.

We met in room 1135, which is quite a small room. The rail experts sat down and the crossbench members came in but there were not enough seats, so there was a juggling of who was important enough to have

a chair and who would have to stand around against the walls. Finally when all that was settled, we were all sitting down and the Minister said, "What questions do you have?" After a long silence, I said, "Who is responsible for rail safety in New South Wales?" The answer was, "I am glad you asked that. It is a very good question. Let me see? Who is the best person to answer that? Perhaps John should answer that, or perhaps someone else." That was really the answer to my question. I did not need to ask any more questions because it was obvious that the chief executive officers of the rail system did not know who should answer a question about who is responsible for rail safety in New South Wales—and this was immediately after the Glenbrook rail disaster. It was a case of the medium being the message, if I can put it that way.

Hopefully, having re-aggregated to some extent the absurd structure of the rail track being separate from rail cars, which is separate from maintenance, presumably as a result of some economic theory related to some trend in competition policy, we now have a little better co-ordination between the rail elements, albeit with different ownership. There are considerable problems, particularly with the antiquated infrastructure and the possibility of different management. That was also the problem with the Glenbrook disaster, which involved a passenger train being hit from behind by a train operated by Australian Pacific, I think it was, in a track black spot, where mobile phones and signals did not work. It was a prime example of the problem of unco-ordination. Two years after the April 2001 McInerney report, the State Government responded by introducing the Transport Legislation Amendment (Safety and Reliability) Act 2003.

The bill removes provisions relating to the Office of Transport Safety Investigations and Chief Investigator from part 4A of the Transport Administration Act [TAA] of 1988. Those provisions established the Office of Transport Safety Investigations [ITSRR] and the Chief investigator as part of the ITSRR. The chief investigator is now established as an independent office and will be appointed by the Governor on the recommendation of the Minister. The ITSRR will monitor compliance by transport authorities with any recommendations relating to the safe operation of transport services of any report by the chief investigator under the TAA or any other Act, or in a report of a rail safety inquiry or a transport safety inquiry. The board's principal functions have been revised so the board will now advise and make recommendations to the Minister or the ITSRR about any matter.

Under proposed section 42V, the chairperson of the board will no longer have any functions in relation to investigations and inquiries. The bill provides for the investigation of, and inquiry into, railway incidents, accidents, and other matters that may affect the safe conduct of railway operations. The Chief Investigator will conduct inquiries. Investigations are to be on a no-blame basis, in that any information the chief investigator or the ITSRR obtains by way of a report may not be used in evidence in any civil or criminal proceedings against the operator of a railway unless a court directs that it is in the public interest to do so.

The Minister may require the chief investigator to investigate and report to the Minister on any transport accident or incident, and may also constitute one or more persons as a board of inquiry to conduct an inquiry into any transport accident. The Chief Investigator may give written notice to the Minister requesting that an inquiry be conducted into any railway accident or incident. The Minister must either comply with the request or provide the Chief Investigator with written reasons for not doing so. The relevant documents must be tabled in each House of Parliament. The same provisions will apply to proposed amendments in schedule 2.

The Passenger Transport Act 1990 will be amended to standardise references to regulators in relation to buses and ferries. The role of regulator is to be carried out solely by the director general in relation to buses, and by the Waterways Authority in relation to ferries. The chief investigator will be responsible for investigating any bus or ferry accident or incident. The regulator may enter into an information-sharing arrangement with other agencies to permit certain information to be exchanged between the regulator and any other agency. Any such information-sharing arrangement has effect, despite any other Act or other law of the State, but does not permit the disclosure of confidential safety information. The implementation of that provision may prove to be quite difficult in practice.

Although I will not oppose the bill, I think the Government is very focused on looking at and identifying problems, but then shrugs its shoulders instead of doing something about them. We all know that public transport rolling stock and infrastructure have been run down to a very serious state of disrepair by previous Coalition and Labor governments. The Christie report recommended that at least $20 billion should be spent on urgent CityRail maintenance by 2011 to meet demand and ensure that rail services are reliable. With the peak oil crisis looming and the effect that will have on the use of private cars, particularly in the circumstances of traffic congestion in a city with a rapidly increasing population, rail transportation really needs to be addressed as a matter of extreme urgency.

As I have said, without resources frameworks become something of a farce. There is no point in giving orders if there is insufficient funding to carry them out. Buses are our major mode of public transport in places where we should have rail transport. Increased population areas in Sydney's west and north west are crying out for a rail system, but the Carr Government keeps on building roads and busways, thereby avoiding its responsibility to provide public transport. Because it is building roads, everyone will need to use a car, and that is just plain dumb.

In 1998 the Legislative Assembly's Public Works Committee published a definitive report on the tilt train, and seven years later, despite the success of the Queensland tilt train since November 1988, New South Wales is still waiting for a response to that report. In 1998 the Carr Government announced its Action for Transport 2001 Program. Now, seven years later, the five million people of Sydney's greater metropolitan region are still waiting for a definitive freight plan, despite a Legislative Council committee inquiry into the privatisation of FreightCorp recommending that the New South Wales Government finalise and publish by 30 June 2001 the Freight 2010 Strategy. The Government would not even incorporate a rail easement into the Western Distributor, and has still not decided on an easement for the north-west sector, despite the need for an easement.

Indeed, the Government stopped the Chatswood to Parramatta rail line project going beyond Epping. Had the line proceeded to Carlingford, the existing Carlingford line could have been used and trains from western and south-western Sydney could have proceeded to Chatswood. The Government's reason for that decision was quite vacuous; it claimed there was no demand for the route. Of course, a route is totally impractical if people do not travel on it because they cannot get jobs along that line. Networks should be built for the future. The Epping to Carlingford section of that project would have been cheap to construct with the tunnel-boring machine in situ, but to save a few bucks the Government gave up on continuing the line from Carlingford and presumably out to the north-west sector to Castle Hill, where rail services are needed. It is a poor show indeed that the Government has not had a rail strategy.

It was proposed to expand ports at Newcastle and Port Kembla despite the substandard rail tracks and roads linking those ports to Sydney. One cannot help thinking that the proposal was an attempt at pork-barrelling Newcastle and Port Kembla, rather than an integrated strategy. Inquiries into the proposed expansion that commenced two years ago have still not reported their findings. The upgrading of the existing rail system is long overdue, as is the provision of more intermodal transfer stations. Since 1991 Toronto, Canada, has had at least four such transfer stations; and Toronto is smaller than Sydney. However, as was recognised by the Parry report in 2003, not even the best transport infrastructure will work well unless the pricing is appropriate. Neither the present Federal Government nor the New South Wales Government appears to be up to the challenges of optimal road pricing to make rail competitive.

I will support the bill in its current form, because I consider it will provide an adequate regulatory system. However, the resources that the Government is allocating for rail in New South Wales are not adequate, and the Government must address that key aspect. The Government would like the transport investigators to report to the Minister—not that too many Ministers have resigned in true Westminster tradition following some major problem—rather than to the Parliament. Such reports should be presented to Parliament in timely fashion, because we do not want opportunities for spin doctoring or the presentation of alternative plans leading to a cooling-off period. I have foreshadowed an amendment, which the Government has accepted, that provides for the investigator's report to be tabled in Parliament as soon as practicable after its completion, and at any rate within seven days. I support the bill but I am concerned about the Government's resource allocation in rail transport.

Ms LEE RHIANNON [4.34 p.m.]: Rail safety continues to be a political hand grenade, and little wonder, given that this Government has laboured to retire debt at the expense of much-needed investment in rail maintenance and safety. The Waterfall tragedy was supposed to be a wake-up call. Government underspending had run down the rail network and had compromised rail safety in this State. Yet the Government still sits on its hands. It seems no amount of political pressure will cause the Government to focus on investment in rail infrastructure. The Greens have urged the Government to use debt to fund rail infrastructure and to view this investment as creating social and economic value, rather than as an economic evil. Clearly, Labor is still not ready to return the State to its central role as a provider of public services and infrastructure, with the last budget reducing capital expenditure on rail services by 26 per cent from the previous year.

We all remember the Government's orchestrated attempts to blame train drivers for the 2004 CityRail crisis, to scapegoat rail workers, to blame everyone except itself. The then transport Minister, Mr Costa, used

the Waterfall inquiry's safety recommendations as an excuse to cut public transport services. He blamed late running trains on the new driver-testing regime that was introduced in February 2004, even though the number of late trains peaked in January 2004. The Government created an untenable situation for train drivers; it deemed them fit and healthy one week, then suddenly, next week, deemed them incapable of doing their jobs, leaving a shortfall of drivers. But no-one bought the Government's line that the drivers were to blame for the ailing service. The public knew that CityRail should never have been allowed to run down to the point where it relied on drivers doing overtime to function at a normal level. Former transport Minister Michael Costa made a name for himself for axing services and sacking transport staff. Mr Costa may be gone but he is not forgotten.

The Hon. Rick Colless: He has not gone far enough.

Ms LEE RHIANNON: I acknowledge that. He is a great liability to the Government, that is for sure. His legacy lives on with a grim future for rail in New South Wales. Rural rail lines continue to rust, CountryLink has effectively become a bus service, the Newcastle and Parramatta to Epping rail links are dead in the water, and CityRail trains are still running late. This litany of rail disasters is no accident; it results from the systematic running down of our rail network, from feeding this Government's agenda to slash spending on public services. Gross mismanagement has undermined commuter confidence in the public transport system. The bill provides an opportunity to restore some confidence in rail safety regulation, but the opportunity has been jeopardised.

The weakness of this bill is that the new regulator will report to the Minister rather than to Parliament. The public wants reassurance that there will be no political interference in investigations and their findings, that investigators will be free from political pressure or intimidation. The Chief Investigator's office had the potential to be truly independent, but that potential has been diluted in this bill. This is a most serious matter. Transport safety would have been best served by allowing the new investigator to report directly to Parliament, to ensure clear, unfettered access to its findings. I acknowledge the Minister's assertion in his second reading speech that the Waterfall inquiry recommended that the Chief Investigator deliver completed reports to the Minister for Transport. But that recommendation did not mean that the Chief Investigator should report to the Minister.

The conclusions and findings of the Waterfall inquiry referred back to the recommendations of the Glenbrook inquiry, which recommended the establishment of a rail accident investigation body that was legally and structurally independent of the rail safety regulator. The thrust of the finding was to try to avoid any possible conflict of interest. Surely the best way to avoid a conflict of interest, to achieve true independence, would have been to make that body report directly to Parliament. When the previous rail safety advisory board was established in 2003 I remarked on the Carr Government's peculiar interpretation of the definition of an "independent regulator".

That advisory board was hand-picked by the Minister, and therefore ready to do his bidding. It was typical of the arrogance of this Government to believe that a hand-picked board could be sold to the public as independent. That is why the Greens question the Government's failure now to allow this new body to report directly to Parliament. The Government has failed to heed the concerns of the Waterfall inquiry to close any avenue, and that will make it possible for it to vet the investigator's findings for political gain and weaken its independence.

The Greens' concerns about interference in rail safety regulations are well founded. The Government bowed to political expediency by making an exception of the victims of the Waterfall rail disaster and the Glenbrook disaster. These victims were offered access to compensation under the Civil Liability Act. Normally, victims of rail accidents are treated in the same way as motor vehicle accident victims and they seek compensation under the Motor Accidents Compensation Act. The Government made this exception and allowed the victims access to far greater compensation through the Civil Liability Act than they would otherwise have been afforded to try to minimise the political damage of victims complaining that they were not receiving fair compensation. Again, it was a measure to avoid bad headlines.

I would like to offer more details on this matter—details that were revealed by a lawyer during an inquiry conducted by General Purpose Standing Committee No. 1 into personal injury compensation legislation. The lawyers acting for the victims of the Waterfall inquiry were allegedly made to sign confidentiality agreements about these exceptions by none other than the rail authorities. As I said, the Greens' concerns about interference by the Government in rail safety regulations are well founded. It is with serious reservations that we hope the new Chief Investigator's office will live up to its promise of true independence. Despite these reservations, the Greens support the bill.

Reverend the Hon. FRED NILE [4.41 p.m.]: The Christian Democratic Party is pleased to support the Transport Legislation Amendment (Waterfall Inquiry Recommendations) Bill, which is part of the implementation of the Government's response to the final report of the Special Commission of Inquiry into the Waterfall Rail Accident. I am pleased that the Government responded in this legislation to the final report. One of the concerns expressed by Justice Peter McInerney, who conducted the inquiry into the Waterfall and Glenbrook accidents, was that the Government did not adopt his recommendations. In his final report on the Waterfall inquiry Justice McInerney said:

> The first such inquiry related to the rail accident at Glenbrook and I made many recommendations in my final report into that accident—many of which were not implemented by the time of the Waterfall accident and remain unimplemented.

He went on to state:

> Had these recommendations in the Glenbrook Inquiry Final Report been implemented, NSW would be at the forefront of rail accident and incident investigation.

In an article in the *Daily Telegraph* of 28 January, Justice McInerney was reported as saying:

> This is the second occasion in four years in which, after conducting a Special Commission of Inquiry, I have conducted a coroner's inquest in relation to the death of seven passengers in respect of catastrophic rail accidents. The first such inquiry related to the rail accident at Glenbrook and I made many recommendations in my final report into that accident—many of which were not implemented by the time of the Waterfall accident and which remain unimplemented.

It is a serious matter when the recommendations of a Supreme Court justice who conducts thorough inquiries are not implemented. I am pleased that the Government followed up some of those recommendations in the bill. The bill creates the position of Chief Investigator of the Office of Transport Safety Investigation [OTSI] as a standalone statutory office separate from the Independent Transport Safety and Reliability Regulator [ITSRR]. It provides a clear legal framework for the establishment of inquiries into transport accidents and incidents that can be instituted by the Minister for Transport.

It retains the ITSRR board as an advisory body to the ITSRR and the Minister, but removes its current oversight role to enhance the independence of the ITSRR and the Chief Investigator. It provides enhanced regulation-making powers to address standards for rail rolling stock, infrastructure and other railway operations, and improves existing provisions in the Rail Safety Act 2002 relating to safety management systems. With constant reorganisation of the railway system, for example, splitting it up and then combining it, confusion has arisen in the minds of those in authority in the organisation. That has had an impact on rail safety and other aspects. One has to ask whether the Government has been budgeting the required amount of money to improve and maintain the highest quality of infrastructure.

If that is not done, we will have rail accidents and passengers will not be able to travel to and from work safely. That has not been the case for a number of citizens in New South Wales. On 31 January 2003, seven people died because recommendations were not followed through. They were: Mark Hudson, John Raymond Burt, Marie Genevieve Goder, Andrew Ludmon, James Ritchie, Yi Zhang and Herman Zeides, who was the train driver. On behalf of the Christian Democratic Party, and along with other honourable members, I extend condolences to the families of all the deceased passengers. The bill maintains existing transport employees' rights in relation to protections against self-incrimination, admissibility of evidence and voluntary reporting of safety concerns.

The clear separation between the just culture investigation role of OTSI from the compliance and enforcement role of the ITSRR has made it necessary for some adjustments to be made to the existing inquiry provisions in the transport safety legislation. The ITSRR still remains responsible for ensuring that rail safety legislation is adhered to. The OTSI will now report directly to the Minister on its independent investigation into the causes of any accidents or incidents. I believe that is the correct procedure as we follow the Westminster system of ministerial responsibility. I support the amendment foreshadowed by the Hon. Dr Arthur Chesterfield-Evans, which will ensure that the Government tables such reports promptly, or within the agreed period of 28 days.

Members on the crossbenches, who had a lengthy discussion about that issue with regard to amendments proposed by the Opposition, agreed that the reports should be tabled in the Parliament within seven days. I am pleased that the Government will accept that amendment. I assumed that the reports would have been tabled in the Parliament as soon as possible rather than within the legal period of 28 days. The Minister remains responsible for ensuring that the reports are given to him directly. A period of seven days will give the Minister

sufficient time to respond before the contents of any report are made public, and we want the Minister to respond to the reports, where necessary. We do not want a situation in which there is a media scramble as a result of the Minister being handed a report at the same time as it is made public and not being in a position to give a confident response based on government policy.

The Minister will now be able to call for an inquiry into an accident or incident. This provision will replace the current triggers, which had the ITSRR or the chairperson making that decision. The Chief Investigator will also be able to request the Minister to hold an inquiry into a specific incident. The amendments reflect the Government's commitment to openness and transparency, and that is necessary and desirable. I look forward to following the operation of this legislation. The bill will enable the New South Wales Government to appoint an officer of the Australian Transport Safety Bureau as a board of inquiry upon request. However, the Commonwealth Government will not be able unilaterally to investigate an incident or accident within New South Wales. We are pleased that the Government has introduced this bill. It has obviously spent some time considering how to make the New South Wales rail system safer, and I hope the bill will deliver that outcome.

The Hon. HENRY TSANG (Parliamentary Secretary) [4.49 p.m.], in reply: I thank honourable members for their contributions to the debate. The Government will support the amendments foreshadowed by the Hon. Dr Arthur Chesterfield-Evans. I thank honourable members for their continued interest in rail investment and their questions about resources and the safety of the rail system. In response, I inform the House that the Carr Government will spend a record $3 billion to continue its comprehensive improvement of public transport in the coming financial year. The allocation of $3.01 billion represents an increase of $337.6 million—or 12.6 per cent—on last year's budget. When fare income and borrowings are included, a grand total of $4.6 billion will be available for transport services. The Carr Government is pouring an unprecedented $2.02 billion into our rail system and passengers will reap the rewards of improved safety, reliability, cleanliness and comfort. This massive $3 billion allocation across the Transport portfolio will provide major upgrades to infrastructure, technology, vehicles, equipment and rolling stock.

Focusing on rail resources, the rail budget represents a $257 million, or a 14.5 per cent, increase on the previous year's budget. This includes $1.3 billion in recurrent grants and a total capital expenditure program of $587 million—an increase of $33 million on last year's budget. The clearways plan will receive about $97.5 million, rolling stock will receive $211.6 million and $253.3 million will be spent on rail infrastructure and station upgrades. The Rail Infrastructure Corporation will receive $110 million to maintain its country network. Other projects include $74 million for upgrades of network equipment, $7 million for enhanced station passenger information systems, $15.5 million for re-signalling on the Illawarra line between Oatley and Cronulla, $13.4 million for investigating upgrades at North Sydney and Town Hall stations, and $10.5 million to upgrade Rhodes station. Some $434 million will be spent on the Epping to Chatswood line.

The Government is strongly supporting the work of the Independent Transport Safety and Reliability Regulator [ITSRR] with funding of $17.4 million. Honourable members will be aware that the ITSRR is the primary regulator of rail safety in New South Wales and provides independent advice on the safety and reliability of public transport. This budget will ensure that the ITSRR continues its work on safety regulation and investigating incidents and is able to provide independent advice to the Government and the community on service reliability and the compliance of transport operators. The major focus for the ITSRR in 2005-06 will be monitoring and reporting on the implementation of the final recommendations of Justice McInerney's Special Commission of Inquiry into the Waterfall Rail Accident. The Government is committed to providing the public with the best possible rail, bus and ferry services. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 3 agreed to.

Schedule 1 agreed to.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.55 p.m.], by leave: I move Australian Democrats amendments Nos 1 and 2 in globo:

No. 1 Page 23, schedule 2. Insert after line 22:

[36] Section 68 (1)

Omit "not later than 28 days".

Insert instead "as soon as reasonably practicable, but not later than 7 days,".

No. 2 Page 37, schedule 3. Insert after line 35:

[13] Section 46D (1)

Omit "not later than 28 days".

Insert instead "as soon as reasonably practicable, but not later than 7 days,".

These amendments provide that the completed report of the regulator must be in Parliament as soon as reasonably practicable but no later than seven days after the report is completed. The bill provides that the report must be supplied within 28 days, but that seems a very long time for a matter to be in limbo and people will obviously want to know what the report says. While I realise that the Minister for Transport is responsible for the regulator, who reports to the Minister, I believe Parliament must be informed as speedily as possible of report findings.

Reverend the Hon. FRED NILE [4.56 p.m.]: As I said during the second reading debate, the Christian Democratic Party is pleased to support Australian Democrats amendments Nos 1 and 2. We thank the Government for indicating that it will support them also. Obviously all reports of the regulator come to Parliament, which has final oversight. That is as it should be. We believe these are very good amendments.

The Hon. HENRY TSANG (Parliamentary Secretary) [4.57 p.m.]: The Government supports Australian Democrats amendments Nos 1 and 2, which relate to reporting on the outcomes of safety investigations that are undertaken by a board of inquiry or by the Chief Investigator. The Government thanks the Hon. Dr Arthur Chesterfield-Evans and Reverend the Hon. Fred Nile for their interest in safety matters and their contributions to the consideration of this bill. The Government agrees that the time frame in which the Minister for Transport must table a report in Parliament should be reduced from the current 28 days to 7 days after the Minister receives the report from the Chief Investigator or board. The Carr Government has nothing to hide and is prepared to reduce the time frame in the interests of reporting openly on the outcomes of any independent process or investigation into transport accidents or incidents. The Government's support for the amendments demonstrates its commitment to providing a safer and more reliable transport system. Reports will be tabled within seven days of their receipt by the Minister, and that means there will be an immediate response to reports on transport safety incidents.

Amendments agreed to.

Schedule 2 as amended agreed to.

Schedule 3 as amended agreed to.

Schedule 4 agreed to.

Title agreed to.

Bill reported from Committee with amendments and passed through remaining stages.

LOCAL GOVERNMENT AMENDMENT BILL

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [5.02 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

This bill represents the Government's continuing commitment to ensuring the legislative framework for the administration of local government in New South Wales is transparent, effective, and promotes community representation.

Under the old Local Government Act 1919, the number of councillors elected to a council was determined by the Governor from time to time. Some councils in New South Wales had up to 21 councillors. The Local Government Act 1993 limited the number of councillors of a council to between 5 and 15. This reduction in number came about because it was recognised that smaller numbers of people are better able to work together for the good of the community.

The Local Government Act currently allows a council to reduce its councillor numbers, if approval to do so has been given by way of a constitutional referendum. However, the approval of a constitutional referendum to reduce councillor numbers cannot take effect until the next ordinary election. The cost involved in holding a constitutional referendum outside an ordinary election or by-election is significant.

Mindful of this cost, this bill proposes to allow councils to give 21 days public notice of an intention to consider a notice of motion to make an application to the Minister to reduce councillor numbers. Public consultation will include the council advertising the proposal in a newspaper circulating in the area and allowing the public to make submissions to the council on the proposal. The council will then be required to consider any submissions before it resolves to apply for approval to reduce the number of councillors.

If a council then passes a resolution to reduce the number of councillors it must send the Minister a copy of the resolution, and a summary of the submissions it has received, together with its application to reduce the number of councillors. Any such application by a council must be made within 12 months of the commencement of this Act. Councils will still be required to have a minimum of 5 councillors, and the reduction of councillor numbers will not take effect until the next ordinary election of the council.

This means that if a council currently has 14 councillors and that council seeks approval to reduce that number to 9 and the approval is granted, the current 14 councillors remain in office until the next ordinary election. At the next ordinary election only 9 councillors will be elected. In the situation where casual vacancies occur before the next ordinary election, by-elections will not be held to fill the vacancies. This means that the remaining councillors continue in office until the next ordinary election. However, casual vacancies will not be allowed to go unfilled if it means that the number of councillors on the council would be less than the reduced number approved.

Further, a reduction in councillor numbers under the proposed amendments will not automatically change the number of the council's wards. If a council wishes to change its number of wards it will have to continue to seek approval at a constitutional referendum under section 16 of the Act. The Minister would not approve any application for a reduction in the number of councillors from a council whose area is divided into wards, where the number of wards for the area does not divide equally into the proposed number of councillors for the area.

In his report of April 2001 in relation to Local Government, Professor Sproats made the observation that reduced costs of representation can create significant savings for councils. Professor Sproats found that it was possible to reduce councillor numbers on a council without any detrimental consequences to the community. I understand a number of councils have expressed interest in being able to alter the number of councillors sitting on council without the need to hold a constitutional referendum because of the costs involved.

I am advised by the Department of Local Government that the most recent interest on this issue has come from the Strathfield municipal council. That council currently has nine councillors (including the mayor) and spends in excess of $200,000 annually on fees and expenses in relation to those councillors. As you know Strathfield municipal council has recently had two of its councillors resign. It would be unfortunate to require that council to spend money on by-elections to replace two councillors where both the councillors and the council staff are firmly of the opinion that its community could be better served by reducing the number of councillors to seven.

I want to stress that this opportunity to reduce the number of councillors without a constitutional referendum is a one-off opportunity, and the process will be driven by the councils themselves.

The bill also seeks to improve the accountability of councils when it comes to adopting a policy for the payment of councillor expenses and the provision of facilities to councillors. This will be achieved by requiring councils to advertise their policy in relation to the payment of councillor expenses and the provision of facilities to councillors annually in a local newspaper. The advertisement will invite the public to make submissions on the policy and allow them 28 days to do so. This public consultation must occur before a council adopts a policy, which it will be required to do every year.

Councils will be required to send to the Director General of the Department of Local Government a summary of the submissions it has received together with a copy of the notice. The Department of Local Government is drafting guidelines to assist councils to decide what types of expenses are appropriate for council to reimburse councillors for and what type of facilities are appropriate for councils to provide to councillors. These guidelines will not be prescriptive.

The guidelines will recognise that there are differences between what might be an appropriate amount to reimburse a councillor for travel in a large country council, where towns within the local government area can be as much as 100km apart, and what might be allowed for a councillor whose council area is in a city, with far less distance to travel and where convenient public transport is available. The guidelines would not then prescribe a limit as to how much a council should allow each councillor for travel expenses. However, the guidelines will assist councils in formulating an appropriate facilities and expenses policy. In addition, councils will also be required to report on the costs incurred by council in paying the expenses and providing the facilities in its policy, and in their annual reports.

As I mentioned earlier, the Minister has been working closely with the Local Government and Shires Associations to ensure a workable arrangement that encourages openness and transparency in relation to councils' policies on expenses and facilities,

while ensuring that councils are not unreasonably burdened with the new consultation process. The Minister has assured the Associations that consultation will take place on the draft guidelines prior to adoption. The expenses and facilities policy adopted by a council is always available to the public for inspection.

The bill also seeks to ensure standard employment contracts for senior staff of a council, which includes general managers. The Local Government Act was amended in 2003 to ensure that termination payments to senior staff, including general managers, were standardised and consisted of routine and non-controversial payments. As a result there are no longer inconsistencies between employment contracts for senior staff in relation to termination payments.

The next step is to standardise employment contracts for senior staff so that they are employed under substantially similar terms and conditions. Naturally, salary and employment benefits will be left for individual senior staff members to negotiate with the councils who employ them. The standardisation of the employment contracts of senior staff of councils bring them into line with the approach taken to the employment contracts of Senior Executives in the public service. It will also ensure that there will be less risk of senior staff being subject to unfair contracts.

The bill also seeks to make a minor clarification to the operation of the pecuniary interest provisions of the Act. The Local Government Act and the model code of conduct for local councils in NSW require that certain interests must be declared by councillors, staff and delegates of councils. However, the Act goes on to exclude certain interests from being declared in relation to matters that are being considered.

The sorts of interests that do not have to be declared include an interest as an elector, an interest as a ratepayer or a person liable to pay a charge or an interest as a non office holding member of a club or non-profit organisation. Some councillors are uncertain that where they do not have to declare an interest in a matter they can go on to discuss and vote on the matter. The bill seeks to remove doubt from the minds of councillors.

The bill makes it clear that where a councillor does not have to declare an interest in a matter before a council, the councillor may participate in the discussion of the matter and vote on it. Recent amendments to the Act have required councillors, staff and delegates of a council to comply with a new model code of conduct. The model code of conduct requires councillors, staff and delegates to declare non-pecuniary conflicts of interest. A pecuniary interest is not the converse of a conflict of interest and vice versa.

The bill seeks to make it clear that where a councillor, staff member or delegate is satisfied they do not have pecuniary interest in a matter before the council, then they should also refer to the code of conduct to ensure they do not have a conflict of interest. One of the ways a pecuniary interest may arise in a matter before a council is where another person with whom a councillor or staff member or delegate is associated has the pecuniary interest.

For example, the associated person could be a spouse or de facto partner, a relative or a partner or employer of the staff member, councillor or delegate and could have a pecuniary interest in the matter being considered by the staff member, councillor or delegate.

Because of the way the Act is currently worded, there has been some confusion as to whether a pecuniary interest could arise, because a person associated with a person associated with the councillor, staff member or delegate has a pecuniary interest in the matter being considered. It is important to have clarity on such an important issue and the bill seeks to remove this confusion by making it clear who an associated person is for the purposes of pecuniary interests.

The bill also seeks to give to the Local Government Pecuniary Interest and Disciplinary Tribunal a power to refer matters of contempt that occur in the face or hearing of the Tribunal to the Supreme Court. In a number of recent matters before the Tribunal, persons the subject of a complaint have frustrated and delayed the work of the tribunal. This has occurred where there has been a refusal to cooperate with the Tribunal or other parties, and where the persons have been abusive to the Tribunal. There have also been instances of persons who are not the subjects of complaints, but who have been required to give evidence or provide documents refusing to do so. These delays and frustrations have led to increased costs by the postponement of hearing days and delaying the finalisation of matters. Allowing the Tribunal to report matters of contempt to the Supreme Court will act as a strong deterrent from such behaviour happening in the future. Further, if such behaviour did occur, the existence of the power would act as a persuasive reason to reach a resolution of any issues. This power is not unusual and is often given to tribunals in New South Wales.

The bill also seeks to amend the Freedom of Information Act in relation to the Department of Local Government's investigation and complaint handling functions. The Department of Local Government examines complaints in relation to breaches of the pecuniary interest provisions of the Local Government Act. The department is also responsible for investigating formal complaints and reporting the results of the investigation to the Pecuniary Interest and Disciplinary Tribunal. The department can also investigate councillors for alleged misbehaviour. The Department also monitors and investigates complaints made to the Minister and the Director General, which allege maladministration by local councils. The department also receives referrals from the Independent Commission Against Corruption and the New South Wales Ombudsman in relation to matters those agencies consider more properly dealt with by the department. The department also investigates complaints about local councils contravening competitive neutrality principles of the National Competition Policy.

The Freedom of Information Act 1989 currently applies to all aspects of the department's functions, including those I have just mentioned. This is somewhat unusual, and anomalous for an agency that has such significant complaint handling and investigative functions. The bill seeks to amend the Freedom of Information Act to exempt the department in relation to its complaint handling and investigation functions where the Department is carrying out examinations of complaints or investigations.

This does not mean that all complaints received by the department are exempt, only those that relate to particular types of complaints or investigations. These include complaints and investigations relating to pecuniary interest matters, or complaints and investigations in relation to acts of misbehaviour or maladministration.

These types of complaints and investigations will often involve sensitive issues and personal or private matters that are properly exempted from public disclosure under the Freedom of Information Act. That they are not currently exempt may serve to frustrate or hamper current or future investigations. The Freedom of Information Act already exempts other agencies who have investigation and complaint handling functions similar to those of the Department of Local Government.

Towards the end of last year, the Government sought to regulate the involvement of local councils in public private partnerships. Since then, it has become apparent that some types of public private partnerships, in circumstances where no legal entity is formed, would not be required to follow the necessary review process.

To ensure that all public private partnerships involving councils are required to follow the appropriate process, this bill makes a minor amendment to the definition of public private partnerships. The new definition includes all arrangements between a council and private person to provide public infrastructure or facilities where the council retains an interest, liability or other responsibility, or to deliver services in accordance with the arrangement. While the definition will be broad, it is intended that contracts that are required to follow a tendering process and other run of the mill arrangements will be excluded from the requirement to follow this review process by regulation. In general, major contracts between councils and private parties will either need to follow the tendering process or the review process for public private partnerships.

Another minor amendment will therefore remove the need for contracts for the formation of public private partnerships to follow a tendering process. However, guidelines will ensure that councils still test the market to obtain value for money when entering a public private partnership.

Another minor amendment will clarify that the Minister's power to call in public private partnerships will only be used where the council has not already complied with the guidelines that are established under the Act. Finally, the bill will clarify that a quorum for the Project Review Committee only requires a majority of the permanent members of that committee. These minor amendments will ensure that the regulation of council involvement in public private partnerships is effective so that councils act in the best interests of their ratepayers.

As I mentioned before, the Minister has consulted closely with the Local Government and Shires Associations in the development of the policy position that this bill represents. This has been a very productive process, and the Government looks forward to continuing to work with key local government stakeholders in the implementation of these proposals.

I commend the bill to the House.

The Hon. DON HARWIN [5.03 p.m.]: I lead for the Opposition on the Local Government Amendment Bill, which makes various amendments to the Local Government Act 1993, most notably with regard to the size of councils, to the meaning of pecuniary interest, and to the exemption of certain matters from the scope of the Freedom of Information Act 1989. While the bill contains many commonsense provisions, I do hold some reservations, and the Opposition is concerned about the haste with which the legislation was introduced, and the resulting lack of consultation with key stakeholders. The Opposition was made aware of the bill only three days before it was introduced in the Legislative Assembly. The Government claimed to have had extensive consultation with the Local Government and Shires Associations, but the organisation's chief executive officer, Bill Gillooly, has since revealed that no such consultation took place and that the association received a copy of the bill on the same day as the Opposition did.

While the association's stated positions on several matters are consistent with the relevant provisions of the bill, Mr Gillooly indicated that discussions regarding the lower number of councillors would have been desirable. Once again the Government has neglected to adequately consult with key stakeholders before rushing legislation before the Parliament. This mishandling of the legislative agenda confines the opportunities for this House to properly consider bills as they are presented. This is far from an ideal situation. One part of this bill that could possibly benefit from wider consultation and more extensive debate relates to a reduction in the number of councillors. Items [1] and [5] of schedule 1 amend sections 224 and 294 of the principal Act to enable a council to make an application to the Minister for approval to reduce the number of councillors, within certain limits.

The Local Government Act currently allows a council to reduce its size only when approval has been obtained by way of a constitutional referendum. As the cost of holding such a vote is significant, and because the reduced councillor number once approved cannot come into effect until the next ordinary election, a move to reduce the size of a council can often take several years to come into force. However, there is a special provision in relation to by-elections. This bill proposes the introduction of an alternative and more streamlined process under which a council can apply to the Minister, within 12 months of the commencement of the Act, to reduce councillor numbers. Councils will be able to submit such applications only after giving public notice of their intention and allowing for a 21-day period for the public to make submissions. The bill requires that a summary of any public submissions received on the matter be included with the application to the Minister.

The current minimum number of five councillors will still apply and any reduction in the number of councillors will not take effect until the next ordinary election of the council. On the whole, this is a sensible provision. Those communities which believe they will be better served by a smaller council will be able to

facilitate the reduction in the number of councillors in a shorter time frame and with considerably less expense, so it is worthwhile. There are also, however, potential dangers inherent in this part of the bill. According to the Parliamentary Secretary's second reading speech, the Minister would not approve any application for a reduction in the number of councillors from a council whose area is divided into wards, where the number of wards for the area does not divide equally into the proposed number of councillors for the area. While that is entirely appropriate, I am concerned about the potential for councils that are controlled by one particular party to use this legislation to establish themselves as councils with only two representatives from each ward.

While this arrangement will not be a problem in many areas of the State where councillors tend to be independents, not members of registered political parties, in many parts of metropolitan Sydney a party machine could abuse this new arrangement in order to secure 100 per cent control of a council. Obviously, such a reduction in genuine democracy would not be in the interests of local residents—and it has happened. Further investigation into this potential downside to the bill's objective would have been desirable, but that is not possible due to the haste with which the bill has been brought forward. Consequently, honourable members can only resolve to carefully scrutinise any reductions in councillor numbers achieved in this way that are approved by the Minister.

Ms Sylvia Hale will move amendments in Committee which I hope, if accepted by the Committee, will enable the House to put some protections in the legislation. There is less concern with the provisions relating to senior staff employment contracts, councillors expenses and pecuniary interests. These issues have been of concern to the Local Government and Shires Associations for a long time and they are in broad agreement with the amendments that the bill seeks with regard to those matters.

Item [6] of schedule 1 amends section 228 of the principal Act to standardise employment contracts for senior staff, including general managers, so that they are employed under substantially similar terms and conditions. Items pertaining to performance-based requirements, length of contract and remuneration or salary, including employment benefits, are all excluded from the standard contract and remain negotiable between the staff members and councils. The Opposition believes this is entirely appropriate. Items [7] to [12] of schedule 1 aim to bring greater clarity to the issue of pecuniary interest. The bill expands the definition of who has a pecuniary interest and states:

> A person has a pecuniary interest in a matter if the pecuniary interest is the interest of: (a) the person, (b) the person's spouse or de facto partner or a relative of the person, or a partner or employer of the person, or (c) a company or other body of which the person, or a nominee, partner or employer of the person, is a member.

Current confusion as to whether a pecuniary interest could arise will hopefully be alleviated by this change. Item [13], meanwhile, enables the Pecuniary Interest and Disciplinary Tribunal to report acts of contempt in the face of the tribunal to the Supreme Court for punishment. This provision seeks to reduce instances of non co-operation which often result in considerable delays in hearings schedules and in the finalisation of reports. The payment of councillor expenses is addressed by items [2] to [4] of schedule 1, which seek to improve the accountability of councils. The bill requires councils to publish their policy on councillor expenses payments each year and whenever substantive alterations to the policy are made. Advertisement of the policy must also include an invitation for public comment, and the policy and a summary of the policy must be submitted to the Director-General of the Department of Local Government each year. The Opposition believes that these various amendments will be welcomed by the community for increasing transparency and accountability in regard to both finances and conduct.

Schedule 2 to the bill makes amendments to the Freedom of Information Act 1989 and the Local Government Amendment (Public-Private Partnerships) Act 2004. The definition of a public-private partnership [PPP] will be amended so that it no longer refers to an entity formed but rather to an arrangement between a council and a private person, and the Minister's capacity to refer matters to the Project Review Committee will be limited to cases in which the council has not complied with the PPP guidelines. Currently the Minister can refer matters for any reason he or she believes appropriate.

Finally, schedule 2.1 amends the Freedom of Information Act to exempt from the operation of that Act the Department of Local Government, including the director-general and departmental representatives, insofar as complaint handling and investigation functions conferred by or under any Act on that department. The rationale for this move, according to the Parliamentary Secretary's second reading speech, is that current and future investigations may be frustrated or hampered by the fact that they are not exempt. It was noted that other agencies with comparable investigation and complaint-handling functions similar to those of the Department of Local Government are already exempt from the provisions of the Freedom of Information Act.

Once again, this aspect of the bill would have benefited from more debate and less hasty passage through the Parliament. The Opposition believes that while the right to freedom of information is not absolute, an extremely strong case must be presented when any legislation seeks to restrict information held by government. In this instance, there is tension between the public's interest in the manner in which the department handles complaints on the one hand and the ability of the department to execute its investigations without impediment on the other. The correct balance between these competing interests needs to be found, and I am unsure that the bill has succeeded. In her second reading speech the Parliamentary Secretary stated:

> This does not mean that all complaints received by the department are exempt, only those that relate to particular types of complaints or investigations. These include complaints and investigations relating to pecuniary interest matters or complaints and investigations in relation to acts of misbehaviour or maladministration.

This explanation, however, is not consistent with the bill as it currently stands. The bill does not specify which complaints and investigations will be exempt. It simply states that the department's complaint handling and investigation functions will be exempt. It thus appears that the exemption contained in the legislation is significantly broader than that outlined by the Parliamentary Secretary. Consequently, the Minister must immediately, in his reply following this debate, clarify the extent of the exemption and reassure the Opposition that the aim of the bill could not be achieved with a narrower exemption. We seek that response, but I note that the Minister for Local Government and Leader of the House is not even in the Chamber for this debate. When I look to the advisers' box I see that not one person from the Department of Local Government is present. Nor is there a ministerial adviser here. That is the level of contempt with which this Government treats this House.

We are supposed to be a House of review, and we are raising very important matters relating to freedom of information legislation. I might add that those matters are outlined at some length by the Legislation Review Committee in the digest that was tabled in this House at the beginning of this week. I am hoping that the Parliamentary Secretary the Hon. Henry Tsang will, at the end of the debate, be able to give a detailed response to concerns raised by the Legislation Review Committee. Those are legitimate issues of concern. The Opposition has said quite clearly that it considers some sort of exemption appropriate, because obviously the department, in exercising its complaints- handling functions, must be able to operate properly, and in that respect the bill presents an anomaly.

While I have raised various problems and potential dangers about which I am concerned, on the whole this bill is largely acceptable and desirable. Had the Government not rushed it through in the last days of the session, a better opportunity to examine its provisions and more accurately define its scope would have been possible. It is likely that a stronger and more sound bill would have been the result. Before closing I would like to place on record my appreciation to Liberal members of the Local Government Advisory Committee who, at short notice, were able to provide me with feedback on the bill. I note in particular that Kevin Schreiber, Jeff Egan and Sally Betts were very helpful in that respect. All were able to give me quality advice, and I value the role that all three played as members of that committee.

Ms SYLVIA HALE [5.17 p.m.]: May I say at the outset that I endorse the remarks made by the Hon. Don Harwin. I believe it is reprehensible that the Minister for Local Government is not in the Chamber at the moment. That demonstrates not only his contempt for the House but also that legislation is being brought on so speedily and unexpectedly that it appears even the Minister does not know when it will be introduced.

This bill is composed of disparate provisions that span various operational issues, ranging from councillor expenses, pecuniary interest clarifications, processes to be followed when councils enter into commercial arrangements with the private sector, through to powerful mechanisms to alter the composition of an elected council by reducing councillor numbers. It appears that the Minister has come to the end of this parliamentary session, hastily asked himself what aspects of his Local Government portfolio he has left untouched, and then proceeded to throw them all into this bill at the last moment. Some of these provisions are sensible reforms that would improve the functioning and transparency of local government. It is unfortunate, however, that the Government has not restricted the bill to provisions aimed at improving councillor accountability, but has instead turned it into yet another attempt to manipulate local government to the Labor Party's own advantage—because that is what this bill does.

The provision that affords a one-off opportunity for a bare majority of councillors to reduce the number of elected councillors without requiring an endorsement of a referendum of residents is an open invitation to gerrymandering, an invitation that some council majorities will be unable to resist. The Greens support the provisions of the bill that relate to improved councillor accountability, and I will speak more about that in due course. But we cannot support the provisions that encourage gerrymandering. Allowing a council to apply

directly to the Minister to reduce councillor numbers might sound fair enough to a person who accepts, without critical examination, the Government's premise that smaller local government is intrinsically better local government. But the Greens reject that contention. No evidence has been advanced by the Government, either in the Minister's second reading speech or elsewhere, that fewer councillors will deliver better quality local government. Indeed, there never has been any attempt to set out the criteria by which to establish the appropriate ratio of councillors to residents, or even the appropriate geographic limits of a local government area.

Until that is done it is all hit or, more likely, miss, with the State Government using local government as the whipping boy in an attempt to distract attention from the way in which local government is being starved of funds and resources. The mantra that a local government is inefficient and in need of major reform has not been examined critically in the context of community need or what is fundamentally necessary to deliver better quality local governance. Underlining the agenda of this Government is a drive to cut costs and little else. Cost cutting in the absence of any real debate about what constitutes good local government is totally counterproductive. While economies of scale undoubtedly offer savings in some cases, the assertion that fewer councillors representing more citizens will automatically deliver overall benefits has not been proved, and there certainly is no evidence to suggest that fewer councillors are more responsive to the actual needs of local communities. The Greens recognise that larger councils are not necessarily better, but local government has been undergoing a prolonged period of change.

Compared to other jurisdictions, councils in New South Wales are not overly top heavy. New South Wales has the second highest population-to-councillor ratio of all the Australian States, beaten only by Victoria. With approximately 4,000 residents to every councillor, New South Wales is well ahead of Queensland, which has 3,500 elected representatives, Western Australia with 2,500 and Tasmania with 1,700. New South Wales fares equally well compared to most other OECD countries. In the United Kingdom, following several decades of amalgamation and reform in the local government sector, the ratio of elected councillors to residents is 1 to every 2,700, in Portugal the ratio is 1 to 1,125, in Germany it is 1 to 250, and in France it is 1 elected councillor to every 116 representatives. If numbers equate to efficiency, as this Government would have us believe, New South Wales is already way out in front.

In the past decade councils have dramatically improved efficiency and increased the range of services they provide to the community. Councils are working increasingly through the regional organisation of councils networks, offering economic benefits through economies of scale while remaining responsive to local community needs. Today councils play a vital role in the provision of essential services, including roads, water and sewerage, environmental management, protection of the built and natural environment, town planning and development controls, housing and welfare, waste and recycling, public health and safety, and the provision of community recreational, educational and cultural services. The workload of individual councillors is greater today than ever before. For this Government to reduce councillor numbers when their workload has increased substantially is unacceptable. But the bill is not simply about reducing the size and cost of councils; it is yet another brazen attempt by the Government, blinded by its own arrogance and indifference to any notion of democratic accountability, to manipulate the structure of individual councils to entrench the Labor Party's stranglehold.

I have spoken in this House about how the system of voting in two-councillor wards produces a winner-takes-all outcome. Section 285 (a) of the Local Government Act provides that where there are no more than two councillors to a ward the optional preferential system of vote counting is to be used. Under this method the candidate who receives a majority of votes is elected. All that candidate's votes are then passed on in their entirety to the candidate's second preference. Voters who have already voted to elect the first candidates are, in effect, given a second vote to elect the second candidate. It is possible under the optional preferential system of voting in a two-councillor ward for a candidate to get 49.99 per cent of the vote and still not win a place because 50.01 per cent of the first candidate's votes will flow in their entirety to the second preference. This effectively amounts to gerrymandering.

The City of Botany Bay is a prime example of such gerrymandering. Botany has three wards of two councillors. The Labor Party is in total control, so much so that in 1999 no-one else even bothered to contest the council elections. It is extraordinary! Not one of Botany's 37,000 residents felt that it was remotely worthwhile contesting the election. No-one was willing to waste their time or money running in an election they had absolutely no chance of winning unless they were either No. 1 or No. 2 on the Labor Party ticket for that ward. Optional preferential voting in wards with no more than two councillors results in a gerrymander, plain and simple. It represents a fundamental erosion of local democracy, which, the Greens believe, is the Government's intent. Enabling a bare majority of councillors, after going through the motions of calling for public

submissions, to apply to the Minister to reduce the number of councillors has the potential to dramatically reshape some councils. It circumvents the current requirement of the Act that a council hold a referendum of electors before any increase or decrease in councillor numbers is permitted.

It is the voters who should determine whether more or fewer councillors would best serve the community. It should not be a gift to be bestowed at the discretion of the Minister. The bill removes the community's democratic right to determine councillor numbers and, in the case of two-councillor wards, deprive them of the expectation that the council will reflect diversity of opinion within the community. Even if we take the Government at its word, and accept that it is simply responding to the wishes of councils seeking to reduce their size, the Greens do not accept the proposition. It councillors are so keen to reduce their numbers, why have there been so few referendums to bring this about? All councils will have the opportunity in two years to conduct a referendum of electors in conjunction with the local council elections. The Government's assertion simply is not credible. The Greens strongly oppose this watering down of local democracy. Any changes in councillor numbers should be subject to a direct referendum of residents. I am delighted to note that the Minister has now graced the House with his presence. He has finally turned up. He may not pay attention, but he has turned up.

The Greens believe that the real motives of the Carr Labor Government in this matter are more sinister than simply wanting to reduce the overall size of local government. It is a move to entrench Labor control of councils that they currently controlled by virtue of a slender majority. It is not difficult to imagine how tempting it will be for a Labor-controlled council to apply to the Labor Minister for a reduction in councillors that would result in their power being entrenched. There are councils with wards in which two councillors in each ward are Labor and the third is Liberal, National, Independent or Greens. Cessnock, Fairfield and Bankstown are cases in point. Their numbers—the numbers of the minority—are not quite enough to wrest control of the council from Labor, but they are enough to be a constant political nuisance. How tempting it will be for the Labor majority, especially in areas where Labor is on the nose because of its developer-friendly decisions, to vote to reduce the number of councillors in each ward to two and thereby make it significantly more difficult for minority, non-Labor councillors to be elected.

And what pressure there will be on the Labor Minister for Local Government to agree. Small party and Independent candidates in particular will be disadvantaged and will find it hard to secure a large enough percentage of the vote to be elected. It is not just the Greens who have this perception. Over the past few days I have spoken to a number of Independent councillors who are not connected with any particular political party, and they all unanimously state that they have seen Labor councillors and Labor numbers men counting, calculating, and wondering whether they are going in the right direction. They believe that the fear is widespread in the community that the whole intention of this provision is to eliminate Independents and opposition from councils.

We know how irritating the Government finds dissent from local communities—so irritating in fact that it has amended the Environmental Planning and Assessment Act to allow it to bypass local government and community input altogether. The amended legislation has been designed make it easier to deliver on big infrastructure projects for the Labor Party's developer mates. This is why the State Labor Government wants compliant Australian Labor Party councils to help deliver to their donor mates, with a minimum of local opposition.

If this bill were based on sound principles and good policy that genuinely sought to increase the capacity of local government to respond to the needs of residents, why does the reduction in numbers provision have a bizarre 12-month shelf life? Why do councils have 12 months only from the date of commencement of the relevant section to seize the opportunity to reduce their numbers? Because the bill is not really about achieving better local government. It is just another ALP rort. Get in quick and manipulate the numbers in time for the 2007 council elections!

What better outcome for the Government than to surround itself with compliant councils that are only too ready to do the Government's bidding on major development projects. Even Labor's own rank and file know the extent to which powerbrokers in the party will go to deliver to their pro-developer mates. If a Labor member of Parliament is going flat out to stack local branches, what is to stop him and other senior party hacks from leaning on councillors to manipulate the voting system and entrench their control of a local council?

What is extraordinary is that Labor seems to have learnt nothing from the city of Sydney experience. The Minister pushed through the amalgamation of the South Sydney City Council and the Council of the City of

Sydney local government areas and sacked both councils—presumably expecting that the solid base of loyal Labor residents would deliver the town hall to the ALP. But luckily the voters are not stupid. They recognised rank political manipulation when they saw it and voted accordingly.

Something similar happened in Marrickville. The ALP used its majority on the council to increase the number of wards, which is something it could do, as with these proposals, by a simple majority vote. Again it was confident that the outcome would entrench Labor domination, but again the voters repelled its tactics. Instead of the 8 or 10 Labor councillors it was counting on, 5 Greens, 4 Independents and only 4 Labor councillors were elected. As Abraham Lincoln famously remarked, "You can fool all the people some of the time, and some of the people all the time, but you can not fool all the people all of the time".

I turn now to the other provisions of the bill. As I said at the outset, the Greens support the provisions relating to councillor expenses and facilities. The Greens' position on public accountability and transparency is well known. We support public input into the development of a policy on expenses and facilities, and making publicly available any subsequent expenses relating to the implementation of that policy. It will be important, however, that these provisions are not used to further attack, undermine, or disparage councillors, who devote a great deal of time to community matters, with very little recompense and often with little thanks.

We all know that publication of the average time a council takes to process a development application is misused, and that the underlying assumption is that large, complex applications should somehow take the same time to process as a small extension to a residential dwelling; and that such spurious statistics are used to berate and traduce councils when both the State and Federal governments simultaneously impose more and more demands on councils while providing them with fewer and fewer resources.

Something the Government often conveniently fails to point out is that councils are very large organisations with substantial budgets. Elected councillors are in some respects equivalent to the board members of large companies. Some councils have annual budgets in excess of $100 million. Against this backdrop, councillors' expenses are an insignificant item, but they are certainly not so insignificant that they should not be subject to accepted norms of accountability and transparency.

But we would not expect the board members of a multimillion dollar organisation with hundreds of staff to do their job without mobile phones or access to computers and administrative services. Nor should we expect councillors to do their job with anything less. The vast majority of councillors do a huge job for very little remunerative reward. They should not be made to feel that their provision with reasonable administrative expenses and facilities is some sort of lurk. The Greens also support the proposed clarification of what constitutes a pecuniary interest and the spelling out of when an interest in a matter is not caught by the pecuniary interest provisions. We also support the senior staff contract provisions.

I now turn to the provisions relating to public-private partnerships [PPPs]. The Greens' opposition to PPPs is on the public record. We do not believe that the private sector is somehow intrinsically more efficient or better qualified than the public sector to deliver major projects and public services. The public sector is perfectly able to deliver high-quality cost-effective services. All too often, however, PPPs are simply a device to siphon capital from the public purse to private pockets, thus allowing governments of all persuasions to exempt themselves from providing core essential services. That said, the Greens recognise that PPPs are currently in favour with both the major political parties in this State, if not with Labor's rank and file members, and as such we are keen to see rigorous guidelines for any contracts that are entered into by the private sector with all levels of government.

Last year the Greens supported legislation to bring local government PPP contracts into line with State Government PPP contracts. However, we question the need to water down those requirements and will move an amendment in Committee to ensure that any guidelines take the form of a disallowable instrument and do not simply remain a lofty commitment in a Minster's second reading speech that comes to nothing.

In conclusion, I reiterate that the Greens support the provisions of the bill that make councillors more accountable, clarify pecuniary interest provisions, and standardise senior staff contracts. We also bear in mind remarks about the freedom of information provisions of the bill and we share the reservations expressed by the Hon. Don Harwin. However, we cannot support the provisions relating to a reduction in councillor numbers—which amount to nothing more than a blatant attempt by the Labor Party to gerrymander the outcome of the 2007 local government elections.

If the Government were serious about improving the quality of local government, rather than attempting to manipulate political outcomes, it would split the bill into two parts. Unfortunately, the Government has chosen not to do so, but unless it is amended to prohibit any increase in the number of two-councillor wards, the Greens will not support the bill.

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, Minister for Lands, and Minister Assisting the Minister for Natural Resources) [5.40 p.m.], in reply: I want to make sure I have an adequate answer for the Hon. Don Harwin before I complete my reply to the second reading debate, so I will adjourn the debate.

Debate adjourned on motion by the Hon. Tony Kelly.

LEGAL PROFESSION AMENDMENT BILL

Second Reading

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, Minister for Lands, and Minister Assisting the Minister for Natural Resources) [5.41 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Government enacted the Legal Profession Act 2004 in December last year. That Act represented a major milestone in the Australian legal profession, with the establishment of a national profession. The legislation, once implemented across Australia, will remove many of the barriers to increased efficiency and competition in the legal profession, and harmonise clients' rights across jurisdictions.

The national legal profession scheme was developed by the Standing Committee of Attorneys General, who continue to monitor implementation and approve amendments to the Legal Profession Model Bill. All Attorneys General are signatory to the Legal Profession Memorandum of Understanding, which requires them to enact the approved amendments to core uniform or core non uniform clauses of the Model.

Commencement

The Governments of Victoria and New South Wales propose to commence their legislation this year. Victoria has announced that it will commence its Legal Profession Act no later than 1 October 2005. The Attorney General had hoped to commence the legislation on 1 July 2005, but there is still some work to be done in finalising the regulations and the Government recognises that the profession need sufficient notice of both these amendments and the content of the regulations in order to make the requisite changes, particularly to their costing and trust account arrangements.

The Attorney General will make an announcement in relation to the proposed commencement date after a final version of the regulations is published—it will not be later than 1 October 2005.

The existing legislation in other jurisdictions will be recognised as corresponding laws for the purposes of the new Act, until they implement the model legislation. Queensland has already largely adopted the model legislation, and Tasmania, South Australia, the Australian Capital Territory and the Northern Territory are working hard towards implementation. By this time next year, the model should be firmly in place across Australia.

Ongoing process

There continue to be a number of issues under debate in relation to the model legislation. A national forum is deliberating in relation to these issues, and will bring forward further amendments to the model for consideration by SCAG ministers when agreement between the regulators and the profession has been reached. An undertaking of this scale is necessarily to be regarded as a work in progress, and there will need to be future amendments to maintain uniformity with the national model and to improve and streamline the operation of this new Act, as necessary. Practitioners should forward any suggestions for improvement they may have through their professional associations and the Law Council of Australia. Other members of the public should let the Attorney General know of any concerns they may have with the operation of the legislation, and he will ensure that matters are considered by the SCAG National Legal Profession Joint Working Group.

Amendment Bill

This Bill proposes to amend the Legal Profession Act 2004 before it commences. Many of the amendments in this Bill arise from proposals approved by the Standing Committee of Attorneys-General under that national profession process at its November 2004 and March 2005 meetings.

The Parliament enacted the Legal Profession Act 2004 in December last year. Since then, a number of stakeholders have proposed amendments to clarify and streamline the operation of the Act and many of these proposals have been dealt with in this amending Bill. Specifically, amendments have been proposed by the NSW Bar Association, the NSW Law Society, the Legal Services Commissioner of NSW, the NSW Legal Practitioners Admission Board, and the Costs Assessors Rules Committee.

The Attorney General's Department is currently preparing regulations for the 2004 Act. In drafting these regulations it is evident that some of the regulation making powers previously found in the 1987 Act have not been carried over. To overcome this, the Bill also makes miscellaneous amendments to ensure that current procedures contained in the regulations can be continued under the 2004 Act.

Specific amendments

I shall now consider some specific amendments contained in this Bill.

Throughout the Act, there are numerous provisions indicating that breaches of certain sections are capable of being unsatisfactory professional conduct or professional misconduct. However, s 498(a) of the Act provides that any contravention of the Act is capable of constituting unsatisfactory professional conduct or professional misconduct. SCAG agreed to remove most of the repetitive references to unsatisfactory professional conduct or professional misconduct and rely on the general prohibition in s. 498(a).

However, provisions that clarify which conduct by which person will be considered a breach, or which set a higher standard than the general provision, are retained. In addition some breaches which involve a practitioner ignoring or defying the requirements of the Act or the regulatory authorities are amended to bring them into line with the higher standard imposed on these sorts of breaches generally in the Act—such breaches "are professional misconduct".

The Admission Board have requested that section 24 be amended to provide a general power for the Admission Board to exempt a person from the requirements of approved academic qualifications or length of practical legal training, where the Board is satisfied that the person has sufficient experience and/or qualifications to be waived. This may arise where a partner in a large law firm moves from the UK to Australia and wishes to be admitted based on their length of time spent as a practitioner in the UK. Under the proposed amendment the Admission Board can place other educational or training requirements on an applicant, for instance completing a course in Australian constitutional law.

The amendments to sections 41 and 45 make clear the underlying policy position of the Model Scheme that a legal practitioner only hold one practising certificate in one jurisdiction in any given year. Using that one certificate, the practitioner will be able to practise in any Australian jurisdiction that has adopted the model laws.

Section 47 of the Act states that any application for a practising certificate made out of time cannot be further considered by a Council. A late applicant must apply for a new practising certificate. To stop practitioners deliberately applying for a new practising certificate to avoid a late fee, it is proposed that a new s 92A be added. This section states that where an application for a grant of a practising certificate is made, and the applicant in the immediately previous practising certificate year held a certificate issued by the same Council as the one applied to, a higher fee may apply to that application.

Under the Model Bill, concerns have been raised about how the Act deals with cash received by a solicitor law practice. SCAG has agreed to amend the Model so that transit money received in the form of cash will always go through the trust account. This ensures there is a record of this money being received.

Also, if "controlled moneys" are received in cash with no instruction, they will now be defined as "trust money" at the time of receipt and must be deposited into the Trust Account. The client can then give a subsequent written instruction to make the cash controlled money. The controlled money is withdrawn from the trust account and banked to the controlled money account.

If controlled moneys are received in cash with an instruction, they go straight to the controlled money account and do not go through the trust account. Essentially, this is the same policy formulation that is currently in the Model Bill and the Act. However, the amendments to the Act will simplify that underlying principle, and remove any drafting inconsistencies.

Section 295 is about restrictions on the receipt of trust money. Part 3.1 is drafted so that a Principal of a law practice with an unrestricted practising certificate is able to receive, and is responsible for, trust money entrusted to the law practice. However, subsections 295(2)-(3) confuse this concept by implying that others may have control in some circumstances. The amendments clarify that the principal bears ultimate responsibility for the trust money.

The Cost Assessors Rules Committee has written to the Attorney General's Department noting the problems that costs assessors have in collecting their costs when they are payable by a party to the assessment, and the difficulty some parties have in accessing the assessor's determination. This Bill proposes to amend the Act so that a costs assessor will give the determination to the Manager, Costs Assessment, and inform the parties that the certificate can be obtained from the Manager, on payment of the costs. The Manager will have a power to give exemptions.

Currently under section 393, all "excessive" charging of costs must be referred to the Legal Services Commissioner. The Legal Profession Act 1987 requires that all deliberate, grossly excessive charging of costs must be referred. The Bar Association, the Law Society and the Costs Assessors Rules Committee have each provided me with advice that the current section must be amended to impose a higher standard than merely 'excessive' before a referral is made to the Commissioner. Their advice states that whenever a law practices costs are reduced after a review, this will give rise to a referral. Accordingly, cost assessors will only be required to refer grossly excessive bills. The Act will still provide however that excessive charging is capable of being unsatisfactory profession conduct or professional misconduct.

The Model Bill developed by SCAG does not have an interjurisdictional provision for dealing with professional indemnity insurance. The national professional indemnity insurance committee are still considering this issue. A temporary

interjurisdictional provision is needed, to improve the ability for interstate practitioners to practice in NSW. Section 74 of the Legal Profession Act (Qld) 2004, and s. 18 of the Legal Profession Regulation 2004 (Qld) provides a system where a practitioner who holds professional indemnity insurance interstate can practice in Queensland without needing to also take out insurance in Queensland, provided certain conditions are met. This Bill proposes to amend the NSW Act in a similar fashion.

The Bar Association are concerned that the use of the term 'investigator' in section 531 may be confusing for the complaint processes used by the Association. The Bar have suggested that an additional subclause be added allowing the appointment of an "Authorised Person" who can exercise the same powers as an investigator in Chapter 6. This Bill proposes to make this amendment.

Currently as drafted, section 649 is unclear about whether appealing an appointment of an external intervener stays that appointment. This Bill proposes to amend that section to clarify that an appeal does not stay the appointment of an external intervener. Appointments are made as a matter of urgency to protect clients and it is critical to ensure an appeal does not prevent the intervener from acting during the intervening period.

The report of the Review of Public Notaries Act was tabled in the Legislative Assembly on 9 December 2004. The report recommended 3 amendments to the Legal Profession Act:

1. Give the Administrative Decisions Tribunal and the Supreme Court a clear power to remove public notaries who are guilty of misconduct or who have not complied with the Public Notaries Appointment Rules for the roll of public notaries, and

2. Give the Legal Practitioners Admission Board the power to publish the roll of public notaries, instead of the Law Society.

3. Give the registrar of notaries (who is an officer of the LPAB) power to remove their name from the roll if requested by the Notary.

This Bill proposes to enact these recommendations.

A number of provisions new to the 2004 Act permit a decision by a regulatory authority to be reviewed by the ADT. The Amendment Bill inserts notes to relevant sections, and section 606 has been redrafted and relocated to 729A, to clarify that reviews will be conducted under chapter 5 of the ADT Act, without a requirement for internal review, with a panel determined by the head of the Legal Services Division, and with any appeals going to the Supreme Court.

Finally, I will mention that the legal profession has expressed their concerns about the requirement in the model laws and the 2004 Act that practitioners disclose to their clients in litigious matters an estimate of the range of costs the client may be ordered to pay if their matter is unsuccessful. They say that it is impossible to estimate the other side's costs at the beginning of a matter, and that this requirement should be removed.

The 2004 Act very clearly establishes a regime for continuous disclosure to clients of information relating to costs. At the beginning of the matter, a practitioner may not know that the other side is going to brief the most senior barrister in town. So the practitioner may give an estimate based on his or her experience of costs in the average matter of this kind, or may give a range from the cheapest possible to the most expensive possible. But once the practitioner is aware that the other side is hiring expensive counsel (or, on the other hand, is representing themselves) then they will need to update that estimate.

Most disputes that occur between solicitor and client involve a lack of communication with the client about costs. It is a very clear goal of this legislation to improve the level of communication about costs.

The amendments in this Bill will ensure that the Act will operate more smoothly on commencement.

I commend the Bill to the House.

The Hon. DAVID CLARKE [5.41 p.m.]: This bill makes a series of amendments to the Legal Profession Act 2004, which is not yet in operation but which the Attorney General has stated will be in operation before October 2005. Hence the bill amends legislation that is not yet in force. The Legal Profession Act results from the proposals of the Attorneys-General National Legal Profession Joint Working Group, which seeks to establish a national profession and the removal of many of the current restraints against increased efficiency and competition within the legal profession. The bill will also harmonise clients' rights between jurisdictions. It is a model that is still being finetuned and developed. As the Attorney General says, it is a work in progress. Hence the bill incorporates proposals approved by the Standing Committee of Attorneys-General at its meetings of November 2004 and March 2005.

Additionally the Attorney General advised that the bill encompasses proposals received from the New South Wales Bar Association, the New South Wales Law Society, the Legal Services Commissioner of New South Wales, the New South Wales Legal Practitioners Admission Board, and the Costs Assessors Rules Committee. The Attorney General advised also that some regulation-making powers in the 1987 Act had not been incorporated into the 2004 Act, and the bill therefore makes a number of miscellaneous amendments to ensure that current procedures set out in the regulations carry through under the 2004 Act.

The bill authorises the Legal Practitioners Admission Board to exempt from compliance with normally applicable academic or practical legal training any person seeking admission to the legal profession if the board is satisfied that the person has sufficient academic or practical experience. The power of the admission board to make rules establishing committees and conferring functions on them is made clear, as is its explicit authority to communicate with other authorities. To give effect to the principle that an Australian legal practitioner needs only one practising certificate granted in Australia, it becomes a statutory condition that the holder of a local practising certificate must not be the holder of another local practising certificate or interstate practising certificate.

Consequently, a prohibition is placed on applications for more than one practising certificate in certain circumstances. Authority is provided allowing regulations to be made regarding the surrender of local practising certificates, the cancellation of surrendered certificates, and the refund of fees paid in respect of surrendered certificates. Provision is made for the payment of late fees for late applications for practising certificates, and that will complement a substituted section providing for standard renewal period. Provisions in the Act dealing with the giving of notice to the Bar Council or Law Society Council when an interstate legal practitioner establishes an office in New South Wales are omitted. Prohibition is placed on an interstate legal practitioner, other than an in-house lawyer employed by a corporation, engaging in legal practice in this State without appropriate professional indemnity insurance.

Schedule 3 to the bill amends the Legal Profession Act 2004 to prohibit a barrister in the course of practising as a barrister from receiving money on behalf of another person. Trust money received by a law practice in the form of cash must be deposited in a general trust account or a controlled money account, even if there is a direction or instruction to the contrary. Costs assessors or review panels are empowered to determine costs on the basis of agreement between the parties. The Manager, Costs Assessment is authorised to apply to a panel for the review of a costs assessor's determination of the costs of assessment. Schedule 4 to the bill amends provisions of chapter 4 of the Legal Profession Act 2004 dealing with complaints about, and the discipline of, Australian legal practitioners.

It is made clear that chapter 4 extends to a legal practitioner as a public notary and supplements the provisions of the Public Notaries Act 1997. Power is given to the Legal Services Commissioner, the Bar Council, and the Law Society Council to authorise suitably qualified persons to exercise the functions of an investigator under chapter 4. The Administrative Decisions Tribunal, in dealing with a complaint, may order that the name of the practitioner be removed from the roll of public notaries. The power to discipline legal practitioners by private reprimand is removed. The duty of the Legal Services Commissioner, the Bar Council, and the Law Society Council to report suspected offences to law enforcement or prosecution authorities is clarified to make clear that the duty is not limited to cases in which complaints are involved.

Schedule 5 makes amendments relating to external intervention in respect of law practices by the appointment of supervisors, managers, or receivers. Schedule 6 amends procedures relating to the carrying out of trust account investigations, examinations, and audits. Schedule 7 relates to regulatory authorities and the legal profession rules. Schedule 8 deals with a number of miscellaneous matters, including a new section that confers and regulates a right of appeal to the Supreme Court from a wide range of orders and decisions of the Administrative Decisions Tribunal. Pursuant to schedule 9, barristers of the Australian Capital Territory will be allowed to hold a practising certificate under the New South Wales Act while they do not hold any other practising certificate.

Major amendments to the Public Notaries Act 1997 under schedule 10 include authorising the Supreme Court to order the removal of the name of a person from the roll of public notaries for misconduct, incompetence, or any other reason that the court considers warrants removal. As I said, the Opposition will not oppose the passage of the Legal Profession Amendment Bill. The Attorney General believes it will facilitate the smooth operation of the Act on its commencement, and the Opposition hopes this proves to be the case.

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, Minister for Lands, and Minister Assisting the Minister for Natural Resources) [5.46 p.m.], in reply: I thank the Hon. David Clarke for his contribution and I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

RESTRICTED RAIL LINES

Production of Documents: Tabling of Documents Reported to be Not Privileged

The Clerk tabled, pursuant to resolution this day, documents identified as not privileged in the report of the independent legal arbiter, Sir Laurence Street, dated 16 June 2005, on the disputed claim of privilege on papers on the audit of restricted rail lines.

LOCAL GOVERNMENT AND VALUATION OF LAND AMENDMENT (WATER RIGHTS) BILL

Second Reading

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, Minister for Lands, and Minister Assisting the Minister for Natural Resources) [5.48 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

This bill responds to a situation that has arisen due to the implementation of the Water Management Act 2000, pursuant to the 1994 Council of Australian Governments Strategic Water Reform Framework. The Water Management Act commenced on 30 June 2004 in those areas of the State for which a water-sharing plan has been made and gazetted. The Act contained a number of important initiatives to provide better ways of ensuring the equitable sharing, and wise management, of the State's water. One of these initiatives was to create a water trading market, which was achieved through the separation of water access entitlements from land title. Associated with this change is provision under clause 2 of Schedule 8.29 of the Water Management Act for the omission of section 6A(3) of the Valuation of Land Act 1916.

This section provides that the value of any water right or entitlement attached to the land is included when determining the value of that land. The commencement of this Clause, and the subsequent repeal of section 6A(3) was postponed, because there was no framework in place to protect councils from a drop in rates revenue that could occur if water entitlements were traded separately from land, and could no longer be included in the valuation of land. This bill provides that framework. Forty-four shires in New South Wales have been identified as deriving a proportion of their rates from irrigated farmland, and all will be affected by the change in water access. As we are all aware in this terrible time of drought, water is a precious resource, and no one is more aware of this than those regional communities in the State that rely on irrigation to support farming.

The Government is mindful of this, and has endeavoured to come to a position that provides a fair outcome for these councils and their communities. In addressing this issue, the Government has endeavoured to keep three key principles: Firstly, that councils should have the flexibility to be able to generate the same level of rates revenue once the Water Management Act is fully implemented as they do now. Secondly, that existing equity relationships between categories of ratepayers be maintained in broad terms; and Finally, that there be no or minimal increase in administrative complexity. I am happy to report that the amendments proposed in this bill establish a framework that delivers on all three counts. I also acknowledge that this has only been possible due to the extensive consultation that has occurred on this issue.

A discussion paper, canvassing a range of options to address the issue, was prepared by a Senior Officers' Group comprising representatives of the Department of Local Government, Treasury, Cabinet Office, the Valuer-General and the Department of Infrastructure, Planning and Natural Resources. The discussion paper was then circulated to all councils in New South Wales for comment, and was submissions were also called for via the worldwide web and advertised in the major newspapers circulating in affected shires including the major dailies. Over thirty submissions were received, from peak groups representing local Government and irrigators, councils and regional organisations of councils and from concerned individuals. These submissions have been taken into account in the formulation of the Government's response, and I thank all of them for their input.

As well, the Department of Local Government, with assistance from the Valuer General and Land and Property Information within the Department of Lands, has conducted an exhaustive round of meetings and forums with affected shires around the State over the past two years. These have been both informative and productive. I understand that the major local Government stakeholders including the Shires Association are supportive of this package, and the Government looks forward to working with all stakeholders to implement the new framework proposed in this bill. The Local Government Act 1993 is the core Act for the regulation of local council and county council functions, including how these bodies are financed. Under the Valuation of Land Act 1916, councils are provided with land valuations, on all rateable properties within their areas by the Valuer General.

These valuations form the basis on which council rates policies are founded. Such land valuations include the value of any water entitlement that was attached to the land in question. The Water Management Act 2000 is a key component of the New South Wales Government's water reform agenda delivering efficiency and environmental dividends to the use of the State's water resources. Under the Act, water entitlements, previously attached to land titles, are converted to three different licences or approvals: An access licence entitles the holder to a share of a water resource as specified in a gazetted water-sharing plan.

It is an item of personal property and does not relate to any particular parcel of land. A water use approval confers the right to use water for a particular purpose. This remains attached to a particular piece of land. A water works approval confers the right to

construct and use a water-supply work for the purpose of bringing water to a specified property. It also remains attached to a particular property. For water to be used for irrigation on a property, all three of these elements must be present in some part. However, it is important to note that the holder of the access licence need not be the owner of the property that the water use and water works approvals are valid for. As a result of these new arrangements, the water access licence—which is held by an individual and does not attach to any particular land—can no longer be included in land valuations.

To accommodate this, the Water Management Act currently provides for the repeal of section 6A (3) of the Valuation of Land Act 1916. This section requires the value of any water entitlements attaching to land be included in valuations. However, as water and land can now be traded separately, it is probable that land valuations provided to councils will be lower than previous valuations for the same property. The full extent of this drop in value cannot be accurately estimated, but is likely to be significant. As the water trading market matures, it is likely that there will be changes in land use that will have to be brought to account in valuation processes. This is why the Government is doing the responsible thing, and implementing a new valuation framework that will grant councils the ability to maintain their level of rates revenue.

Access to water under the Water Management Act 2000, and the ability to take it under the Water Act 1912, will be valued differently by the market in different locations. However, it is impossible to speculate, at this stage, what value new markets might place on either access licences, or use and works approvals. We can be sure that some value will be conferred by the existence of the water use and water-works approvals on a particular land title. Equally, we can be sure that the separation of the water access component from land title will lead to a significant loss in value of those properties that had water entitlements under the old system. The Government understands that each council and its community is different, and the particular circumstances and characteristics of a shire should be the key factors in any response.

Rather than tell shires what to do, the Government prefers to remove restrictions identified in existing legislation, thereby allowing councils to make their own judgments about the elements that might comprise their responses. One way for local councils to address the issue of lower land valuations leading to a decrease in the amount of rates collected, is to use existing provisions of the Local Government Act to vary the rate that applies to that particular category of land. I advise the House that there are four categories of rateable property under the Local Government Act: Residential, industrial, mining and farmland. However, there is a major impediment to an equitable outcome resulting from such a Scheme, because the current legislative framework does not prohibit the burden being shifted to other categories of ratepayer.

For example, irrigated landfalls under the "farmland" category for rating purposes. Currently, section 530 of the Local Government Act specifies that the ad valorem amount for the farmland category must be the lowest of all categories. For those who are not scholars of Latin, I would take the opportunity to clarify that the ad valorem amount refers of course to the amount levied according to the value of the land. Should a council respond to a fall in irrigated land valuations by raising the rate for farmland in order to achieve the same revenue from the farmland category as before, then those with water entitlements will pay lower total rates for the same property, which is now valued without the value of the water access licence. Landholders with no irrigation component in their land will pay more, as their land valuations will not be affected, but will now have a higher ad valorem rate applied.

An alternative method would be for councils to categorise irrigation land differently to non-irrigation land. The sub-categorisation of rateable land is already allowed under the section 529 of the Local Government Act. This bill introduces an amendment to clarify that "farmland" may be sub-categorised according to its irrigability. It further clarifies that land may be taken to be irrigable only if it is the subject of a water right within the meaning of the Valuation of land Act 1916. Such an approach would allow a different and higher rate to be applied to identified irrigation properties, so that they pay the same total rates as before, even though their respective land valuations have fallen. Non-irrigated farmland properties would continue to pay the same level of rates as before, since their land valuations would remain unaffected by the removal of water access licence values.

However, in many shires, particularly where the value of water entitlements is large relative to total land valuations for farmland, the setting of a rate sufficient to compensate for falls in land values would be in breach of section 530 of the Act. I clarify that section 530 states that farmland must have the lowest ad valorem rate, if different amounts are applied to different ratepayer categories. To avoid a breach of the Act, while maintaining revenue, would require the rates in other categories to also rise. This would effectively transfer part of the rates burden from irrigation ratepayers to others in the community. Consequently, the bill seeks to remove the requirement for farmland to have the lowest ad valorem rate, by removing section 530 of the Local Government Act.

Categorisation of land will likely play a major part in any remedial strategy adopted by councils. It will allow councils to set a rate for various categories of farmland, commensurate with the economic benefits that the application of water confers. If there is no intention to irrigate, and no benefit anticipated or to be gained, then there would appear to be little point in a landowner choosing to maintain and not surrender these approvals. A transitional provision will be inserted to restrict the amount by which rates levied on land categorised as "farmland" can be increased during the first five years after the commencement of this Act. It is the Minister's intent that any rate increase on farmland will be restricted to no more than 20 per cent per annum under this provision.

This is intended to reassure ratepayers that a fair and equitable response to any fall in land valuations is guaranteed, and there will be no singling out of rural landowners. Finally, for reasons of clarity, the bill proposes amendments to repeal section 512(1)(b)(iii) which states that if a council contravenes certain sections of the Act in making a rate or charge for a year, this does not invalidate the rate or charge originally made, but does invalidate rates and charges made for the following year, unless the council did not contravene sections 509, 510, 511 or 511A in making the rates and charges. The bill also proposes a number of amendments to the Valuation of Land Act 1969. I spoke earlier about the proposed repeal of section 6A(3) of the Valuation of Land Act 1916 under clause 2 of Schedule 8.29 of the Water Management Act for the omission.

That section provides that the value of any water right or entitlement attached to the land is included when determining the value of that land. However, during the drafting of the bill, it was recognised that not all areas of the State currently implement water-sharing plans under the Water Management Act. In those areas where the Water Management Act is yet to apply, provisions of

the Water Act are still in place. Consequently, in order to provide a framework that is relevant across the State, the bill now proposes to amend the definition of "water right," rather than repeal section 6A(3) of the Valuation of Land Act. The existing definition of "water right" extends to any right to take or use water. The new definition extends to any right to construct, install or use works of irrigation or to use water supplied by works of irrigation.

It does not, however, apply to a water access licence, since such an entitlement does not attach to land. This means that water access, under the Water Management Act—and the right to take water under the Water Act in those areas where the Water Management Act is yet to apply—will be excluded from the land valuation process in line with the objectives of portability of access to water. So the existence of water works and water use approvals under the Water Management Act, and rights to construct, install or use works of irrigation under the Water Act will continue to be included in the process of valuing any parcel of land. This recognises that the potential to use water to enhance productivity on a piece of land increases its value, and guarantees that this factor will be retained in land valuations provided to councils.

This is similar to the way in which the existence of a particular land use zoning under a council's local environment plan, or other planning instrument, can affect the value of the land. It means that higher value uses, be it urban or rural, will, in future, be treated similarly. In delivering a revised valuation and rating regime, the Government is also mindful of the potential impact of new valuations on future year council maximum permissible income. It is not possible, with the resources at hand, to issue general revaluations for all 44 shires affected by the Water Management Act, at the same time as maintaining the current cycle of land valuations across New South Wales. Consequently, the Government intends to use supplementary valuations in those shires where general revaluations are not scheduled for 2005.

Obviously, this will be a significant process, and the Valuer General will need as much time as possible to conduct these supplementary valuations, and to provide the results to local councils in a timely manner, to allow consideration of changed land valuations as part of councils' financial planning process. It is for this reason that the Government seeks to pass the bill through all stages and both Houses of Parliament this week. Appropriate provisions already existing in the Local Government Act will be utilised to ensure that no negative effects on councils' future income are felt from this approach. In closing, this bill ensures that local government will not be disadvantaged by any fall in land valuations as a consequence of the full implementation of the Water Management Act.

At the same time, ratepayers will not be unfairly, or inequitably exposed to higher rate payments through rating redistributions that are an artefact of existing legislation. Finally, councils will have all the powers they require to respond and the choice in application of these response tools will be their own. I commend the bill to the House.

The Hon. DON HARWIN [5.49 p.m.]: I lead for the Opposition on the Local Government and Valuation of Land Amendment (Water Rights) Bill. As with so much of the legislation that has been introduced this week, this bill was introduced with unseemly haste. It is not in the interests of people that legislation is rushed through the Parliament without proper debate and due consideration. There does not appear to be any reason why the bill could not have been introduced earlier and dealt with in a more appropriate manner.

In December 2004 the Department of Local Government produced an options paper on the impact of the Water Management Act 2000 on council rating, and the paper required submissions to be made by the middle of February 2005. Even allowing the department and the Government three months to consider these responses and to consult with stakeholders, the bill could have been presented weeks ago without the urgency that is apparent at present.

Despite claims to the contrary, the Government, in its extreme haste, prepared this bill without consulting some of the key stakeholders about the bill in its final form. On the day of the introduction of the bill in the other place—which, by the way, was only yesterday—the Opposition contacted the Local Government and Shires Associations, the New South Wales Farmers Association, and the New South Wales Irrigators Council. Astonishingly, two of those three bodies had not been consulted, and that is completely unacceptable.

The Local Government and Shires Associations, which were lucky enough to be briefed on issues relating to the bill, agree with the legislation. But even they were not aware last Friday that the bill would be dealt with before the winter recess. Only two working days before the bill was rammed through the lower House the key stakeholders did not know what its final form would be. They had seen the options paper and had input into it, but they had not made any comment about the final form of the bill and did not even know it would be debated this week.

The New South Wales Farmers Association and the New South Wales Irrigators Council have reservations about the bill, and the Opposition shares their concerns. The bill amends both the Local Government Act 1993 and the Valuation of Land Act 1916. These changes have been made necessary by the implementation of the Water Management Act 2000 pursuant to the 1994 Council of Australian Government's strategic water reform framework. One of the primary objectives of the Water Management Act, which commenced nearly a year ago, was the establishment of an effective and equitable system by which the State's water resources could be shared and responsibly managed, particularly in rural areas that require water for irrigation.

A key aspect of the scheme was the introduction of a water trading mechanism that depended on water access entitlements being divorced from land title. Water entitlements have been divided into three separate licences or approvals: an access licence, under which holders are entitled to a share of a water resource as specified in a water sharing plan; a water use approval, which confers the right to use water for a particular purpose in accordance with specific conditions; and a water supply works approval, which confers the right to construct or use a water supply work. Water use approvals and water supply works approvals are granted in relation to a specific piece of land. Access licences, however, do not relate to a particular parcel of land. Furthermore, while all three elements must be present for water to be used on a particular piece of land, the holder of the access licence need not be the owner of the property for which the two approvals are valid.

As a result of this arrangement, water access entitlements can no longer be included as a component of land valuations. Removing water entitlements from the assessment of land valuations, however, has the potential to significantly reduce the valuation of properties, especially in rural areas. Under the Valuation of Land Act 1916 these valuations determine the level of council rates. Consequently, the potential reduction in valuations following the removal of the water entitlement component threatens to impact negatively on the revenue of councils in rural areas. Some 44 of the 154 local government areas in New South Wales have a component of their land valuations deriving from water entitlements, and it is estimated that 20 councils would be severely affected. In at least one instance the decline in revenue is believed to approach 50 per cent.

According to the department, the total assessed value of farmland in the 44 affected local government areas exceeds $12 billion, of which the estimated water component is approximately $4 billion. By making various amendments to the Local Government Act and the Valuation of Land Act, the bill will counter the likely fall in council revenue by providing local councils with the opportunity to implement changes to their rates structure. Sensibly, rather than attempt to introduce a prescriptive measure, the Government has chosen to remove existing restrictions and allow councils to adopt changes that are appropriate to the circumstances of their area. Honourable members are probably aware that, under existing legislation, rateable property is categorised as either residential, industrial, mining or farmland.

Currently, it is also a requirement that the ad valorem amount for the "farmland" category must be the lowest of all the categories. The existing legislation hampers the ability of local councils to offset the negative impact of the Water Management Act on their revenue in a manner that is fair and reasonable. Should a council move to counter the loss of revenue from irrigated farm properties by raising the rate for the farmland category, the rates payable on farmland unaffected by the changes to water entitlements would be increased without cause. This would not be an equitable outcome. Further, should councils substantially raise the rate for the "farmland" category, the rates for the other three categories may need to be increased in order for the council to avoid breaching the ad valorem requirement on farmland in the Local Government Act. This outcome would also be unfair.

The bill will enable councils to act in ways that would avoid these inequitable scenarios. Schedule 1 omits section 530 of the Local Government Act, which currently requires a lower ad valorem amount on farmland compared with the amount for land that falls under the other three categories. Further, schedule 1 amends the principal Act to allow for the subcategorisation of "farmland" with reference to its suitability for irrigation. Currently, section 529 of the Act provides for land in any of the four categories to be subcategorised. A council may subcategorise farmland according to intensity of land use or economic factors affecting the land. Items [4] and [5] of schedule 1 provide for the amendment of this section of the principal Act to enable farmland to be subcategorised according to its "irrigability" should it be subject to a water right within the meaning of the Valuation of Land Act 1916.

Finally, schedule 2 amends the Valuation of Land Act 1916 to extend the definition of "water rights" to include the right to construct, install or use works of irrigation, or to use water supplied by works of irrigation. This change is apparently necessary to allow for the new council rate framework to apply across the State, even though the Water Management Act is yet to apply in some areas. These changes will enable councils to restructure their rate schemes in a manner that preserves the current level of revenue from properties affected by revaluation following the removal of water entitlements from land title without adversely and inequitably increasing the rates of farm properties and other land use types within the local government area.

While this appears to be a reasonable solution to the problem, the Opposition still has reservations about the proposal, which, given the rushed passage of the bill through the Parliament, it has been unable to satisfactorily investigate. These changes are significant, far reaching, and complex. We should have been given time to properly assess them and debate their merits. While removing section 530 of the Local Government Act

may seem to be justified in the context of the impact of the Water Management Act on council revenue, we are concerned that the change may have other unintended consequences.

There is potential for councils that are not acting in good faith to increase rates substantially on farming land or impose arbitrarily the maximum amounts allowed under the legislation. Honourable members should be concerned about councils using the changes in this bill to increase, rather than preserve, their level of revenue. According to the Parliamentary Secretary's second reading speech in another place:

> It is the Minister's intent that any rate increase on farmland will be restricted to no more than 20 per cent per annum.

However, there does not appear to be any rationale for the 20 per cent figure. Is this an arbitrary figure chosen at random? What provisions are being established to ensure that councils do not seek the full 20 per cent rise regardless of whether it can be justified by circumstances in their local government area? I would appreciate the Minister providing some assurances in that regard when he replies to the debate. This potentially adverse effect of the legislation was flagged in the "case against section" pertaining to option 4 in the "Future Options for Councils" discussion paper, which the Department of Local Government released in December last year. It stated that repealing section 530:

> … opens up the possibility that for some local government areas, perhaps dominated in numerical terms by urban residents, farmland rates could rise out of proportion to their previous overall contribution to rates revenue collection.

The discussion paper goes on to suggest the implementation of an annual percentage increase cap. While the Government obviously noted this demand and adopted the capping percentage suggested, the Opposition wonders why this safeguard has been left to the Minister's discretion rather than being included as a feature of the bill. Some assurances on that point would be helpful.

The Government has not done enough about this aspect of the proposed legislation to prevent abuse. Had there been time, the Opposition would have explored the option of moving an amendment in Committee to tighten this provision. At the very least, the Minister should give stakeholders and the Opposition proper assurances at the end of the debate that the application of the legislation will be in keeping with its intent. The Minister should explain what measures and constraints will be available to ensure that councils will not exploit opportunities to make windfall gains through the removal of section 530. After all, given compound interest, a 20 per cent increase each year over the next five years will more than double the current rate. That is a savage increase at a time when rural New South Wales is doing it tough.

The New South Wales Farmers Association—which the Government did not consult about the bill—has also expressed concern about the removal of section 530, the 20 per cent cap on increases and the redefinition, as it sees it, of "water rights". The New South Wales Irrigators Council has echoed these concerns and questioned the effects of national competition policy on the bill. These are further areas of concern that the Minister should address in replying to the debate. The New South Wales Farmers Association queries the need to change the definition of "water rights". It maintains that "water access licences", "water use approval" and "water supply approval" are already defined, so why is more definition needed? The Opposition agrees. We believe the convoluted reasons given for changing the definition of water rights simply do not make sense. The Minister must simplify the definition and explain its relevance and necessity with greater detail and clarity. We simply have not been fully apprised and should not be expected to hand our support to something that remains unclear. Thus the Opposition faces a dilemma, to which I shall turn in a moment.

The position of the New South Wales Irrigators Council is that the 20 per cent provision outlined by the Government is a blank cheque and any increase in rates should occur on merit rather than as a result of some arbitrarily fixed cap. In any event, the Irrigators Council believes that perhaps water should not be a component in the rating structure as it is an input to production. That important view should be aired in the House—particularly given the absence of adequate consultation with the Irrigators Council. The concerns of all stakeholders and the reservations of the Opposition, however, are being frustrated by this tired old Government's determination to shove this legislation through Parliament without proper consultation in the last days of the session before the winter recess.

While in many ways the bill appears sensible and appropriate in the context of developing a broad and equitable water management scheme across New South Wales, it has not been brought forward in a manner that convinces the Opposition that it is sound and worthy of our support. However, the time-sensitive nature of the valuation system and the current statutory water regime make the bill urgent. The Government has mishandled its legislative agenda in this parliamentary session. It has been quite extraordinary. That is no more apparent

than when one considers the way in which this bill, which is absolutely critical for rural and regional New South Wales, has been handled. The Government started out well with an options paper. But the bill is now being rammed through Parliament, with no scrutiny of its final proposals. So the Opposition faces a dilemma. However, we believe the time-sensitive nature of the valuation system gives us no choice but to not oppose the bill.

Reverend the Hon. Dr GORDON MOYES [6.06 p.m.]: The purpose of the Local Government and Valuation of Land Amendment (Water Rights) Bill is to amend the Local Government Act 1993 and the Valuation of Land Act 1916 to provide a sustainable framework for local government rates revenue further to the separation of water access from land titles under the Water Management Act 2000. Honourable members may think a minister of religion would have little involvement or interest in the subject of water rights. However, for 27 years I have managed a citrus orchard of 100,000 trees in Paringa, in South Australia, as well as acreage for olives, almonds and other crops. Irrigation water for the orchard is pumped from the Murray River. Consequently I am deeply concerned about the cost of irrigation and the availability of water. I am concerned about water rates and their increasing cost. In the past 27 years that I have managed this major property—which is one of the largest citrus orchards in Australia—I have dealt with issues such as water availability and cost in time of drought, increased salinity, increased pumping costs, and high electricity charges.

I am also concerned about the requirement that many people with primary development interests have for broadacre flood irrigation—which I believe is an absolute waste of water these days. Flood irrigation takes too much water from our precious resource and some growers, particularly those on broadacre cotton farms, use water as though it is not a finite resource. As the property I have managed for 27 years is located in South Australia, it will not be affected by the bill. Nevertheless, the principles of water use are very important to me.

I note comments made in the lower House that the bill is not the product of exhaustive consultation. In fact, it was reported that of the stakeholders—the New South Wales Irrigators Council, the New South Wales Farmers Association and the Local Government and Shires Associations—only the New South Wales Irrigators Council and the New South Wales Farmers Association knew that the bill was about to be introduced. Why was proper consultation not undertaken, especially when the bill deals with the rights of property owners represented by these stakeholders? If the property for which I have been responsible was dealt with in this way, I would be extremely angry. The Government totally disregards the contribution we make to Australia.

I am at a loss to understand why this bill is being rushed through Parliament at this time, especially when submissions in relation to a discussion paper on this issue were called for only on 14 February 2005. The New South Wales Farmers Association understandably deserved to know about this legislation. The association and the New South Wales Irrigators Council were reported in the lower House as being discontented with this bill. As a consequence of the introduction of the Water Management Act 2000 there is now a separation between water rights and land rights. This means that there is a viable trade in water access rights—a veritable water market. I can conceive of a situation that takes place in other countries. Israel, Jordan and an area south of Lebanon all literally take water from the one river. In the future international wars may be fought over water rights.

As a result of this separation of water access rights and land rights, properties will not be valued on the basis of water rights. In some parts of Australia, for example, in southern Queensland and on the Darling River, water rights could be the most valuable part of a property. Thus, it is envisaged that land property values will decrease by some capacity. The nature and extent of this decrease in value is not known because the water market is a relatively new phenomenon. It is yet to be seen how the market will evolve and mature. However, this bill seeks to ensure that local councils may increase their revenue in relation to property. Apparently, the impact of the Water Management Act will spread across 44 shires, which derive a proportion of their rates from irrigated farmland that will be affected by the change in water access. That will have a particular impact upon people in the great irrigation areas of this State and also those that have access to great rivers such as the Darling, Namoi and Murrumbidgee rivers.

According to the Government, there will be a minimal increase in administrative complexity. That is yet to be seen; it just does not ring true to me. The bill seeks to repeal section 530 of the Local Government Act, which specifies that the ad valorem amount for the farmland category must be the lowest of all rateable categories. As water rights will factor into the value of farmland, this bill seeks to give local councils the flexibility to rate farmland in line with its value. The bill also clarifies that "farmland" may be subcategorised according to its ability to be irrigated, allowing a different rate to be applied to irrigation properties. Irrigation properties obviously are highly dependent on water rights, and the value of these rights will need to be factored in to the valuation of the subject property as a whole.

The bill amends the definition of "water right" in the Valuation of Land Act 1916 to extend it to any "right … to construct, install or use works of irrigation, or to use water supplied by works of irrigation", but not to apply to a water access licence, in line with the objectives of portability of access to water. It is not clear what the implications of this expansive definition of a "water right" will be as a whole. However, it is clear that if the scope of a water right is broadened within this context, councils will be able to include these water rights concomitantly within their valuation of a property and thus levy higher rates.

Whatever way one views this situation, it is bad news for landowners who need access to water. There is no question that they will be charged much more for water, and in future we may see more argument and disputation over water access. Given the problems of drought and salinity, and the cost of water and pumping, this is just another nail in the coffin of many primary producers who depend upon water. However, that having been said, and despite my reservations, the Christian Democratic Party will support the bill.

Ms SYLVIA HALE [6.14 p.m.]: The bill is yet another piece of legislation flowing from the ill-conceived and odious national competition policy. Commodifying and privatising parts of the State's water resources has been a disaster for the environment, a disaster for local communities and local government, and a disaster for farmers struggling through one of the driest periods in living memory. National competition policy has been a disaster for everybody, and the Greens' opposition to it is on the public record. National competition policy has been foisted on the community by the Federal Liberal Government, and the State Labor Government has, time and again, gutlessly delivered legislation implementing it at a State level.

Nevertheless, the Greens support the bill, which ensures that councils will not be financially disadvantaged by changes to land values that result from the disaggregation of water rights and land tenure. The bill essentially redefines water rights and then provides that valuations for rating purposes will not be according to market value. One problem is that the bill does not stipulate how a water right will be valued. If not by the market, then how? We can only use the ad valorem system, but there is no formula for that in the bill. The Greens assume that the approach outlined in the bill has been adopted to give farmers certainty that their land rates will not fluctuate according to market rates. But the Government should provide greater detail on how the water rights will be valued.

The annual National Competition Council review of the performance of all States found that New South Wales had failed to provide enough water for environmental flows if an ecologically sustainable outcome were to be achieved. The 2004 report of the council found that "New South Wales has not met its Council of Australian Governments obligation to provide appropriate allocation of water to the environment in stressed and/or over allocated rivers". The National Competition Council is not known for its green hue, and for the council to find New South Wales wanting in this regard is a serious indictment.

The bill will do nothing to address the underlying problem facing our inland river system. Rural Australia is in crisis. The average flows reaching the sea from New South Wales inland rivers is down to 20 per cent. The frequency of medium-size floods has fallen by 70 per cent in many areas. More than 4,000 weirs and dams block natural water flows, and wetlands have shrunk by 50 per cent over the past 150 years, yet the demand for more water from farmers, irrigators and inland towns is insatiable. The Greens support the bill because it is supported by local government and it ensures that local councils will not be worse off because water rights are now tradeable. Our support for the bill is in no way based on the grounds that it will do anything at all to fix the crisis in our inland rivers.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.18 p.m.]: I am very concerned about this bill. At first glance, my view was that it is dangerous to simply separate water and land rights. There may have been other methods of optimising the use of water rather than simply using a price mechanism. But the absolute dogma of our time is that only the market can deliver such outcomes. The problem with separating water rights from land rights is that good land is then made far less valuable and bad land is made very valuable, and trading in water rights tends to favour the trader over, for example, the person who inherits land, and so on. One of the consequences of separating water rights from land rights is to change the value of land. When one asserts that rates need not be tied to the value of land in order to protect the revenue base of councils, one is putting a bandaid over just one of myriad problems that will be created by this dangerous separation proposal.

I can understand that the bill would be a difficult omelette to unscramble for people who for some years have been using more irrigation water than ever fell on their land, or who have been taking water from water tables, rivers and so on. If water is to be a tradeable commodity, a right to it is created, a price mechanism determines its optimal use, the available water supply is already overallocated, and the land owner has to buy

back the water use right—and that creates a problem. Separating land rights from water rights may create a rating problem, a land valuation problem, or even land use, fertility and environmental problems. When the rainfall is far less than the sum of the so-called rights held, one wonders what will happen with the passage of time. Although I do not particularly oppose the bill, I recognise it as but a bandaid applied to an animal that has a great number of lesions, some of which may develop into more serious conditions over time. When I received the briefing note from the Government I asked the New South Wales Farmers Association whether it agreed with the bill. The association is very concerned about a number of issues that the bill raises, and advised:

> The separation of water rights from land title has meant that the valuation of irrigated properties has significantly decreased, leading to a significant fall in Shire Council rates from these properties. The Local Government and Valuation of Land (Water Rights) Bill 2005 is the NSW Government's response …

The recommendations of the New South Wales Farmers Association are to oppose the proposal to repeal section 530 of the existing Act, and to clarify further the proposal to amend the definition of a water right and the proposal to value irrigation infrastructure. I do not quite understand why the bill is being pushed through so quickly.

The Hon. HENRY TSANG (Parliamentary Secretary) [6.22 p.m.], in reply: I thank all honourable members for their contributions to the debate. After discussions with the New South Wales Farmers Association, the Minister advised me that he will review the operation of the legislation after two years to ensure that it is working as intended. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

[*The Deputy-President (The Hon. Christine Robertson) left the chair at 6.23 p.m. The House resumed at 8.00 p.m.*]

STANDING COMMITTEE ON PARLIAMENTARY PRIVILEGE AND ETHICS

Consideration of Legislative Assembly's message of 9 June 2005.

Motion by the Hon. Tony Kelly agreed to:

That the House:

(a) notes on 6 April 2005 the House referred to the Privileges Committee for inquiry and report the drafting of appropriate protocols to be adopted for the execution of search warrants on members' offices by law enforcement agencies and investigative bodies,

(b) notes Report 15 of the Standing Committee on Parliamentary Privilege and Ethics, entitled "Report on Sections 13 and 13B of the Constitution Act 1902" dated March 2002, and requests the Committee to reconsider its recommendation in relation to section 13B of the Constitution Act 1902,

(c) notes Report 21 of the Standing Committee on Parliamentary Privilege and Ethics, entitled "Report on inquiry into Pecuniary Interest Register; Supplementary Return, dated December 2002, which recommended that the Constitution (Disclosures by Members) Regulation 1983 be amended to provide for supplementary returns by members, and

(d) informs the Assembly that under the standing orders of the Council the Privileges Committee has power to join together with any committee of the Legislative Assembly to take evidence, deliberate and make joint reports on matters of mutual concern.

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

LOCAL GOVERNMENT AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, Minister for Lands and Minister Assisting the Minister for Natural Resources) [8.03 p.m.], in reply: I thank all honourable members for their contribution to the debate. I wish to make further comment on the proposal to amend the Freedom of Information Act to exempt the complaint-handling, investigation and reporting functions of the Department of Local Government from the operation of the Freedom of Information

Act. The department has two statutory complaint-handling roles. First, it examines complaints of breaches of the pecuniary interest provisions of the Local Government Act 1993. Second, it examines protected disclosures to the director-general alleging serious and substantial waste of council money under the Protected Disclosures Act 1994. The department also monitors and investigates complaints made to myself and to the director-general alleging maladministration by local councils.

It receives referrals from the Independent Commission Against Corruption and the New South Wales Ombudsman on matters those agencies consider to be more appropriately matters for the department. The department also investigates complaints about local councils contravening the competitive neutrality principles of national competition policy. The Freedom of Information Act currently applies to all aspects of the department's functions. This is unusual and somewhat anomalous for an agency having a significant complaint-handling function. A significant number of other agencies are exempt from the operations of the Act in respect of complaint-handling and/or investigative functions. The department is also one of three recognised investigative agencies overseeing local government, together with the Independent Commission Against Corruption and the Ombudsman. But the department is the only agency of those three that is subject to the Freedom of Information Act in relation to its complaints handling and investigations.

Unlike the State Contracts Control Board, which investigates competitive neutrality complaints as they affect State Government agencies, the department, which performs the same role in relation to local government, has no freedom of information exemption for this aspect of its work. The department, through the director-general, is also the only investigating authority to which protected disclosures may be made that does not have an exemption from the Freedom of Information Act. In exempting most investigative and complaint-handling functions from the Freedom of Information Act, Parliament appears to have recognised that it is, on balance, contrary to the public interest to subject complaints handling and investigative agencies to the provisions of the Freedom of Information Act. There are good grounds for this view. Exposing informers to the risk that the complaints will be disclosed to third parties can act as a deterrent to complaints and other providers of information necessary to effectively investigate complaints in the public interest. It also exposes investigative agencies to the risk they will be forced to disclose sensitive material during investigations and subsequently. This is clearly not in the interests of good governance.

The department, like all other investigative agencies, relies on input, co-operation and participation from the community and councils to undertake its investigative work. Much of the information provided by individuals, other agencies and councils is sensitive and is provided on the basis that it will be treated as confidential. I believe a freedom of information exemption for the department will greatly assist the department in effectively carrying out this important aspect of the department's work. A number of the agencies granted exemptions are independent statutory investigative agencies. However, a number of other agencies that have an exemption are not, including the State Contract Control Board and the Office of the Privacy Commissioner. In any case, the department will remain accountable through myself, as Minister, in Parliament and elsewhere, and it will remain subject to judicial review of its actions in carrying out and reporting on investigations.

Regardless of any exemption the department will also retain the discretion to release material as appropriate notwithstanding it may be exempt. This is in line with the department's policy that any reasonable request for documents held by the department will be favourably considered and that, where possible, access will be granted informally and free of charge. Finally, the normal review and appeal mechanisms apply. If a party disputes exempt status of material requested under freedom of information from the department both the Ombudsman and the Administrative Decisions Tribunal have the ability to arbitrate. I take exception to the suggestion that the Local Government and Shies Associations [LGSA] were not consulted on the bill. The former President of the Shies Association, Councillor Phyllis Miller, commended the consultation process in her speech to the LGSA conference.

The President of the Local Government Association, Councillor Genia McCafferey, and the Executive Officer, Mr Bill Gillooly have just contacted the Minister's office to confirm that Mr Gillooly did not at any time state that there had been no consultation with the LGSA on these amendments. In fact, Mr Gillooly conveyed to the Opposition that while they had received a copy of the final draft of the bill when it was introduced, the associations had been liaising for some time in general terms about the proposed amendments. I believe that part of the process of consultation with stakeholders is to accurately represent their comments to this place and I remind all honourable members that we have a responsibility to do so. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Ms SYLVIA HALE [8.10 p.m.]: I move Greens amendment No. 1:

No. 1 Page 3, schedule 1 [1], proposed section 224A (2)–(4), lines 10–16. Omit all words on those lines. Insert instead:

(2) Before making a resolution under subsection (1), the council must give notice in a newspaper circulating in the council's area:

(a) stating its intention to resolve to make an application to the Minister for approval for a decrease in the number of councillors and specifying the decrease proposed, and

(b) providing for a 21-day period within which public submissions may be made.

(3) The council must consider any submissions made within the time allowed for submissions and prepare a report on the outcome of the public consultation, including in the report whether the council proposes to proceed with its application.

(4) The council is to make the report publicly available.

(5) If the council passes a resolution under subsection (1), the council must forward to the Minister a copy of the resolution, a summary of the submissions made and a copy of the report prepared by the council.

(6) Before the Minister determines an application under this section, the Minister must give notice in a newspaper circulating in the relevant council's area providing for a 14-day period within which public submissions may be made in relation to the application.

(7) The Minister must hold at least one public hearing on the matter and make a report on the outcome of any such public hearing publicly available.

(8) After considering any submissions properly made under this section and any matters raised at the public hearing, the Minister may approve the council's application without amendment or may decline to approve the application.

The point of this amendment is to insert a public consultation process into a provision that will reduce councillor numbers. The provision has been lifted from the equivalent Victorian Act whereby any increase or decrease in councillor numbers can proceed only after a call for public submissions and the public release of a report outlining the case for altering councillor numbers. The Greens believe that any change in councillor numbers preferably should go to a full referendum of voters, but this amendment will at least ensure a minimum level of community consultation, should the Government's provision succeed.

As the bill currently provides for a 21-day period for public submissions, the council will prepare reports, et cetera, but the amendment will require the Minister, once he has received an application to reduce the number of councillors, to provide for a 14-day period for receipt of submissions by him and for him to hold at least one public hearing. The Minister should make the hearing's outcome available and will be obliged to consider any submissions properly made under the provision as well as any matters raised at the public hearing. Only after the Minister has fulfilled all those requirements may he approve the council's application without amendment, or the Minister may decline to approve the application.

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, Minister for Lands and Minister Assisting the Minister for Natural Resources) [8.12 p.m.]: The Government opposes the amendment which will make the provisions of the bill overly prescriptive and unnecessarily complex. The Greens are requiring councils to engage in a consultation process that will involve a public hearing which is expensive and time consuming. This defeats the purpose of the amendments proposed by the Government to item [1] in schedule 1 which are designed to encourage councils to continue to review their structure to ensure that the council is in the best position to provide services and facilities to the community it represents. I should also add that today I announced an inquiry into the Brewarrina Shire Council—a council that has one councillor for each group of 178 people.

The Hon. Rick Colless: Did you announce that in the Chamber?

The Hon. TONY KELLY: No, outside the Chamber. The amendments proposed by the Greens will make unattractive what is meant to be a limited opportunity for councillors to consider their current structure because it will be community-resource intensive for the council and costly for ratepayers.

The Hon. DON HARWIN [8.13 p.m.]: As I outlined in my speech at the second reading stage, the Opposition supports the initiative of the Government to open this window whereby councils across New South Wales will be able to consider their future in terms of the size and nature of representation. As long as councils controlled by a major political party do not use that as an opportunity to gerrymander within the council area, we think this one-off opportunity may result in some appropriate efficiencies for local government in New South Wales, and we do not have an objection to that. We accept the Minister's assurances that the arrangements in the Act are appropriate, so we will not be supporting the Greens' amendment.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.14 p.m.]: I support the amendment. The way in which council amalgamations are happening is quite antidemocratic. The idea that there are far too many councillors is very convenient for the large political parties that want to control councils. In the Council of the Municipality of Hunters Hill, which is the local government area in which I live, for once the Liberals did not have control of the council, so they ran a referendum to reduce the number of councillors. The voting system that is currently in place means that the Liberals now virtually have perpetual control, and I suspect that is what is happening in many other councils. The fact that there are too many councillors is merely an assertion.

Councils have control over quite a lot of money as a result of the investments that developers make in construction and the effect that that has on the longer-term future of the councils. The Australian political system is rife with gerrymanders in which the major parties win far more seats than the number of their votes qualifies them for as a percentage. The Minister's statement that consultation is a bit expensive so nobody actually wants to consult the ratepayers just shows the contempt in which ratepayers' views are held. In the light of what has happened with the council in the area in which I live, I think the fact that the Opposition supports the Government's position is a worry.

The Hon. DON HARWIN [8.15 p.m.]: The nature of the characterisation of the provisions of the bill by the Hon. Dr Arthur Chesterfield-Evans in the context of consultation do not stand up to scrutiny. I place on the record a rebuttal of some of the things that the Hon. Dr Arthur Chesterfield-Evans has said about the Council of the Municipality of Hunters Hill, which is exceptionally well run. Perhaps on behalf of the Liberal Party, I should take credit for that..

The Hon. Charlie Lynn: With an outstanding mayor.

The Hon. DON HARWIN: I note the interjection of the Hon. Charlie Lynn and I agree with it.

The Hon. Dr Arthur Chesterfield-Evans: "Yes, Mr Developer. Certainly, Mr Developer."

The Hon. DON HARWIN: For the record I state that none of the councillors on the Hunters Hill council is endorsed by the Liberal Party, so the Hon. Dr Arthur Chesterfield-Evans is quite wrong in suggesting that the electoral arrangements of the Hunters Hill council have anything to do with the Liberal Party.

Amendment negatived.

Ms SYLVIA HALE [8.17 p.m.]: I move Greens amendment No. 2:

No. 2 Page 3, schedule 1 [1], proposed section 224A. Insert after line 28:

(9) A council for an area that is divided into wards may not make an application under this section for a decrease in the number of councillors that would result in the number of councillors for each ward being fewer than 3.

The purpose of this amendment is to put a stop to a council reducing the number of councillors in any ward to fewer than three, thereby shifting to an optional preferential voting system and away from a proportional voting system. The optional preferential voting system is effectively a winner-takes-all system, with the votes of the first candidate being counted twice and subsequently flowing automatically at full value to elect the No. 2 candidate on the ticket. This is a patently undemocratic procedure. The bill should not permit councils to so distort their electoral structure.

A limitation upon any reduction in councillors to only circumstances in which that will not result in fewer than three councillors per ward will at least protect against a gerrymander. I believe that the provision in the Act allowing any council that has fewer than three councillors to have optional preferential voting should be repealed, but my understanding is, much as I would have liked to move an amendment to that effect, that that would be outside the leave of the bill.

I hope that the Government, having seen the light of this amendment as I understand it, will also see the light in relation to the operation of the Act as it applies to all wards of councillors in which there are fewer than three councillors and will move to eliminate the optional preferential voting system in those instances. I commend the amendment to the Committee.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.20 p.m.]: This is an extremely important amendment. Should the Government not support it we will have to oppose the bill. The essence of the problem is that with the voting system, one person with his preferences brings in two votes; so where someone might have 50 per cent of the vote, they get 100 per cent of the seats. That is a huge gerrymander. The Minister allowed that system to operate and that suggests to me that the Government was happy to have a gerrymander, such as occurred in Botany, and trash democracy at a grassroots level in New South Wales. It is very worrying that this sort of legislation comes forward, it shows contempt. Having been a member of the joint electoral committee, I know there is no desire to have the composition of Parliament accurately reflect the percentage of the primary votes that are cast. That is endemic in the Australian political system, and was mentioned on the front page of today's edition of the *Sydney Morning Herald*.

The Hon. Don Harwin mentioned that people who belong to a political party are endorsed by that political party; that is quite irrelevant, and clearly that is their philosophy. Honourable members may remember that I tried to move an amendment to provide that a candidate's membership of a political party should be stated on the ballot paper so that voters know the political philosophy of the candidates. My amendment was voted down by both major political parties. Fundamentally that was a deception of the voters of New South Wales. This amendment is critical and I urge honourable members to support it.

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, Minister for Lands and Minister Assisting the Minister for Natural Resources) [8.21 p.m.]: I was of a mind to oppose the amendment, but the Hon. Dr Arthur Chesterfield-Evans has convinced me not to do so. The Government does not oppose the amendment. However, I draw attention to some important points. The Local Government Act currently requires that the same number of councillors is to be elected to each ward. The mayor is excluded from determining the number of councillors in this instance when the mayor is a popularly elected mayor. There is no good reason to require a minimum number of councillors for each ward, which is why the Local Government Act does not require it.

To restrict the ability of some councillors to apply for a reduction in the number of councillors under the proposed amendment, would unreasonably interfere with the council's rights to determine the number of councillors that best suits the needs of the area. The Government believes that it is appropriate for councillors to make the decision about the number of councillors in each ward in line with what is best for individual councils and their communities. However, the Government is mindful of the views of other honourable members and has taken that into account. For that reason the Government will not oppose the amendment.

The Hon. DON HARWIN [8.22 p.m.]: When moving this amendment Ms. Sylvia Hale said that her political party was concerned with political gerrymandering and with the capacity the bill creates for Labor-controlled councils in metropolitan Sydney to politically gerrymander their membership, with the connivance of the Minister. Those comments were fair, and we support them. As I said in my contribution to the second reading debate, those concerns were raised with me by the Liberal local government advisory committee. As a parliamentary party in coalition with The Nationals we took those concerns on board, and we support them. Therefore, the Opposition supports the amendment.

The Minister for Local Government commented on the restriction of options. The problem that the Minister misses is that in many councils that would happily go to two councillors per ward are the councils that are dominated by Independents who have no party affiliation. In reality, the House has to pass a bill which puts in place protections and safeguards to ensure that councils with a majority from one major political party—in this case the Government party, the Australian Labor Party—with the participation of the Minister, cannot completely re-write the rules to take away minority voices on those councils. In a large number of councils across metropolitan Sydney this could be the case if this provision were misused.

With the assistance of the Hon. Sylvia Hale's amendment, we will end up with a better bill and I pay tribute to the Minister for his flexibility and willingness to consider the views of honourable members. I thank him for his decision on behalf of the Government to support the amendment. I will digress briefly: earlier the Minister made some remarks about what I said concerning the Local Government and Shires Associations. I thought I made it quite clear that I was talking about the bill in its final form. If the Minister, his advisers or departmental officers have taken offence at my remarks, I am happy to correct the record.

Ms SYLVIA HALE [8.25 p.m.]: I thank the Hon. Don Harwin for his remarks and for his explanation of why the amendment should be supported. I was inclined to thank the Minister also, because, as I have observed in the past, the Labor Party's position was never to support any amendment moved by the Greens. But on this one occasion when I might get something through, he thanked the Democrats. Nevertheless, I am delighted he has seen the light.

The Hon. JOHN TINGLE [8.26 p.m.]: I express my support for the amendment and endorse the remarks of the Hon. Don Harwin. In the last local government election in Port Macquarie, the council put up a plebiscite to reduce the council membership from 11 to nine, and I endorse what the Minister said about the idea that a council should have the right to determine its own numbers. I broaden that to say that the community ought to have the right to determine how big its council is. That plebiscite was overwhelmingly carried, demonstrating that given the chance any community will happily reduce the number of its politicians.

Amendment agreed to.

Schedule 1 as amended agreed to.

Ms SYLVIA HALE [8.27 p.m.], by leave: I move Greens amendments Nos 3, 4, 5 and 6 in globo:

No. 3 Page 9, schedule 2.2 [3], lines 19–29. Omit all words on those lines. Insert instead:

(1) In this Act, a reference to a ***public-private partnership*** is a reference to an arrangement between a council and a private person for the purposes of either or both of the following:

(a) providing public infrastructure or facilities (being infrastructure or facilities in respect of which the council has an interest, liability or responsibility under the arrangement),

(b) delivering services in accordance with the arrangement.

No. 4 Page 10, schedule 2.2. Insert after line 4:

[6] Schedule 1 [5]

Omit "The Director-General may from time to time issue guidelines" from proposed section 400C (1).

Insert instead "As soon as practicable after the commencement of this section, the Director-General is to issue guidelines".

No. 5 Page 10, schedule 2.2. Insert after line 8:

[7] Schedule 1 [5]
Insert after proposed section 400C (2):

(3) The PPP guidelines may be amended or replaced from time to time by the Director-General.

No. 6 Page 10, schedule 2.2. Insert before line 9:

[7] Schedule 1 [5]

Insert after proposed section 400C (2):

(3) Sections 40 and 41 of the *Interpretation Act 1987* apply to the PPP guidelines (and any amendment or replacement of them) in the same way as they apply to statutory rules within the meaning of that Act.

Amendment No. 3 removes that part of the bill that allows for regulations to exclude certain types of public-private partnerships from the definition, and thereby avoids provisions relating to the tendering process. The Greens believe that the bill waters down the public-private partnership provisions from the bill passed by Parliament last December, in that it does not require some types of public-private partnerships to conduct a full tendering process. The amendment would remove that loophole and would require all major projects in which the council retains an interest, liability or responsibility, to be subject to a full tendering process.

Amendments Nos 4, 5 and 6 relate to public-private partnerships also. Together the amendments require that the guidelines, referred to by the Minister in his second reading speech but not mentioned in the bill, must be produced. As the bill stands it waters down the public-private partnership requirements. The Minister assured the Committee that councils will still be required, in his words, to "test the market to obtain value for money", yet in the absence of guidelines there is nothing to ensure that this will actually occur. The amendment requires the director-general to draft guidelines and also requires that those guidelines be a disallowable

instrument, similar to other regulations. The Minister made a commitment in his second reading speech that the director-general would develop guidelines to ensure that councils still seek market value even when they do not conduct a full tendering process. These amendments will ensure the guidelines are produced and presented to the Parliament.

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, Minister for Lands, and Minister Assisting the Minister for Natural Resources) [8.30 p.m.]: The Government opposes these amendments. Amendment No. 3, in particular, will result in every arrangement a council enters into with a private person or entity coming before the Department of Local Government for examination, even when the arrangement already complies with the Act, such as the tendering provisions. This will mean that a council will have to submit to the department every tender it makes, every contract for service—however large or small—with the private sector, and even voluntary planning agreements under recent amendments to the Environmental Planning and Assessment Act.

This would require, and tie up, enormous resources on the part of councils and the department and it would unreasonably impact on the ability of councils to conduct their business. It would place an unreasonable and unjustified demand on the resources of the department, which is not warranted. The proposed definition in the Local Government Amendment Bill will ensure that councils are accountable for the arrangements they enter into in all circumstances, even if some arrangements are excluded by the regulations. This is because councils will have to follow the tendering or other statutory processes or, where that is not applicable, the public-private partnership [PPP] guidelines.

The Government also opposes Greens amendments Nos 4 and 5, which, of themselves, do not change anything in the Local Government Amendment (Public-Private Partnerships) Act. In any event, the director general will be ready to release the guidelines on the commencement of the Act. The reissue of the guidelines as amended from time to time, as currently provided in the Act, is the same as the amendments or the replacement of guidelines as proposed by the Greens.

The Government also opposes Greens amendment No. 6. The PPP guidelines should not be viewed in the same way as a statutory rule. Such a process would place unnecessary constraints on the ability of the director general to take into account changing circumstances and the practical effects of guidelines on councils and other stakeholders. It may be necessary to amend the guidelines quickly from time to time in light of changing practices in private and local government sectors, or to change references to other guidelines. Imposing a legislative process on each and every update would negate the effectiveness of the guidelines evolving to meet such variations. The Government opposes the amendments.

Amendments negatived.

Schedule 2 agreed to.

Title agreed to.

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

BRIGALOW AND NANDEWAR COMMUNITY CONSERVATION AREA BILL

Second Reading

Debate resumed from 21 June 2005.

The Hon. DON HARWIN [8:35 p.m.]: The Brigalow and Nandewar Community Conservation Area Bill deals with 348,000 hectares of forests in the Brigalow Belt South and Nandewar bioregions as part of the regional forest agreement process. The Government's objective is to increase the level of protected reserve in these bioregions. As a result of this reservation there will be major implications for local communities whose economies will be devastated by the loss of timber supplied to locally based sawmills in Gunnedah, Bingara, Narrabri, Gwabegar, Baradine, Gulargambone and several in and round Dubbo.

In debate yesterday and previously in questions and debate, a number of my colleagues placed on the record the precise dimension of the dislocation to those communities. Today I want to focus on how the bill will fund the forestry restructuring program it institutes. The bill abolishes the Waste Fund and transfers the money

in that fund to the Environmental Trust Fund, which will be used to fund the restructuring package. Effectively, the Government decided to treat the Waste Fund as a hollow log that can be plundered to facilitate this blatantly political exercise to obtain preferences for Labor candidates in March 2007.

The Waste Fund, which the bill abolishes, was originally set up to reduce waste and recycling outcomes. Under the Waste Avoidance and Resource Recovery Act, and other Acts prior to that, certain operators of licensed waste facilities paid a contribution for all waste received at their facilities. The levy amount is prescribed by regulation. The purpose of the levy is to provide an economic incentive to encourage waste avoidance and resource recovery by increasing the cost of waste disposal—until, that is, this bill is passed. Obviously local councils have been major contributors to the fund and they were understandably keen to establish a policy of hypothecating the levies paid into the Waste Fund to ensure that waste management objectives were being secured.

Until two years ago it was the policy of the Government to hypothecate 55 per cent of levy proceeds for waste management projects that achieved reduction objectives. However, in 2003-04 the Government suspended that policy and directed all proceeds into consolidated revenue. It is worth noting that in the past two years the amount of waste going to landfill has grown by almost one million tonnes. The bill provides a timely opportunity to remind the people of New South Wales of how this Government has made our State one of the highest taxed States in Australia. The Waste Fund levies have operated as another tax on the people of New South Wales since the Government's abolition of their hypothecation in 2003.

Local government is recovering the full levy from residents and ratepayers through waste depot gate fees and domestic waste charges. But local government has never been able to use any of the proceeds to minimise its own waste or to find alternative technology options to extract more recoverable materials from the waste stream. It should also be noted that the levy has not been payable by all councils across New South Wales; only those in what has been described as an extended regulated area have paid. Fifty-two councils have been involved, stretching from Port Stephens in the north to Penrith in the west, and stretching to the Wingecarribee and Shoalhaven local government areas in the south. All councils in metropolitan Newcastle, Sydney and Wollongong have been paying the levy.

However, there have been some curious anomalies. For example, Shoalhaven council has been levied while the similar neighbouring council of Eurobodalla was not included in the extended regulated area. Similarly, Wingecarribee and Camden councils have had to contribute, while Wollondilly council has been excluded. Just so honourable members are aware of the extent of the impost on councils, I note that in the five-year period between 1998-99 and 2002-03 Shoalhaven council paid $2,718,430 into the Waste Fund.

However, the levy continues to rise and it is estimated that Shoalhaven City Council will pay $1,007,890 into consolidated revenue in 2005-06. In 2003 Shoalhaven City Council wrote to the honourable member for Kiama and asked him to address the anomaly of the Shoalhaven's inclusion and the general policy decision to end hypothecation. The bill is a very clear answer to Shoalhaven City Council, with the honourable member for Kiama ignoring the council's case and supporting the bill in another place.

I have some interesting financial figures for a number of other councils in 2003-04. Angela D'Amore's Canada Bay council constituents paid $307,188 in 2003-04. Matt Brown's Kiama council constituents also paid $163,061 in 2003-04. The constituents of Barry Collier and Alison Megarrity in Sutherland Shire Council paid $1,157,903 in 2003-04. Geoff Corrigan's Camden Council constituents paid $258,002 in 2003-04. The constituents of Marie Andrews and Grant McBride contributed to Gosford council's whopping $1,735,215 levy payment in the same financial year. Mr McBride's Wyong council constituents contributed $1,329,670 to the Waste Fund. John Bartlett's Port Stephens Council constituents contributed $105,831.

A number of metropolitan councils have also made very significant contributions to the fund. They include Ashfield with $217,819; Botany with $303,902; Burwood, $168,712; Canterbury, $921,970; Leichhardt, $298,578; Marrickville, $486,608; Randwick, $724,849; Strathfield, $185,329; Waverley, $475,944; Woollahra, $482,721—and the list goes on. They were the levy contributions in 2003-04.

The bill abolishes the Waste Fund and puts the current balance of that fund into the Environmental Trust Fund. In future some waste levies will also go directly into this fund. The $80 million currently in the Waste Fund will fund the forestry restructuring package in the Brigalow Belt South and Nandewar bioregions. Given the effect of the Government's decision on those communities, one wonders what sort of value ratepayers are getting for that money when the Brigalow Region United Stakeholders group offered a much better option.

The bill will allow the Environmental Trust Fund to finance a range of non-waste related functions. It is interesting to reflect on them for a few minutes. One of those functions is funding environmental community organisations. Let us be clear: that means it will be a slush fund for Greens groups.

The residents and ratepayers of North Nowra, for example, should be aware that every time they pay a fee to dispose of their rubbish at the West Nowra depot the environmental groups who have been frustrating the construction of a link road to North Nowra will be eligible to receive a cut of the tipping fee. The same applies to the domestic waste component of their Shoalhaven City Council rates.

The residents and ratepayers of Culburra Beach should reflect upon the fact that Frances Bray and her group are eligible to apply for a grant from the Environmental Trust Fund, which receives a levy from their rates and their tipping fees. The residents of Kangaroo Valley should be aware that the Colong Foundation, which vigorously opposes the construction of Main Road 92 which will take heavy trucks off Moss Vale Road through the valley, will be eligible to receive a cut of residents' rates and their domestic tipping fees.

Another purpose of the bill—the timing for the people of the Shoalhaven is absolutely exquisite—is to amend the Environmental Trust Act to fund the purchase of water entitlements for the purpose of increasing environmental flows in the State's rivers. Even as the people of the Shoalhaven are still reeling from the lack of consultation regarding the Government's decision to dramatically alter the nature of environmental flows in the Shoalhaven River, this bill takes money from Shoalhaven residents and ratepayers to increase environmental flows in rivers elsewhere. How ironic!

I note that the Act is also amended for purposes related to marine parks. We have a beautiful marine park in Jervis Bay, whose headquarters are in the town of Huskisson, near where I live. On many occasions in this place and elsewhere the Deputy Leader of the Opposition has outlined the budgetary crisis in the Department of Primary Industries. But through this bill the Minister for Primary Industries is trying to use the waste levies that are paid by councils and passed on to residents and ratepayers to fund basic administrative costs in his department, including public servants' salaries. That is a new way of funding the Marine Parks Authority!

This misdirection of waste levies speaks volumes about the Government's incapacity to manage the State's finances. The Government's handling in this bill of the Waste Fund underlines its dishonesty. The bill reveals the waste levy as just another tax in Australia's highest-taxing State. This is a shabby piece of legislation that reflects the Government's shabby treatment of the communities of the Brigalow and Nandewar bioregions and its shabby record of financial profligacy and mismanagement.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.47 p.m.]: In an earlier discussion about this issue I stated the Australian Democrats' position on the Brigalow. We recognise that the Brigalow Belt South bioregion is of international conservation significance. The temperate woodlands are unique and are seriously endangered. The entire ecosystem is not only endangered but is inhabited by numerous endangered species. Our rare national icon, the koala, is found in the Pilliga, which is part of the bioregion. The koala population there is the strongest, healthiest and most genetically diverse in the country. The koala not only has intrinsic value but was estimated in 1996 to be worth $1.1 billion per annum to the Australian economy. Focusing on the economics of conserving the area, concerns have been raised about the effects of the Government's decision on the timber industry. The timber industry contributes only 1.1 per cent of regional economic activity; tourism contributes 10 times more.

The Hon. Rick Colless: The people of Baradine will love to hear that statement!

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: That may not be true of the town of Baradine. I do not pretend that that statement is true of the town of Baradine; I was talking about regional economic activity. Opposition members are trying to put words in my mouth to meet their own ends. I am talking about the region. The Australian Democrats want a shift to value-adding strategies in the forestry industry through thinning cypress regrowth, creating new timber products such as laminated cypress, and replacing native forest firewood with less damaging and more sustainable sources. We want a comprehensive national park system to support new tourism projects. We need Commonwealth and State funds to establish tree plantations for timber, and reforestation programs to address salinity and other land degradation problems. We require new industries such as broom-bush plantations, cut flowers, and native bee products. There should be funding for farmers willing to protect private land conservation areas.

The bill comes closest to what we would support, although it has a magic pudding component inasmuch as some of the extraction figures are beyond what can be sustainably logged. Obviously the money has to come from the waste levy to subsidise the system that the Government has suggested. As the Hon. Don Harwin said, whether it should simply come from a waste levy or from Consolidated Revenue by way of subsidisation is another question. I said that the rate at which timber will be extracted from zone 4 is far in excess of previous rates of extraction, and I doubt whether it is sustainable.

The New South Wales Farmers Association has confirmed this to me in a copy letter dated 6 June 2005 to the Minister for the Environment. The President of New South Wales Farmers Association, Mal Peters, noted that the bill apparently allocates 122,000 hectares of cypress pine to the industry under a 20-year wood supply agreement to achieve a 57,000 cubic metres annual harvest. According to the calculations of the New South Wales Farmers Association, this equates to a harvest rate of 0.46 cubic metres per year, which is unsustainable. Current harvest rates are in the order of 0.15 cubic metres per hectare. Therefore the New South Wales Farmers Association seeks clarification of the actual area of cypress pine that will be required to sustain an annual harvest of 57,000 cubic metres over a 20-year period.

On the whole, the bill is a compromise in which all parties achieve most of their desires. I congratulate the Carr Government on attempting to balance these difficult priorities. Many timber mills accept the industry restructure support that is offered, and timber workers find it preferable to accept the generous separation payments rather than wait for a relatively uncertain future. The Bingara mill had financial problems and closed down. Logan in Narrabri will close down, and Insill at Narrabri closed down. I believe that the workers there will take the $70,000 payout. Pauls in Gwabegar and Baradine will continue and will value-add, which is the critical factor for them and the economy.

Environmental groups are happy that environmental protection is extended to more of the diminishing and vulnerable eco systems, but they also have some reservations. At present some sites within the area under consideration are designated as Wilderness Areas under the Wilderness Act 1987 or under the National Parks and Wildlife Act 1974. Proposed section 18 prevents the identification or proposal of such areas. This is of concern to conservation groups, particularly with reference to the Kaputar National Park and the Bebo Forest. It is not clear what the fate will be of those existing wilderness areas.

There are some general considerations with regard to the regulation and administration of the different zones. Zones 1, 2 and 3 will be under the control of the Minister for the Environment and administered under the National Parks and Wildlife Act 1974 and will thus have a good deal of protection. Zone 3 still allows recreation and gas and mineral extraction, equivalent to State Recreation Areas. The application of the National Parks and Wildlife Act will help to prevent the sort of damage caused by saline effluent from gas exploration wells that occurred under earlier administration.

Zone 4 will be under the control of the Minister for Primary Industries and administered under the Forestry and National Park Estate Act 1998, and will allow for timber as well as gas and mineral extraction. Zone 4 consists entirely of State Forest land and can be added to or revoked by regulation. Under the National Parks and Wildlife Act, zones 1, 2 and 3 can only be changed by Acts of Parliament. Community conservation area agreements, made in consultation with community advisory committees, have to be approved by the Minister for the Environment, the Minister for Primary Industries, and the Minister for Natural Resources. Community conservation area agreements can apply to all the zones but must comply with the relevant Acts, and for zone 4 must contain integrated forestry operations approvals. On that basis I will support the bill, but I have some misgivings about it.

The Hon. PATRICIA FORSYTHE [8.55 p.m.]: In his second reading speech the Minister said the bill was about social, economic, and environmental balance—and I was moved to speak because the bill is not about that at all. Far from being about balance, it is about decisions that will tear the heart out of north-west country New South Wales. When history is written about the Carr Government, the area that will rank highest will be its failure in regional development. In the decade of the Carr Government it has not had any appropriate strategy to underpin and support rural/regional New South Wales, particularly the area over the Great Dividing Range.

Baradine, Gwabegar and Gulargambone are three communities whose lifeblood is drawn from the timber industry but will be cut off by the effects of the bill. This will be the end of many of our country communities, and the Government has not provided a clear strategy about what it will do as a consequence. The Government is inclined to blame everyone else but itself. Why is Sydney growing by about 1,000 people a

week? According to the Premier it is because of the immigration policies of the Federal Government. The reality is that when one breaks down those 1,000 people they do not come from overseas but are the effect of internal migration. Why are people coming to Sydney? They are looking for jobs and security because they are being failed by the policies of this Government.

In February 2004 the New South Wales Forest Products Association made a submission to the public inquiry into the impact of native vegetation and biodiversity regulations conducted by the Productivity Commission. Its submission is as relevant today as it was then. The association gave an example of the impact of the lifeblood being cut from communities, particularly the ones at the heart of the Pilliga region: Baradine, Gwabegar and Gulargambone. The submission stated:

> The result of this continued invasion into public and private property rights is heading towards:
>
> - Sawmill closures
> - Loss of jobs;
> - Other small service businesses having to cease operation;
> - Downturn in retail trade and loss of essential small town services;
> - Loss of timber exports and increased timber imports;
> - Higher social security and other welfare payments for the Commonwealth;
> - Increased level of social and domestic problems; and
> - A further drift of people towards the overcrowded cities.

The submission of the Baradine Progress Association, quoted by the New South Wales Forest Products Association, stated:

- It is almost impossible to get a bank loan to finance a housing purchase in Baradine.
- Capital investment in existing businesses is at a standstill.
- Businesses are passing up lucrative contracts because of the uncertainty over timber supply.
- Community projects such as the development of a Forest Heritage Centre, and the Pilliga Economic Development and Tourism Committee are on hold until the assessment outcome is announced.

The Hon. Dr Arthur Chesterfield-Evans said the bill will deliver tourism and ten times more economic outcomes for communities, but one has to actually understand the basis of regional development. Those communities exist because they are clustered around an industry, in this case timber, but as a consequence of the bill their hearts will be gutted.

The basis of those communities will cease to exist because of this bill. It is not a question of giving people money to move to other areas, or telling them that they can turn to a new page in their book involving ecotourism. Unless an area has adequate infrastructure and resources to make that happen, merely saying it is a good place for ecotourism will not make it a reality. Such infrastructure and activity are fundamental to rural development and the basis of rural policies. Communities exist in certain areas because the areas make it possible for communities to survive. There are reasons for people to be in such areas. Communities exist throughout the whole of the Pilliga area because of the timber industry and a cluster of associated activities. The bill would take the heart out of the communities, which will be forced to redefine themselves. But there has been no redefinition. Many people of the Brigalow and Nandewar regions will not make the transition to other jobs. That is the fault of the bill.

The Government does not have in place any policy about regional development—it never has. It is all well and good to talk about ecotourism and biodiversity. The fact is that the area now has a successful cluster, and that will be torn apart by this bill because most of the towns that make up the timber cluster will have no reason to exist. The second reading speech of the Minister was pure nonsense. It contained nothing more than rhetoric—referring to a balance between social, economic and environmental considerations. The balance has been tipped one way. There is no balance. Perhaps that is why in this debate we have heard from four members of The Nationals and two members of the Liberal Party. Where are the Country Labor members? Country Labor members know that on this matter they have no credible case to argue. Is the Minister for Primary Industries suggesting that he will be the spokesman for Country Labor on this matter?

The Hon. Ian Macdonald: Yes, absolutely.

The Hon. PATRICIA FORSYTHE: I look forward to hearing what the Minister has to say in that capacity. I suspect that tonight he will not be able to defend any position he adopts for Country Labor because he will not have the support of Country Labor. If Country Labor members are saying this is their position, then the Minister is heading down the path to defeat, because the communities of the electorates of Dubbo and

Tamworth know who their friends are on this issue, and they are not in Country Labor. Country Labor has let down the communities of the Brigalow and Nandewar regions. The bill lets down those communities. The only way forward is to defeat this legislation.

The Hon. Dr PETER WONG [9.02 p.m.]: I am pleased to speak on the Brigalow and Nandewar Community Conservation Area Bill, which has widespread support from the various Green groups, such as the National Parks Association, the Nature Conservation Council of New South Wales and the Total Environment Centre. It appears also to have some support from Aborigines and their representative bodies and organisations, as well as some locals. However, after listening to the debate last night, I am concerned that the Government's attempt to reverse the use of the forested land in the Brigalow and Nandewar areas will cause considerable hardship for many people who remain dependent on the natural resources of those areas to fend for themselves and their families.

In theory, I support entirely the new concept in land management in New South Wales that has been specifically developed for this part of western New South Wales. I fear, however, that the Government has not done enough for the residents who will be most affected and whose livelihoods depend on the use of the natural resources in the area. The Government argues that such community conservation areas will provide a balance between conservation and sustainable industries, which will continue to provide jobs in timber, gas and other sectors. But, having listened to the debate last night, I fail to see how changes being considered will provide secure and long-term certainty for the timber industry. I fear that the timber industry in the region will be unsustainable in the long term.

The Government's decision to create a balance between conservation and sustainable industry flows from five years of detailed scientific analysis and consultation with conservation groups, timber operators and Aboriginal groups. This has been disputed by a number of honourable members who have spoken in this debate, most notably the Hon. Rick Colless. I understand also that other sectors, such as the mining and gas sectors, have been consulted, along with the local community. Conservation of our environment is very important, and this bill is a step in the right direction in that regard.

The natural resources of the Brigalow and Nandewar areas have sustained our country for a long period of time. That has undoubtedly brought great wealth to not just New South Wales but to the country as a whole. However, that sustenance has come at a high cost to the region. Much of the area has become degraded compared with what was there originally. Depending on the figures that one looks at, up to 70 per cent of the original vegetation has disappeared, along with countless species of fauna and flora. I feel it is important that natural resources are given a chance to regroup and recuperate, and I believe this bill will assist nature and local communities to achieve that, albeit at a sacrifice to many timber workers and pastoralists in the area. I well recognise that this region has been of high economic value to farmers and timber workers, and through them our community.

A major problem with the bill is that many stakeholders have not spoken truthfully. On one hand, we have been told that there was very little forest originally, and that in fact these were all open woodlands. We are now told that after the foresters turned up at the almost non-existent forests, the land miraculously flourished. We are also told "the forest environment has accelerated in the past 10 years". The argument then runs that a harvest regime of 0.4 cubic metres per hectare in these miraculously productive forests—forests that have gone from just a few trees per hectare to thousands of trees per hectare in the space of a century—is totally unsustainable. How can this be? Surely that argument defeats itself, for it has been said that under unbridled forestry the forests have bloomed and seemingly, from the evidence put to us by one interested party, we should all be concerned lest they overrun the entire nation through their rapaciousness.

However, I do agree with The Nationals that the package offered by the Government to the people who will be most affected by these changes is inadequate. A greater injection of funds would be welcome but, more importantly, a greater injection of social capital, education and retraining for the affected people, who legitimately fear change, should occur. I am sure that such an approach would produce great dividends not just for the environment and the State as a whole, but also for the locals, who would and could go from destroyers of the forests to their protectors. They could go from an industry that fells a great fibre resource to make only pulp, to one that naturally works with the beautiful materials at hand to produce far more valuable commodities than paper and chipboard.

The Hon. Rick Colless: No chipboard and paper is made from the timbers of the Pilliga forests.

The Hon. Dr PETER WONG: I thank the honourable member for his advice, which I accept. I think the Greens also should work towards that realisation. Eventually they too will have to learn that you cannot simply do as the big parties do, and deceive the people. You have to lead the people, assist them and show them ways in which they can protect the forests too. I would remind the Greens that one of the greatest and most successful greenies in the business was once a forester himself. Bill Mollison went from chopping down forests to protecting them. Because of him, millions of acres around the world, not just in Australia, have been saved and improved, usually as a result of the efforts of the poor, the uneducated and the ignorant.

Despite my reservations with the untruths told by many in this place about the bill, I intend to support it because we really must move forward in this country. I listened with anticipation, hoping to hear what Country Labor had to say about the bill and what impact such changes may have on their constituents in the future. Like I suspected, they are all show but no heart. It appears that the added prefix to a party name is only a diversionary tactic used to yield a handful of votes away from other political parties and Independents. I also listened with anticipation hoping to hear in greater detail from the Minister of the Government's plans for the long-term sustainability of the region. What I heard was that 57,000 cubic metres of cypress pine were to be made available yearly for the next 20 years to the cypress industry. It is not surprising that we did not hear where this timber will come from, or what happens after 20 years. Nor did we hear what is the Government's policy on reafforestation.

It is evident the Government lacks any long-term vision. It has no policy for country towns. It has no policy for creating new employment opportunities or alternative industries once these changes have been implemented. It appears that the Government does not have a consistent policy on many things these days. Provisions in the bill will see mill operations cease, for which funds are set aside. Timber workers will be offered the option of redundancy payments to exit the timber industry or take the Government offer of alternative employment. I do not have a problem with that. However, we seem to have forgotten a large section of the local communities who, directly or indirectly, will be severely affected by these changes. It appears that the Government has left their fate in God's hands.

The Hon. JON JENKINS [9.10 p.m.]: Not surprisingly, I will oppose the legislation—not because I do not believe in the concept of national parks but because I believe State forests are far better managed than national parks to achieve both people and environmental outcomes. This is why the biodiversity of State Forests managed areas is generally so much higher than that of nearby national parks. State Forests reserves are managed on the basis of preserving timber, which, in turn, preserves all the species that rely on that timber and the environment to survive. In previous debate overwhelming evidence has been presented from government, scientific, anecdotal, community and even artistic viewpoints that the most fundamental base of the National Parks and Wildlife Service management strategy is wrong. The only recent contrary evidence was presented by Benson, and that has been debunked effectively by many subsequent analyses. However, Benson and other publications raise some interesting inconsistencies. The logical conclusion leaves absolutely no doubt that there were dense pockets of forests all through this area.

Rowles stated that there were densely forested pockets. However, the vast majority of the country was not heavily forested, and it is these heavily forested pockets that were the source of timber taken from this area. Early accounts of explorers and scientists who recorded these areas before any cultivation or any forestry activity clearly indicate that predominantly the country was open plains, interspersed by variably forested areas, some of which was quite thick. Just as it was deceiving of Benson to selectively quote, or in his case misquote, a tiny fraction of the travels described in Evans' vast tome and offer this as proof positive, so too it is deceiving of the Greens to selectively quote of a few lines from other journals. Evans journal when read in its entirety and in context actually reverses the conclusions found by Benson and in the selective quotes offered by the extremist conservationists. One must read the journals in full to understand the individual and day-to-day reports in their overall context.

But, of course, we have come to expect nothing more from the extreme environmentalist movement, which has made an art form out of propaganda and lying and deception through its deceitful use of such powerful imagery as baby animals. This technique is no different from the way extreme environmentalists have misused the scientific literature. Recently I gave a talk on polar bears. Research which shows that in 19 areas polar bears have increased in number and in one area their numbers had decreased has been completely misused by the extreme environmental movement World Wildlife Fund, which declared that polar bears were close to extinction. This corruption, deception, lying, dishonesty, trickery, fraud, deceit, scam, whatever you want to call it—I cannot think of any more words to describe it—is a con job perpetrated on the people of this State. The fundamentalist environmental movement picks one aspect that suits its purpose and structures an entire propaganda campaign around this one aspect, even though the evidence is overwhelming to the contrary.

In the case of the Pilliga there is absolutely no doubt that tree density, ranging from thickly forested slopes to grasslands, varied from geographical region to geographical region. For example, in rain shadow areas around Boggabri and Maules Creek the historical evidence is absolutely clear: There were no vast forests. But the Greens continue to tell us how bad the environment is, how many animals there are on the threatened species list and endangered list, et cetera, et cetera. I have asked the supposed guardians of the environment repeatedly how this can be so. How is it that with almost 40 per cent of the coastline locked up in national parks and wilderness areas, and with almost 15 per cent of New South Wales overall locked up in national parks, we are still racing headlong into extinction? How is this possible? Is anyone willing to interject to tell me how that is possible? No, I thought not. Why are vast areas covered in lantana and blackberry? Why are hundreds of thousands of hectares of Kosciuszko National Park still a lifeless desert with not a tree, an insect, a bird or an animal to be found? Why? Can somebody tell me why?

Since I have been harping on about the damage and destruction to Kosciuszko and Numadgi national parks the National Parks and Wildlife Service [NPWS] has decided to close them to the public. Even though the access roads are tarred and in good condition large signs have been erected at the entrance to Numadgi National Park and Corin Dam stating, "Due to fire damage the national park is closed until further notice." I know why the national park has been closed, and the NPWS is right; it has been closed because of fire damage, but also because the NPWS is absolutely ashamed of the disgraceful loss of biodiversity that occurred during the 2003 fires. It is even more ashamed that years after the fires tens of thousands of hectares are still a lifeless desert. If any member would care to come to my office, I would be very happy to show him or her photographs of Numadgi.

Why is it that extremists have never answered questions about threatened species? They did not answer because such issues do not matter to them. They feign care for the environment because to do so gives them political power. It does not matter to them. In fact, they welcome environmental crisis. The worse the environmental crisis, the more votes they get and the more political power they get. It is a self-defeating cycle. It is not about caring for nature or preserving our environment, it is about political power. They will not even debate me on the issue. Rather, they hurl abuse and scream a mantra, as some of you may have witnessed at a recent crossbench meeting.

The plight of koalas is a perfect example of the stupid blind ignorance of the extremist environmental movement. National Parks and Wildlife Service maps of the Pilliga comment that "The Pilliga scrub is one of the largest, continuous, inland natural areas in Australia. Koalas are in abundance in the area, which is made up of State forests, parks and private property." At a recent meeting I attended, some conservationists made mileage out of the fact that there had been a decrease in the number of native animals in the area, which they ascribe to continued logging. However, they fail to acknowledge that feral animals have been increasing in numbers in this area and that we have been experiencing the worst drought on record. But, again, this is typical of the way the conservationists pick one part of the scientific picture and use it to their own ends. However, recent statements in the *Sydney Morning Herald* from the Australian Koala Foundation and an Australian expert on koala numbers warn of the imminent demise of the koala population. Major koala colonies in southern New South Wales are found in State forests and on private land. Why is this so? We heard the Hon. Rick Colless refer to the large numbers of koalas in the region and their improved outcomes.

The reason is simple. In these areas feral animals are shot and trapped, and fuel loads are kept low by the use of cool climate mosaic burns. That is why the majority of New South Wales koala colonies—and I use the words of the Australian Koala Foundation—are found in State forests and on private land. Again, for those of you who do not understand, I will explain. Koalas cannot run away from fire. They cannot hide in the hollows of trees. When a cool burn runs along through ground fuel, koalas climb to the top of trees and they survive. In a crowning fire koalas die. They have no way of escaping. That is why, in an area maintained by a proper fire regime, koalas survive. Without a proper fire regime, koalas die. I understand the political situation. The Greens say, "Jump" and the Government says, "How high?" Many of you will have noticed that I try not to attack the person; I try to keep to the issue and debate as logically as I can.

The Hon. Duncan Gay: You've had a go at me a couple of times.

The Hon. JON JENKINS: No, I have not.

The Hon. Duncan Gay: It didn't worry me. It was like being hit with a dead sheep.

The Hon. JON JENKINS: That could hurt, being hit with a dead sheep. However, I think it is necessary to demonstrate part of the problem. I am not attacking the Premier personally; rather, I am trying to

illustrate the problem of surrounding oneself with the lunatic Green fringe. According to the *Daily Telegraph,* the following statement was made by the Premier:

> ... the polar ice caps are melting, every glacier is sliding away to extinction, the planet is warming up.

That statement is simply wrong. The polar ice caps are not melting. I quote from the earth observatory group of the National Aeronautics and Space Administration [NASA], which has the most sophisticated technology in the world, including laser, radar, infrared, ultraviolet and every other possible measuring technology that science can muster, to observe the planet. I quote the official statement from this group of the most advanced earth scientists in existence:

> It is uncertain, however, whether the world's two major ice sheets—Greenland and Antarctica—have been growing or diminishing.

Not only is the Premier's statement wrong in its conclusion, it is based on outdated science. The latest climate science and the geological record tell us that during global warming polar ice caps may actually increase in size because of higher water vapour levels and increased snowfalls. The following further statement from NASA's earth observatory puts the matter into perspective:

> Global warming could therefore be expected initially to increase both melting and snowfall. Depending on which increase dominates, the early result could be either an overall decay or an overall growth of the ice sheets.

The second part of the statement made by the Premier relates to receding glaciers. One of the world's foremost experts in glaciers, Keith Echelmeyer, a glaciologist at the University of Alaska's Geophysical Institute, said:

> To make a case that glaciers are retreating, and that the problem is global warming, is very hard to do ... The physics are very complex. There is much more involved than just the climate response.

Echelmeyer went on to point out that in Alaska there are large glaciers advancing in the very same areas where others are retreating. It is a geological fact that the earth's mid-latitude glaciers advance and retreat on a regular cycle, and have done so for millions of years. At various times, major cities such as Sydney and New York have been under as much as three kilometres of ice. All these dynamic changes are a natural part of the earth's process.

I ask the Premier, Mr Carr, to please stop surrounding himself with extremist environmentalists who push fear politics. I ask the Premier to please seek some sound scientific advice instead of making decisions, such as those in relation to the Pilliga, desalination plants and nuclear energy—all of which affect the State of New South Wales—based upon the politics of fear and lies. I have to ask myself why the Premier could be so obviously wrong. He is obviously not a stupid man, so the obvious conclusion is that there is another agenda. Did he make his comments about nuclear power in order to cause a psychological reaction in the nuclear debate? In other words, was it a cynical ploy so that he could retreat to a coal-fired power plant? I do not know, but that is not the relevant point: Rather, the relevant point is that the Premier is following without question extreme Green lies about global warming. Consequently, the next question is whether Mr Carr has been deceived by the extremist environmental movement—in other words, does he genuinely believe what he has been saying—or is he purely placating the extreme Greens in order to gain their preferences for various elections?

To be honest, I will never know the answer to that question. I will never get to know Mr Carr well enough to understand him, or to perceive his true motives. But in reality my question is directed to the members of this House. Before I entered the political spectrum a few short months ago, or so it seems, I had always perceived the Australian Labor Party [ALP] to be the tough guy in politics. Honourable members would know the perception I am referring to—the union heavies with a crowbar behind their back ready to do your kneecaps serious injury if you did not toe the party line. I am speaking euphemistically. But I do not see much of that in this Chamber. The Greens pull the strings, and the ALP dances like a puppet to the extremists' tune. Many members of the ALP know the falsity of the extremist environmental agenda, so why are they not standing up in caucus and in Cabinet and showing the guts, determination and strength that the ALP is famous for?

The Hon. Christine Robertson: We do not quite believe the same things as you do.

The Hon. JON JENKINS: Some do. If they do not, the problem with the environment will become a catastrophe. Within 15 to 20 years we will lose many of our small animal species and birds, and vast areas will be incinerated or covered in blackberry and lantana. I remind honourable members about the difference between

animal and plant species. I will give you all a bit of a biology lesson. I am sure some honourable members would have read a recent article on the germination of seeds from Israel that are 2,000 years old. It is possible to take the whole biodiversity of a forest and put it into a jar. That is just a fact of nature. An entire forest can literally be saved in a jar. But it is not possible to save one single animal in that way. Recently I have been involved in a project on the bilby, the most endangered species on the Australian mainland. I am very proud to have played a part in that project. Last Wednesday I visited the Federal Parliament and joined with the Federal Minister for the Environment and Heritage, Ian Campbell, to celebrate the declaration of National Bilby Day, which marks the saving of this small native animal by Frank Mantley and Peter McRae. That shows the lengths we have to go to when animals are endangered. There is very little time in which to save our animal species.

Within 15 to 20 years we will lose many of our small mammals, animal species and birds. I ask the Minister's advisers to take note that the New South Wales Government simply does not have the money to maintain 15 per cent to 20 per cent of the land area of this State, and I think they know that. They must know that $2 per hectare, or whatever the current allocation is, is insufficient to manage land. It is impossible to manage land with such an inadequate level of funding. I have put on the table the concept of a volunteer organisation not dissimilar to the Rural Fire Service or State Emergency Service. Such an organisation would act as a volunteer work force for the NPWS. This will allow people who really care for and love the environment, and who want to ensure its survival for generations, to do so. It will give them the simple pleasure of working in an area they care so much about.

There are literally tens of thousands of people—in fact, approximately 50,000 currently—willing to start training and work, yet the New South Wales Government, driven by its Green puppet masters, refuses to even acknowledge the principle publicly. The small group of volunteers who were trained in wild dog and fox baiting have been prevented from carrying out volunteer work for the NPWS by what I describe as a fictitious industrial dispute or an industrial relations issue. What would we say if we heard that the Fire Brigades had threatened to take industrial action because the volunteer Rural Fire Service had offered to extinguish a fire, or that the Police Rescue Squad had threatened to take industrial action because the State Emergency Service or Volunteer Rescue Association had offered to rescue somebody from a car smash? Would people think that that was absolutely ridiculous? Of course they would, and of course it is. What do you think the Government's response would be? Would the Government support that type of industrial relations? No fear, it would not.

I congratulate the members of the Pittwater Rural Fire Service who are present in the gallery. As I have stated on other occasions, we have many fantastic volunteer organisations. Volunteer organisations are the backbone of the regional area in which I live. My community does not have the sophisticated facilities that are found in the cities, such as rescue services and fire brigades. We rely upon the Rural Fire Service, the Volunteer Rescue Association and the State Emergency Service to provide services in times of need. People perform volunteer roles. I call on the Minister and members of this House to support the concept of a volunteer work force. The Minister should establish such a service, call it the Volunteer Parks Association and give its members bright green overalls. Come on, let's get that going!

Volunteers have been prevented from performing volunteer roles in the National Parks and Wildlife Service. I reiterate my call to the Minister to address that situation. At a time when the State's budget is stretched to the limit and when massive borrowing is required to support health, education and transport infrastructure, the New South Wales Government is refusing the offer of assistance from thousands of willing volunteers. It has refused also to provide millions of dollars worth of assistance to maintain national parks, by offering no resistance to what I consider to be an artificially created industrial relations issue. I call on the Minister to use the Brigalow as a pilot scheme for implementing a volunteer parks association or a similar concept to involve the community in the care and maintenance of parks.

If it does not happen, it will be a case of screaming, ranting ideology overriding sense and logic. I believe that the Brigalow has been created under a somewhat deceptive and hidden environment; the Government will not release the Sinclair report. I wish it would do so, because if the park is to be created based upon good science, good logic and community desires the Sinclair report should be available for all to read. I am disappointed that the Government will not release it. There is no better example of deception than when the Minister went to great lengths to explain how the committee system will be used to manage those areas.

To quote from the report, zone 1 of the park is called "conservation and recreation"; zone 2 is "conservation and Aboriginal culture"; zone 3 is "conservation, recreation and mineral extraction"; zone 4 is " forestry, recreation and mineral extraction". The common word across three of the four zones is "recreation". Recently the Government briefed the Independents and went through the composition of the committees, which

included a committee stacked with Greens, bureaucrats and extreme conservationists. But guess who was missing from the committee system? Recreationalists, even though three of the zones have recreation as part of their function. Today I have been told that an amendment has been foreshadowed to fix that omission—and I acknowledge that the Minister nods in agreement.

I thank the Minister and his advisers for that proposed amendment, and for the small offer of help. But let us extend this further and make the recreationalists part of the management structure of this area. Let us make this a pilot scheme and see if it works; let us give it a try. The reason recreationalists were not included initially was probably because there was no forethought about who should comprise that committee. I would like to put this community principle to the test; and, again, I would like to use this as a pilot scheme. I will now address how I believe those committees work and I will use the national parks committee as an example. At the behest of the extremist environmental movement, committees are usually completely stacked with ideologically driven fundamentalists from the National Parks Association; or at least they ensure that there is a majority membership.

The Hon. Charlie Lynn: When did you work that out?

The Hon. JON JENKINS: A long time ago, believe me. I understand the political realities of life and I wish the Government would own up to it. I wish it would say that it has to do that for political reasons—then at least the people would know what was going on and they would get a chance to vote on it one way or the other. I stress again that people who drive those committees represent only a tiny fraction of park users. The Minister and his advisers know that the vast majority of people who want to visit national parks would not agree with the way that the parks are currently managed. From feedback from the few recreational representatives on those committees, I know that in most cases the committees are a rubber stamp for what I call the Hurstville agenda. Any logical, rational or scientific evidence is simply ignored in favour of the green mantra: get rid of people, no people in the parks.

Two recent examples of that show exactly how those committees will work, unfortunately. The first is the Kosciuszko National Park. The draft plan of management for the Kosciuszko National Park was issued for consideration by the public. The draft plan of management created a new type of zone in a national park called "backcountry"—and backcountry is just another name for wilderness. There is effectively no difference between wilderness and backcountry. The effect of that is that pushbikes will be banned from management trails in backcountry. We know that about 11,500 submissions were received in respect of Kosciuszko National Park and we know also that the vast majority of those wanted continued access to the bulk of Kosciuszko. But in a blinding example of how ideology overrides science and community desire, the vast majority of those submissions were simply ignored and the draft plan of management has been returned effectively unchanged, apart from some minor housekeeping.

The second example is the Cape Byron Marine Park. The Minister knows about this. In my opinion the Cape Byron Marine Park was political payback, it had very little to do with conservation values. The science behind the concept of the Cape Byron Marine Park is non-existent and, further, there is complete and absolutely overwhelming community opposition to it. We know that from the number of submissions that have been received, and what they contained. Yet it will have the same outcome. The draft plan of management was returned unchanged from that stacked committee. I will talk to the Department of Primary Industries about recreational representation on management committees, but, again, I am somewhat sceptical and cynical about its track record in this area. From my experience with the current national parks advisory committees, unfortunately I know it will be a futile exercise and recreational representatives will be belittled and ostracised by the extremist environmentalist voting block which unfortunately pervades most of those committees. I have had feedback from people who were on those committees. Basically, they have told me that they will never go on a committee again, they said it was not a very pleasant task.

After a suitable time when some of the heat has died out of this issue, I suspect that the committees will close up many of the tracks and trails on the deceptive pretext of environmental damage. We should keep in mind that those areas have been logged for at least a hundred years. Horse riding will probably be banned in the areas where traditionally people have ridden for, again, at least a hundred years. The favourite camping areas for many people will progressively be shut off. It will not happen all at once, but progressively, as has happened over the past 10 years.

Eventually vast areas will be classed as wilderness or backcountry under the pretext of it being untouched. That will occur over 10 to 25 years as the extremist environmental agenda continues unabated to pull

the New South Wales Government's strings. It is time for some of the Australian Labor Party people to show some of the guts and determination they are famous for. I oppose the legislation not because I do not believe in the concept of national parks but because I believe that State forests are far better managed for both people and environmental outcomes than are national parks.

[*Debate interrupted.*]

DISTINGUISHED VISITORS

The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner): I have pleasure in welcoming to the President's Gallery my Nationals colleague the Hon. Bill Baxter, a member of the Victorian Legislative Council.

BRIGALOW AND NANDEWAR COMMUNITY CONSERVATION AREA BILL

Second Reading

[*Debate resumed.*]

The Hon. JOHN TINGLE [9.36 p.m.]: I am not sure that there are polar bears in the Brigalow, but I oppose this bill for a number of reasons. Looking at the prospective effects this bill could have, I have a sense of deja vu. And, if it does not sound too Irish, I believe that the future of the towns in the area is already evident in what has happened in the past. The future of those towns and what will happen to them can be seen in what happened to Coolah. In my first year in this Parliament, I was one of four crossbench members—the Hon. Ian Cohen was another—who went to Coolah when the proposal was put to create the Coolah Tops National Park. That proposal was to take out the logging areas along the top of the ridge, which is the Coolah National Park today, and close down the mill at Coolah, which was virtually Coolah's only industry.

We went to Coolah to have a look at it for ourselves. It was an unpleasant, rainy day with a lot of cloud and mist amongst the mountains. We flew up in a light aeroplane, we got lost for a while, but when we got there we found a very sad little town. Houses were for sale for $500 and $1,000, because people were moving out; they could not sell those houses. We went to the mill, and that was a sad, derelict place. We found the families of the timber workers; the mothers, children and kids in their little sou'westers. They were gathered in the mill under a leaky roof to plead with us to save the timber industry in Coolah. In the event, it was not saved.

The timber workers who lived there were largely simple people; they tend to be that way. Often they are people with little or no education and are incapable of retraining, as suggested by the Government of the time. The mill was closed and the Coolah Tops National Park was set up. We have been told that it is a great success. It might be a great success for the national park, but for the mill, the families who lived in Coolah and the town itself, that event was the end. That is what worries me and why I oppose this bill. I think that that is what awaits the struggling little towns that are now lying in the dark shadow of this bill.

Reverend the Hon. FRED NILE [9.39 p.m.]: I oppose the Brigalow and Nandewar Community Conservation Area Bill. My colleague Reverend the Hon. Dr Gordon Moyes covered extensively all aspects relating to the bill and he outlined the concerns of the Christian Democratic Party. I want to add some comments regarding correspondence I received on 9 June from the New South Wales Farmers Association concerning this bill. The New South Wales Farmers Association is opposed to the bill and it is concerned about the impact it will have. It sent me briefing papers and a copy of a letter it sent to Mr Bob Debus, Minister for the Environment, in which it reiterates its position. Mal Peters, President of the New South Wales Farmers Association, states:

> The New South Wales Farmers' Association urges the State Government to reassess its decision to reserve 352,000 hectares of forested land through the *Brigalow and Nandewar Community Conservation Area Bill 2005* ... If the proposed area to be reserved is not reviewed, there will be serious socio-economic consequences for the communities in the region.

He goes on to state:

> The Bill apparently allocates 122,000 hectares of cypress pine to the industry under a 20 year wood supply agreement, to achieve a 57,000 cubic metres annual harvest. According to our calculations this would equate to a harvest rate of 0.46 cubic metres per hectare per year which is unsustainable. Current harvest rates are in the order of 0.15 cubic metres per hectare.

So this is a serious matter. Mal Peters then states:

> We would like to re-iterate the Association continues support the BRUS option as—

that is, the Brigalow Region United Stakeholders—

- it presents an outcome balance between production and conservation;
- reduces available volume by 3% and allows for continued access to a sustainable yield of white cypress saw logs of 68,000 cubic metres per year;
- allows for the protection as well as enhancement of conservation values across all tenures of land, including:
  - the continuation of viable small communities;
  - job security;
  - the maintenance of existing industries;
  - value adding;
  - expansion into new industries; as well as
  - the enhancement of Aboriginal aspirations.

I am sure all honourable members support those objectives. The Labor Party claims that it supports those objectives but because of the way in which this bill will operate it will not deliver those objectives. Mal Peters also states that the BRUS option:

- delivers an estimated 189,000 hectares of new conservation reserves within the Brigalow Belt; and
- is supported by 23 other stakeholder groups from the Brigalow Belt South Bioregion including local Aboriginal Land Councils, Chambers of Commerce, Country Women's Association, Landcare, Rural Lands Protection Boards, NSW shires Association and NSW Apiarists Association.

> The Association has been provided with a copy of the Opposition's proposal to secure a greater timber allocation of timber by adjusting the compartments.

Mal Peters supports the Opposition's proposed amendments and states:

> The Opposition's proposal is supported by the Association as they will ensure the minimum amount of timber required to keep the Gunnedah and Baradine Mills open and in operation.

The Christian Democratic Party, which takes into account advice that it receives from the New South Wales Farmers Association relating to issues affecting rural areas in New South Wales, opposes the bill and supports the amendments foreshadowed by the Deputy Leader of the Opposition. The letter goes on to state:

> In addition, the Association submits that the Government should exchange and/or provide two areas that the mills have been allocated for other areas. These are:
>
> - East Pilliga—an area destroyed by fire a few years ago and now unsuitable for timber production and which will not make any contribution to timber supply.
> - Bingara—an area too steep to harvest, with poor quality logs as well as soil too fragile to bear the disturbance of harvesting operations.
>
> Both of these areas would be more suitable for conservation and will not make any contribution to the volume of timber available to the mills.

So there are some practical problems relating to the Government's plans in the bill. I, like other speakers, am concerned about the fact that the Sinclair report was never made public. I do not believe it is right to claim it is a Cabinet document and that it should not be made public. The Government used a prominent member of The Nationals, a bit like the black sheep that is used on farms to lead other sheep to slaughter. Mr Sinclair was used to gain the confidence of farmers and timber workers in the area. I am sure that they believed that such a person, who is credible and honest, would conduct a thorough investigation and produce a genuine report and that the Government would accept it. Sadly, the report has been censored and no-one is allowed to see it, which reflects badly on the Government's promise to ensure open and accountable government. It has failed 100 per cent in that regard.

The Hon IAN MACDONALD (Minister for Primary Industries) [9.45 p.m.], in reply: I thank the many members who contributed to debate on this bill. I also take this opportunity to recognise the vast number

of organisations and individuals who contributed to debate in the community. Although people brought differing views to the negotiating table, the overwhelming interest was the maintenance of a sustainable cypress industry while protecting the unique ecosystem. The Government consulted widely with the local community and industry before making this historic and significant decision. I visited the region several times to discuss the industry's concerns and to seek a way forward.

Prior to the Government's announcement my colleagues and I toured the region on many occasions and met with all the people and groups involved in the process. I met the majority of local sawmill owners and spoke to many of their employees. On the invitation of Mr Peter Draper, MP, I met with local government councillors and mayors in Gunnedah and listened to their concerns. I also visited the cypress mills in Gunnedah, Baradine and Gwabegar. Prior to that I had already visited Ramiens mill in Dubbo and I met with many industry leaders at that time. Recently, and more importantly following the Government's announcement, I addressed local sawmillers from Brigalow and Nandewar to explain to them the Government's investment and assistance package.

All the mill owners from the south of the State were present at that meeting. Representatives from the rest of the State's cypress industry who were present were informed that the assistance package that was available to people in the Brigalow and Nandewar region would extend to them if they wished to take it up. That included access to the Government's two-for-one industry investment funding and to business exit and worker assistance packages. Throughout the Brigalow process I met with the New South Wales Forest Products Association and the Construction, Forestry, Mining and Energy Union. Those meetings were constructive and contributed to the balanced outcome that honourable members have before them today.

This decision follows on previous Labor Government's decisions that secured viable, sustainable timber industries for local communities and expanded the State's conservation areas. This decision recognises the value of a vibrant timber industry to local towns and their communities. This decision also implements the Government's 2001 Action for the Environment commitment to secure new conservation areas in the west of the State by ensuring a sustainable white cypress industry in the region. This balanced decision by the Government provides generous compensation packages to affected mill owners and workers while at the same time ensuring employment opportunities for the region.

This Government should be congratulated on the hard decisions it has made rather than being subjected to the usual doom and gloom predictions of the Opposition. Its arguments have been based on a variety of incorrect information and assumptions. I do not wish to labour the points made in the other place by my honourable colleague Mr Bob Debus, but is it not about time that members of The Nationals started to support these towns rather than predict their economic downfall?

A once respected party that stood for the bush now has no hesitation in rubbishing it. However, if there is one thing The Nationals have excelled at, especially after the announcement of a new national park, it is fear mongering and doom saying. But they are wrong. Indeed, The Nationals have never been right on this score. One might even think that The Nationals have employed John O'Brien's "Hanrahan" to script their tired, old and totally incorrect story. Without exception The Nationals have predicted economic and social disaster after every single forestry decision has been announced in the past decade.

My colleague documented their previous claims on the demise of—and these were the sorts of phrases they used at the time—"ghost towns". They referred to Casino, Grafton, Bellingen, Lismore, Nambucca, Macleay-Hastings, Gloucester, Dungog and, of course, Maitland. So what happened? From 1991 to 2001, the population of the Lismore region increased by 10 per cent. For the Coffs Harbour region, the population increased by 17 per cent over the same period. Kempsey's population increased by 8 per cent. Taree's population increased by 7 per cent. We get thoroughly tired of members of The Nationals predicting calamity, talking down the prospects of country towns and being entirely wrong. That is their history.

Honourable members heard the Hon. Duncan Gay, a Nationals member, tell this House on 26 May that the Brigalow and Nandewar decision "sounds the death knell for so many towns in the bioregion", and the honourable member for Coffs Harbour in another place said that many country towns in the area will be turned into "ghost towns" and "face oblivion". However, honourable members should take their predictions with a very large grain of salt. I will now address each inaccuracy in turn. Members of the Opposition, especially the Deputy Leader of the Opposition and the Hon. Rick Colless, spent a great deal of their time discrediting the Government's commitment to supply a sustainable level of timber to the mills. The claims alleging that the forests in the productive zone 4 areas will deliver neither the quantity nor the quality of white cypress to the industry over the next 20 years cannot be supported scientifically.

As far as I can tell, most of these claims have been based on visual observations from motor vehicles, at best, recently driven around the forests, or on simple and flawed calculations based on the total area of the State forest. As was the case with previous forestry assessments, the Government has developed a detailed understanding of the sustainable yield of the white cypress forests in the Brigalow and Nandewar regions. Indeed, a full inventory of the forest was collected during 1999 and 2000 as part of the Government's carefully planned and implemented assessment. Trees were exhaustively measured across large areas to provide information on the cypress resource. This detailed information was then used in a sophisticated computerised wood model designed and developed by Forests NSW.

The Hon. Rick Colless: Did you model in the 1997 fire?

The Hon. IAN MACDONALD: Could you just exercise a bit of restraint on this? I sat here and listened to the entire debate virtually without—

The Hon. Rick Colless: You weren't here last night when I was speaking. You came in for about two minutes.

The Hon. IAN MACDONALD: You are the most offensive person in this place. I took a bit of a break to do other work. Madam Deputy-President, would you call him to order?

The Hon. Duncan Gay: Point of order: I am sure the Hon. Rick Colless would find offensive, as I do, the suggestion that he is the most offensive person in this place.

The Hon. IAN MACDONALD: That was an exaggeration. You are far worse!

The Hon. Duncan Gay: There are some very offensive people in this place.

The Hon. IAN MACDONALD: Inaccuracy is not a thing you should ever question.

The Hon. Duncan Gay: I suspect your calling him "the most offensive person in this place" is something he wouldn't take too kindly to.

The Hon. IAN MACDONALD: If he does not take kindly to it, he can jump to his feet rather than you jump up like one of those metronome gnomes that you meet occasionally. This detailed information was then used—

The Hon. Duncan Gay: I understand that a point of order is before the Chair. The clown opposite has not acknowledged that.

The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner): Order! I suspect that consideration of this bill will be lengthy. To facilitate that consideration, might I suggest that members show each other a little respect.

The Hon. IAN MACDONALD: That is a sensible ruling. This detailed information was then used in a sophisticated computerised wood model—to repeat—designed and developed by Forests NSW to estimate the long-term volume—

The Hon. Duncan Gay: What is the software called?

The Hon. IAN MACDONALD: Can you listen for a while?

The Hon. Duncan Gay: It's a simple question. You told us you had a computer program. What is it called?

The Hon. IAN MACDONALD: Just hold on a second and I will tell you all.

The Hon. Duncan Gay: What is it called?

The Hon. IAN MACDONALD: I am not going to answer whenever you want to interfere in this debate.

The Hon. Duncan Gay: You can't. You don't know.

The Hon. IAN MACDONALD: I can. It is a wood supply model—to estimate the long-term volume of high-quality white cypress pine for the timber industry. In other words, it estimates the long-term sustainable yield over the next several hundred years. Among other things, these estimates account for log diameter, log length and any defects. It should be emphasised that this wood system is cutting-edge technology that has developed from the previous work undertaken in the coastal forest assessments. The Nationals have often made predictions that the resource would run out, but these have never come to pass and will not come to pass in the Brigalow and Nandewar regions. Opposition members should be aware that their estimates regarding supply in the Pilliga do not tell the whole story, as Forests New South Wales will also source timber from outside the bioregion.

Reverend the Hon. Fred Nile: The New South Wales Farmers Association was wrong too?

The Hon. IAN MACDONALD: Yes, but they are all right. They have their own interests in mind. Contrary to claims in the debate that very little timber will be available from private property, over recent years some mills in the area have been sourcing significant levels of private timber—for instance, Bingara and the Lacey's operation at Gulargambone. As part of the Government's decision, dedicated resources will be committed to sourcing more timber from private property and leasehold lands. The previous timber supply zones no longer apply and timber will be made available where appropriate, including from areas to the south. The Opposition's timber figures have been totally unreliable. Yesterday in the debate the figure suggested by the Hon. Rick Colless as the amount of timber that would be available following this decision was 29,000 cubic metres. The Deputy Leader of the Opposition said only two hours earlier in this House that he thought that the figure was likely to be 23,000 cubic metres. That figure was an increase of 3,000 cubic metres on his estimate of 26 May when he said, "The figure is probably more like 20,000 cubic metres."

Andrew Stoner, who knows a lot about everything to do with rural matters—I don't think!—is on the record referring to a figure of 25,000 cubic metres. Yesterday the Hon. Rick Colless also referred in debate to George Paul accepting a figure of 44,000 cubic metres of available timber. So on one side we have the Opposition starting the bidding at 20,000 cubic metres on 26 May—with estimates of 20,000 cubic metres, 23,000 cubic metres, 25,000 cubic metres, 29,000 cubic metres and as high as 44,000 cubic metres. The Opposition has estimates all over the place and is trying to fool the public of New South Wales!

On the other side the Government, which has conducted a comprehensive, scientific, resource assessment and developed a sophisticated, computerised wood model, is now offering guaranteed contracts that will be compensable if not fulfilled, up to a total volume of 57,000 cubic metres. Opposition members could not even agree yesterday on the amount of productive forest available for harvesting. Yesterday in debate, the Deputy Leader of the Opposition advised this House that there would be 122,000 hectares of productive forest remaining for cypress harvesting. Two hours later, there was the Hon. Rick Colless advising the House that the amount of productive forests remaining for timber production was, in fact, 145,000 hectares.

If Opposition members cannot agree amongst themselves what the figures are for sustainable yield and for the remaining productive forest—on the one day, in the one House, in the one debate—I cannot regard their claims seriously, and most people in New South Wales will agree with me. The Hon. Rick Colless raised the issue of extra costs for hauling timber from outside the region. His guesstimate of the amount to be "imported in", to use his term, is incorrect and vastly overstated. The Government's decision addresses this issue. Haulage assistance will be available as part of the wood supply agreements to equalise any transportation costs associated in sourcing timber from non-traditional supply areas. This had been factored into the budget well before it was raised in this Chamber.

In recent years a moratorium on logging has been in place for certain compartments nominated by the Western Conservation Alliance as having high conservation value. Some of the compartments logged through the moratorium will be reserved. About 70,000 hectares of State forest not available for logging through the moratorium will be available to the timber industry. The Deputy Leader of the Opposition raised concerns about gas reserves and future coalmining in the area. As indicated in the second reading speech, parts of the Brigalow and Nandewar regions have prime 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, to be legislated in this bill, will preserve the full economic potential of the regions by ensuring that local coal and gas reserves can be accessed by the mining industry. This includes land

in community conservation area zone 3, which is the same as a State conservation area in the National Parks and Wildlife Act, and land in zone 4. Both these zones permit exploration and extraction activities for gas and mining. Areas of high gas and minerals potential in the community conservation area were included in one or other of these zones. That means the bill preserves access for the mining industry.

The job potential from the gas and coal industries is considerable. There are varying predictions about investment and job growth, but they are all significantly positive. This is not mere speculation; 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, which I have visited. It is 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. Some estimates put the indirect employment growth from gas and coal development at more than 2,000. Last night the Hon. Duncan Gay alleged:

> ... there is no precedent for any mining or gas exploration being carried out in any State conservation areas anywhere in New South Wales.

Like practically everything else the Hon. Duncan Gay said last night, that is wrong. The facts are that mining exploration approvals have been granted for the Torrington State Conservation Area. And coalmining already occurs in the Dharrawal State Conservation Area and in the Illawarra Escarpment State Conservation Area. So once again the Hon. Duncan Gay destroys his argument with his comments.

The spectre of the largest bushfire in the history of the region was advanced as a justification for the Opposition's position. The NSW Rural Fire Service operational fire plan for the Pilliga will remain in force, providing for hazard reduction burning and strategic fire advantage zones. In addition to the existing operational fire plan, local communities will for the first time have direct input into co-ordinated fire planning across the entire Pilliga and other forests through community conservation advisory committees. As part of their charter, Forests NSW and the Department of Environment and Conservation are statutory fire authorities that are responsible for the management of fire on all lands under their control. The departments conduct co-ordinated prescribed burning and fuel reduction activities across the public estate. These activities are directed primarily at protecting life, property and assets in neighbouring areas.

The largest miller in the region, the Paul family, has been cited as supporting the Opposition's ravings—that is the only way to describe them. The Paul family, which runs the linked mills in Baradine and Gunnedah, has been strongly supported by the Carr Government for many years as a major player in the white cypress industry in this State. I am sure that all honourable members remember the fire that destroyed its mill in 2000 or 2001. The Government's offer of 20-year contracts to supply up to 57,000 cubic metres of timber each year—

The Hon. Duncan Gay: And they've got a guarantee of 10 years of timber if they rebuild it.

The Hon. IAN MACDONALD: They have still got that.

The Hon. Rick Colless: Have they got 20 years on top of the 10?

The Hon. IAN MACDONALD: No, they have still got their 10 years. They have five years left if they want to go that way. The Government's offer of 20-year contracts to supply up to 57,000 cubic metres of timber each year has been accepted throughout the industry. The main operator in the white cypress industry, the Paul family, met last week with Forests NSW. The day after, the mill manager, Paddy Paul, told Ray Hadley on radio 2GB:

> It was very good. We had open talks with Forests NSW. We requested a 20 year working of the forest to show us where the logs would be coming from. With the figures they've shown us it is workable.

I stress that point. He continued:

> We're just going to inspect a few areas to give ourselves confidence but we will continue on. It's a great relief not only for management but for our staff.

The Government's position is clear: We want the Paul's two mills to remain a permanent part of this important industry and we want the family to sign new 20-year contracts—which are compensable. The Government is working with the Paul family to ensure they have the security to proceed with these contracts. The question of timber quality and quantity has been the subject of intense scrutiny by the Government's best experts. The best

advice we have received is that the timber on offer to the Paul's operations in Baradine and Gunnedah is definitely there in both the required quantity and quality.

I am advised that yesterday Forests NSW issued a formal letter of intent to each of the relevant mills—including the Paul family—indicating they will be offered a 20-year contract for the supply of cypress timber. A draft copy of the contract will be issued later this week to commence negotiations on the final contract with each of the mills in the area. These contracts are extremely valuable: they can be traded on the open market and are compensable by the New South Wales Government if they are not fulfilled. They will contain both volume and quality specifications. I welcome the Paul family's indication that the operations will continue, and I look forward to working with them in the coming months.

I note that the day before members of The Nationals traipsed off in their vast numbers—I don't think!—to Gunnedah for a meeting, the family announced it would keep Gunnedah open. I was at Primex in Casino the other night and I looked around for Thomas George, who I thought might be there, and for Ian Causley. But, no, they were at Gunnedah hearing the good news that the Paul family will keep the Gunnedah mill open. I am sure that that was welcome news for members of The Nationals, who had been carrying on about dissent. The Nationals went to Gunnedah thinking they had it made. What a joke!

Any timber industry worker affected directly by this decision will be eligible for alternative employment at or near his or her current location. Workers will be paid at least their current salary, and in most cases will receive a better salary. The Government's decision and funding package will deliver a net increase in the number of permanent jobs throughout the region. The decision creates 50 permanent cypress thinning jobs and about 70 new jobs in zones 1 to 3 of the community conservation area. It is important to stress that the individual interests of every displaced timber worker will be managed carefully by the Government's successful Forestry Structural Adjustment Unit. A dedicated forest policy officer from the Construction, Forestry, Mining and Energy Union and the Forest Products Association will assist as required.

The emphasis on the typographical error on the map in the bill is a little bemusing. The towns of Pilliga and Gwabegar were labelled incorrectly—there is no question about that—and, of course, The Nationals, playing the big game, pointed out that typographical error. It shows how irrelevant they both are to the politics and policies of this State. When the maps were created for the bill the computer program that generates town names labelled the towns of Pilliga and Gwabegar incorrectly, and the problem was corrected as soon as it was discovered. I am advised that the map attached to the bill that has been circulated in the House is correct. The town names in the maps are not part of the legislation and the error does not affect the bill. But that did not worry the Hon. Duncan Gay, who spent half an hour talking about it!

A map was distributed with the bill that shows all the proposed new conservation reserves and areas of State forests. This map is also available on the Parliament's web site. The proposed new conservation reserves and areas of State forests described in the schedules of the bill are consistent with this map. That is what counts—not the flim and floss of that irrelevant lot in The Nationals. Offers have been made to give members all 37 of the schedule maps, and copies were provided when requested. As we heard during the debate, several members sought maps and received them.

The Hon. Duncan Gay asserted last night that the Government made a decision back in 2002, and he waved around an alleged leaked Cabinet minute. But let me be clear and set the record straight: the Government postponed the Brigalow decision in late 2002. There is no truth to the Opposition's claim that the proposal considered in 2002 is the same as the bill we are debating now. The proposal considered at that time related only to the Brigalow region, not to the Nandewar region—and it is interesting that the Hon. Duncan Gay omitted to mention that when he was waving his piece if paper around. Any comparison between the bill and that proposal is not valid. I shall touch briefly on some specific issues that were raised in the debate last night. First, I am very concerned that the Opposition specifically slurred in this place the name of public servant, Alf Said, who has been performing his duties in the region. I have confidence in the Forestry Structural Adjustment Unit and its staff.

The Opposition has tried to score political points with regard to the comments made by Craig Emerson, the Australian Labor Party member for the Federal Queensland seat of Rankin, who has made several ill-informed comments about the Government's decision. Dr Emerson claims to have intimate knowledge of the region because he lived in Baradine as a young man, having left there 35 years ago. Clearly, he knows little of what has been happening in the intervening period; otherwise he would not make his illogical intervention in this debate. For the record, the official position of the Federal Opposition was stated on 5 May by the shadow

Minister for the Environment and Heritage, Anthony Albanese. He made it clear that Craig Emerson's comments were not only irrelevant but stupid.

The Hon. Duncan Gay: What would Albanese know about it?

The Hon. IAN MACDONALD: Anthony Albanese is a very good member of Parliament. He congratulated the Premier "on his comprehensive plan to protect 348,000 hectares of woodland stretching from Dubbo to the Queensland border". Mr Albanese said also that the Government "has shown that with vision and conviction, long term environmental goals can be achieved without jeopardising the job security of timber communities". I would believe Anthony Albanese any day over Dr Emerson, this interloper from Queensland.

Dr Emerson has expressed a purely personal view but has made no effort to understand the Government's package. He is wrong in his analysis, and it is interesting to note that his most enthusiastic supporter has been the Deputy Prime Minister, John Anderson, who has been waging a political campaign on the issue, especially around his hometown of Gunnedah. Mr Anderson's position contradicts the policy of his Government, which has classified the Brigalow region as a "biodiversity hot spot" and explicitly supported significant permanent reservation of large areas of the region. It seems that Dr Emerson and Mr Anderson also share that characteristic: they do not mind contradicting their sides' official policies.

I turn to the Sinclair report. As is well known, in 2003 the Government asked Ian Sinclair to take another look at forestry assessment in the Brigalow region. I understand that he examined various issues and held discussions with some of the stakeholders. Mr Sinclair did not revisit the basic information that had been gathered as part of the lengthy assessment process. The document he submitted was fully considered before the Government made a final decision. Indeed, it was used to prepare material for Cabinet's consideration of this complex matter.

The Hon. Duncan Gay: Point of order: The Minister is quoting from a document that has not been published. If the Minister intends to provide information from the document, he should at least table it and put it on the public record. After all, it has cost New South Wales taxpayers thousands of dollars, only to be hidden under the guise of being a Cabinet document.

The Hon. Amanda Fazio: To the point of order: The Deputy Leader of the Opposition well knows there is no point of order. There is no standing order under which he can take that point of order, and I ask that you rule accordingly.

The Hon. Duncan Gay: Is there a Sinclair report?

The Hon. Amanda Fazio: That is irrelevant. You can only take a point of order pursuant to the standing orders. Your point of order might be interesting to you but it is not covered by the standing orders. Madam Deputy-President, I ask you to dismiss the point of order.

Reverend the Hon. Fred Nile: To the point of order: It has been the usual custom of this House that when a Minister refers to a document, members are entitled to ask that the document be tabled.

The Hon. IAN MACDONALD: To the point of order: Members can ask for whatever they like but they are not guaranteed to get it, and I am sure Reverend the Hon. Fred Nile knows that. The honourable member might want me to table the document, but it is my prerogative to decide whether to do so. I was not quoting from a document, as the Deputy Leader of the Opposition has suggested. That was yet another distortion, which is typical of him. He took a point of order on the basis that I was quoting from a document. I was simply referring to the document; I was not quoting even a scintilla of a sentence from it. The point of order is frivolous, as is usual from the Deputy Leader of the Opposition. And it is mischievous of Reverend the Hon. Fred Nile, the father of the House, to support the point of order. He should know better. Madam Deputy-President, I ask you to dismiss the point of order.

The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner): Order! I thought the Minister was referring to a document. If he quotes from the document, the course of the debate might change. The Minister may proceed.

The Hon. IAN MACDONALD: I think I can make up my mind about what I want to quote and deal with.

Reverend the Hon. Fred Nile: It is your right to decide whether to table it.

The Hon. IAN MACDONALD: That is correct, it is my right. However, it was only one of many Cabinet documents that were considered before the final decision was made, and it had only limited status in the final deliberations. Prior to Mr Sinclair's involvement, extensive socioeconomic and scientific material had been gathered, and there had been in-depth negotiations involving all interested and affected parties. This material stands several metres high and is publicly available. It was the core information that led to the final decision, and it is there for everyone to consider.

On the availability of exit assistance, businesses that can show an adverse effect would be eligible for assistance and considered by the Forestry Structural Adjustment Union on a case-by-case basis, as in previous assessments. A number of other issues were raised during the debate, some of which are outside the scope of the bill and a number of which are the subject of amendments to be moved by the Opposition and the Greens in Committee. I will take the opportunity to address relevant matters at that time.

However, I reiterate that the Government is totally committed to the conservation and employment outcomes the bill will achieve, and we will oppose any reductions. Further, the Government is confident that the guaranteed 20-year wood supply agreements, which are compensable, together with exceptional investment incentives contained within the Government's decision, will deliver a sustainable cypress industry for the Brigalow and Nandewar bioregions.

I flag that the Government will move amendments in Committee to further enhance the operation of the Act. This Labor package is a unique solution that is all about sustainability. It balances the need for profitable regional industries that support local communities with the need to conserve our natural environment.

The bill creates significant conservation reserves, a solid, long-term platform for the timber, mining and apiary industries, and, along with the Government's commitment to the delivery of new permanent jobs in the region, a vibrant strong local community. I am confident that with the surety of the 20-year wood supply agreements, in combination with unprecedented investment from the Government, the cypress pine industry will move from strength to strength through value-adding processing—as it has on the North Coast and the South Coast, supported by the investment strategy the Government has put in place.

The Hon. Duncan Gay: Point of order: Standing Order 56 reads:

Documents quoted in debate

(1) A document relating to public affairs quoted by a Minister may be ordered to be laid on the table, unless the Minister states that the document is of a confidential nature or should walk properly be obtained by order.

(2) an order under paragraph (1) may be made by motion without notice moved immediately on the conclusion of the speech of the Minister who quoted the document.

The Minister quoted the document in his reply.

The Hon. Amanda Fazio: How would you know? You have not seen it.

The Hon. Duncan Gay: The Minister quoted the Sinclair report and said it was inconclusive—so he actually quoted the document. Standing Order 56 does not specifically refer to a document quoted "from" by a Minister. The Minister quoted the Sinclair report, and therefore I call on him to table the document under Standing Order 56.

The Hon. IAN MACDONALD: To the point of order: The Deputy Leader of the Opposition's command of the English language is, at best, very limited. Paragraph (1) of Standing Order 56 refers to "a document relating to public affairs quoted by a Minister". The standing order says "quoted"; it does not say "referred to". The *Concise Macquarie Dictionary* defines the words "quote", "quoted" and "quoting" as follows:

1. to repeat (a passage, etc.) from a book, speech, etc., as the words of another, as by way of authority, illustration, etc.
2. to repeat words from (a book, author, etc.).

The Hon. Rick Colless: What does the third definition say?

The Hon. IAN MACDONALD: I will read them all for you. They do not help you, you silly nong. The definition continues:

3. to bring forward, adduce or cite—

I have not cited—

4. to enclose (words) within quotation marks.

The Hon. Duncan Gay: You have cited.

The Hon. IAN MACDONALD: I have not cited. I have referred to a document. I have not quoted from a document and, therefore—

The Hon. Duncan Gay: You quoted a document.

The Hon. IAN MACDONALD: I did not quote a document.

The Hon. Duncan Gay: Yes, you did, you quoted the Sinclair report.

The Hon. IAN MACDONALD: Stop it! I did not quote the Sinclair report.

Reverend the Hon. Fred Nile: We don't know for sure until we actually see the report.

The Hon. Duncan Gay: Exactly, we don't know that those words were not from it.

The Hon. IAN MACDONALD: You can move a motion at the end if you want to.

The Hon. Duncan Gay: Show us the document and then we will know.

The Hon. IAN MACDONALD: I am not showing you any document.

The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner): Order! I did not hear the Minister quote from the document. There is no point of order.

The Hon. IAN MACDONALD: I am confident that, with the surety of the 20-year wood supply agreements in combination with unprecedented investment from the Government, the cypress pine industry will move from strength to strength through value-adding processing. The Government's decision is to deliver 352,000 hectares of new conservation areas, $80 million for job creation industry development conservation, guaranteed supply of up to 57,000 cubic metres of cypress timber each year, which is fully compensable, 20-year wood supply agreements for each of the remaining cypress mills, a $2 for $1 government-industry investment package for mills looking to value-add, up to 130 new jobs in conservation management, and the creation of an entirely new land tenure called Community Conservation Areas. I commend the bill to the House.

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

The House divided.

Ayes, 22

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

Noes, 17

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

Pair

Dr Burgmann	Mr Gallacher

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 3 agreed to.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [10.30 p.m.], by leave: I move The Nationals-Liberal Party amendments Nos 1 and 2 in globo:

No. 1 Page 2, clause 4, line 25. Insert "(excluding the lands described in schedule 9)" after "Part 3".

No. 2 Page 6. Insert after line 33:

Division 6 Transfer to Aboriginal ownership

16 Transfer to Local Aboriginal Land Council of former State forests

(1) The lands described in schedule 9 are to be transferred by the Crown Lands Minister, in accordance with Division 2 of Part 2 of the *Aboriginal Land Rights Act 1983*, to the relevant Local Aboriginal Land Council.

(2) For that purpose, the Crown Lands Minister is taken to have granted a claim under Division 2 of Part 2 of that Act for the lands (whether or not the lands are claimable Crown lands or any claim has in fact been made).

(3) The lands are to be transferred as soon as practicable after the commencement of this Act.

(4) The Crown Lands Minister may, in connection with the transfer of any such land, do any one or more of the following:

(a) cause the land to be surveyed and adjust the boundaries of the land described in schedule 9 in accordance with the survey for the purpose of the transfer of the land,

(b) exclude from the transfer any part of the land that is subject to an existing interest immediately before the transfer,

(c) make the transfer subject to any such existing interest,

(d) make the transfer subject to any condition relating to the use of the land for a government purpose, whether by way of the creation of an easement, covenant, lease or other interest in or affecting the land.

(5) In this section:

Crown Lands Minister has the same meaning as it has in section 36 of the *Aboriginal Land Rights Act 1983*.

relevant Local Aboriginal Land Council, in relation to the transfer of land, means the Local Aboriginal Land Council constituted, under Division 1 of Part 5 of the *Aboriginal Land Rights Act 1983*, in relation to the area within which the land is situated.

After consultation with certain of the lands councils in the area, we believe that the control of the Terry Hie Hie State Forest and the Berrygill State Forest should be given to the Aboriginal land councils. As it stands at the moment, the Government still has the final decision on what they do with their land. The aboriginal land councils should have the right to make those decisions. It is no more than that; it is allowing the land councils to make decisions on the land that has been allocated to them.

The Hon. IAN MACDONALD (Minister for Primary Industries) [10.31 p.m.]: The Government supports the permanent conservation of all forests in the Terry Hie Hie group and their ongoing management with the involvement of the Aboriginal community. The Government opposes the transfer of Berrygill and Terry Hie Hie State forests to local Aboriginal land councils. Transfers are dealt with in detail in amendments Nos 2, 13, 14 and 36. As a consequence of the Government opposing those more substantive amendments, the Government opposes any lands being transferred from designated zones. Amendment No. 2 moved by The Nationals is a substantive amendment. The intent is to list Berrygill and Terry Hie Hie State forests without the permanent protection of Community Conservation Area Zone 2, and transfer the ownership to the local Aboriginal council. The Government opposes both these amendments.

Mr IAN COHEN [10.32 p.m.]: On behalf of the Greens I oppose The Nationals amendments Nos 1 and 2, which seek to transfer certain lands into Aboriginal ownership. The Greens support the recognition of Aboriginal ownership, but these proposed amendments are intended to allow the destruction of the woodlands in the area to continue. Proper protection of the area would not be afforded. The destruction of these areas is not

supported by the traditional owners of the area. Terry Hie Hie State Forest and Berrygill State Forest fall within the area of Moree Local Aboriginal Land Council. Traditional owners of Terry Hie Hie, Lou Swan and Yeena Thompson, both members of Moree Local Aboriginal Land Council, have contacted me to state that they had not been consulted and knew nothing of the Opposition's unexpected show of apparent support for land rights; the land council was not asked if it wanted the land.

They asked where the authority had come from to suggest this transfer without the consent of the Terry Hie Hie traditional owners. They also asked why only two forests were proposed when seven have high cultural significance. Such is the level of opposition to ongoing logging in State forests that members of the local Aboriginal community were involved in a blockade against logging in Mission State Forest earlier this year. The Greens do not support these amendments and will move amendments regarding Aboriginal rights in the region. It is quite clear that specific members who are representative of the indigenous community in this area, and have contacted my office specifically, are concerned about the moves by the Opposition. It is important that their names are on the record to clarify the situation.

Amendments negatived.

Clause 4 agreed to.

Clauses 5 to 14 agreed to.

Clauses 16 to 27 agreed to.

The Hon. IAN MACDONALD (Minister for Primary Industries) [10.38 p.m.], by leave: I move Government amendments Nos 1 and 2 in globo:

No. 1 Page 12, clause 28, line 17. Omit "13". Insert instead "15".

No. 2 Page 12, clause 28. Insert after line 29:

(f) one member is to represent the interests of local farmers, and

(g) one member is to represent the interests of local recreational users, and

The amendments will expand the number of members of the Community Conservation Advisory Committees from 13 to 15 to include representatives of local farmers and a representative of local recreational users. The amendments will also increase the quorum for meetings of committees from seven to eight. As a result of these amendments there will be a wider representation on the advisory committees, ensuring that local communities have a significant voice in the management of a Community Conservation Area. In relation to the amendments proposed by the Opposition, the Government opposes these changes. Reducing the number of representatives on local environment groups will unsettle the balance between the various interest groups.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [10.37 p.m.]: On the surface these are supportable amendments. Certainly paragraph (f) in amendment No. 2—one member to represent the interests of local farmers—is fairly close to the amendment we will move. We would not have any problem with that, but we certainly have a concern with the loose wording of paragraph (g) in amendment No. 2—"one member is to represent the interests of local recreational users". Who exactly are the recreational users? It could be the four-wheel drivers, it could be the horse riders, but it could be the local Byron Bay naturalists. Tell me why it could not be. They are recreational users.

The Hon. Michael Costa: The Minister will fix it up.

The Hon. DUNCAN GAY: How can we trust him to fix it up when he cannot even get the wording right in the bill? This is the same Minister who gave us a bill in which the map was wrong and the towns were wrong. It was obviously produced by the same computer that gave us the yield of the area. We would like to support the Minister but we cannot support paragraph (g) in amendment No. 2.

The Hon. JON JENKINS [10.38 p.m.]: As I said in my main contribution, I suspect these committees will end up being stacked by people who will toe the Green line, but I will support the amendment because I will continue to support the recreational community. I would like to see perhaps a horse rider on this committee. This area has a lot of horseriding communities around it. However, I also know that the extreme Green movement will progressively seek to ban all these activities within the next 10 years.

Mr IAN COHEN [10.39 p.m.]: The Greens do not object to the amendment; obviously, there is support for it. However, debate has descended to a level that is completely absurd. It really is at the level of an interjection that I would expect to hear from Minister Costa. Can we not stick to the issue when debating a matter as important as this? The comments made by the Deputy Leader of the Opposition about Byron Bay when speaking about matters affecting the Brigalow are almost as ridiculous as comments made about three kilometres of ice over New York.

Reverend the Hon. FRED NILE [10.40 p.m.]: The Christian Democratic party supports Government amendment No. 2, which really is moved on behalf of the Hon. Jon Jenkins, who has been campaigning for it. I ask the Government to indicate, in response to the discussion, that it is the intention that the person be a genuine recreational user, in the sense of the character intimated by the Hon. Jon Jenkins. So it will not be another Green, or so on, because that would defeat the purpose of the amendment.

The Hon. IAN MACDONALD (Minister for Primary Industries) [10.41 p.m.]: That is the Government's intention: that it be a recreational user.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [10.41 p.m.]: As the Minister has put on the record that it will be a person with proper recreational standing, the Opposition will support the amendment.

The CHAIR: Order! I issue a general warning that members who continue to interject and disrupt consideration of amendments will be called to order and, if necessary, removed from the Chamber.

Amendments agreed to.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [10.42 p.m.]: The Government's amendments cover in large part the amendments that the Opposition intended to move. My regret is that the Government's amendment did not include as a member of the committee someone from the Department of Primary Industries, namely, a representative of Forests NSW. Such a representative would have been a professional and proper person to serve on the committee. Given that the Committee has just voted to include on the committee a recreationalist, and there has been agreement about appointment of a farmers' representative, I would have thought it better to have on the committee a professional person from Forests NSW. However, I am happy now that the Committee has agreed to the appointment of a recreationalist. I would hope for a compromise that the person be a recreationalist from the Department of Primary Industries. I had intended to move Opposition amendments Nos 3 and 4 in globo. But I will now not move amendment No. 4 I formally move amendment No. 3:

No. 3 Page 12, clause 28, line 33. Omit "three members are". Insert instead "one member is".

Mr IAN COHEN [10.44 p.m.]: The Greens do not support Opposition amendment No. 3. I regard it as being connected with Opposition amendment No. 4, so my remarks would be equally applicable to both amendments. Amendment No. 3 seeks to reduce representation of environmental groups on the Community Conservation Advisory Committee from three to one. Instead, the Opposition intends to include as a member of the committee a broadacre farmer and officer of the Department of Primary Industries. Even with three representatives of environmental groups, those representing environmental concerns on the committee are in the minority. The Opposition seeks to sway the balance of the advisory committee away from environmental concerns and conservation values. Therefore the Greens do not support Opposition amendment No. 3. Quite clearly, the conservation representatives already are in the minority.

The Hon. RICK COLLESS [10.45 p.m.]: Having heard what was said by Mr Ian Cohen, I cannot fathom how he can still justify three Greens being on the committee. The list says that one is to be the chairperson of the Catchment Management Authority, one is to represent the interests of local government, one is to represent the interests of the forestry industry, one is to represent the interests of the mining industry, one is to represent the apiary industry, two members are to represent the interests of the Aboriginal people—but they do not have to be Aboriginal, do they, Minister?

Reverend the Hon. Fred Nile: But they should be.

The Hon. RICK COLLESS: Yes, they should be Aboriginal, but they do not have to be Aboriginal. So those two people representing the interests of the Aboriginal people may well be members of the Greens—and more than likely will be! Two members are to have relevant scientific expertise—

The Hon. Michael Costa: That rules out the Greens.

The Hon. RICK COLLESS: One would hope it would rule out the Greens. Unfortunately, I do not think it necessarily does. Three members are to represent the interests of local environmental groups. One member is to be a member of the National Parks Regional Advisory Committee, who also will be a member of the extreme environmentalist movement. Following the amendment that has just been passed by this Chamber, one landholder and one recreational user will be members of the committee. To my mind, that means it is more than likely that there will be eight Greens on the committee—of a total of 15! Mr Ian Cohen says there will be only three Greens on the committee. What absolute nonsense! I urge honourable members to support Opposition amendment No. 3. It is the only fair thing to do.

The Hon. IAN MACDONALD (Minister for Primary Industries) [10.46 p.m.]: The Government opposes the amendment.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [10.46 p.m.]: How can the Government oppose this Opposition amendment? It is about fairness and balance. There are far too many Greens on the committee. If we do the arithmetic on how many Greens could serve on the committee, we will see that my colleague the Hon. Rick Colless underestimated the number; he was two short. In fact, 10 of the 15 could be Greens. Knowing how Minister Macdonald and his fellow travellers Bob Debus and Bob Carr operate, as the country Green alliance of the Labor Party, you can bet your sweet bippy that 10 of the 15 will be Greens. To bring balance to representation on the committee, the Opposition is suggesting that there should be one, rather than three, Greens. That would bring their representation back to eight. They will still have the balance of power, but at least that will give the others a chance.

Mr IAN COHEN [10.48 p.m.]: I do not wish to waste the time of the Committee on this matter, but I would appreciate it if this Chamber had an Opposition member who knew arithmetic. It is interesting to hear their presumptions. What is a Green? What does the Deputy Leader of the Opposition call a Green? I really would like to know.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 18

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

Noes, 21

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

Pair

Mr Gallacher	Dr Burgmann

Question resolved in the negative.

Amendment negatived.

Clause 28 as amended agreed to.

Clauses 29 to 34 agreed to.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [10.56 p.m.]: I move The Nationals-Liberal Party amendment No. 5:

No. 5 Page 15, clause 35, line 15. Omit "7". Insert instead "5".

This amendment seeks to streamline review of the Act and the community conservation area agreement from seven to five years. It is important to have the reviews simultaneously and we believe that seven years is too long. This simple amendment means that the review of the Act and the review of the community conservation area agreement will be held at the same time, that is, at five years. I commend the amendment to the Committee.

Mr IAN COHEN [10.57 p.m.]: The Greens oppose the amendment, which seeks to reduce the review period of the community conservation area agreement to five years from the current seven years. The Greens oppose this proposal because a great deal of effort has gone into creating the new system of community conservation areas. Adequate time is needed to ascertain how the new system is working and five years is insufficient time under these circumstances.

The Hon. IAN MACDONALD (Minister for Primary Industries) [11.58 p.m.]: The Government opposes the amendment because the review period, as currently stated, is considered appropriate.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.59 p.m.]: I cannot understand the logic of having a five-year period to review the Act and a seven-year period to review the community conservation area agreement. Why not do them both together and have them both at five years? It is good government, it is clean, it is sensible, and seven years is too long. The legislation already provides for a five-year review. I ask the Minister to rethink his position and agree to this sensible measure.

Amendment negatived.

Clause 35 agreed to.

Clause 36 agreed to.

Mr IAN COHEN [11.00 p.m.]: I move Greens amendment No. 1:

No. 1 Page 16. Insert after line 5:

37 Indigenous land use agreements

(1) The Community Conservation Council and a Community Conservation Advisory Committee must, in exercising their functions, have regard to the relevant provisions of any indigenous land use agreement under the *Native Title Act 1993* of the Commonwealth that relate to the Community Conservation Area.

(2) This section extends to functions relating to the development of the Community Conservation Area Agreement.

The amendment seeks to ensure that the Community Conservation Council and the Community Consultation Advisory Committee must have regard to provisions of indigenous land use agreements under the Commonwealth Native Title Act 1993. An Indigenous Land Use Agreement [ILUA] is a voluntary agreement between a native title group and others about the use and management of the land and the waters. It allows people to negotiate flexible, pragmatic agreements to suit their particular circumstance. While ILUAs can be made separately from the formal native title process, they may also be stepping stones toward, or be part of, native title determinations. There is no mention in the bill of the potential indigenous land use agreements. Although this would not prevent such an agreement being made, the Greens feel it would be highly desirable to have them recognised in the bill. I commend Greens amendment No. 1 to the Committee.

The Hon. IAN MACDONALD (Minister for Primary Industries) [11.01 p.m.]: The amendment merely seeks to explicitly ensure that community conservation councils and community conservation advisory

committees have regard to relevant provisions of any indigenous land use agreement when exercising their functions. My advice is that this would have occurred even without the inclusion of an explicit requirement. On that basis the Government is prepared to support the amendment.

Amendment agreed to.

Clauses 37 as amended agreed to.

Clauses 38 and 39 agreed to.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.03 p.m.], by leave: I move The Nationals-Liberal Party amendments Nos 6 to 35 and Opposition amendments Nos 1 to 4 in globo:

No. 6 Page 17, schedule 1, part 1, lines 25 to 30. Omit all words on those lines.

No. 7 Page 18, schedule 1, part 1, lines 7 to 12. Omit all words on those lines.

No. 8 Page 19, schedule 1, part 1, lines 7 to 12. Omit all words on those lines.

No. 9 Page 19, schedule 1, part 1, lines 31 to 36. Omit all words on those lines.

No. 10 Page 20, schedule 1, part 1, lines 7 to 12. Omit all words on those lines.

No. 11 Page 22, schedule 1, part 1, lines 1 to 12. Omit all words on those lines.

No. 12 Page 22, schedule 1, part 1, lines 19 to 24. Omit all words on those lines.

No. 13 Page 24, schedule 2, part 1, lines 8 to 13. Omit all words on those lines.

No. 14 Page 25, schedule 2, part 1, lines 31 to 36. Omit all words on those lines.

No. 15 Page 27, schedule 3, part 1, lines 8 to 19. Omit all words on those lines.

No. 16 Page 27, schedule 3, part 1, lines 26 to 31. Omit all words on those lines.

No. 17 Page 29, schedule 3, part 1, lines 7 to 12. Omit all words on those lines.

No. 18 Page 29, schedule 3, part 1, lines 19 to 24. Omit all words on those lines.

No. 19 Page 30, schedule 3, part 1, lines 1 to 6. Omit all words on those lines.

No. 20 Page 30, schedule 3, part 1, lines 25 to 30. Omit all words on those lines.

No. 21 Page 33, schedule 4. Insert after line 6:

7 Z3-11: Beni State Forest

An area of about 1,813 hectares, being whole or part of BENI State Forest No 435 and being the land designated as Z3-11 on the diagram catalogued MISC R 00310 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

No. 22 Page 33, schedule 4. Insert after line 18:

9 Z3-13: Biddon State Forest

An area of about 3,362 hectares, being whole or part of BIDDON State Forest No 449 and being the land designated as Z3-13 on the diagram catalogued MISC R 00306 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

No. 23 Page 33, schedule 4. Insert after line 30:

11 Z3-08: Bobbiwaa State Forest

An area of about 2,692 hectares, being whole or part of BOBBIWAA State Forest No 416 and being the land designated as Z3-08 on the diagram catalogued MISC R 00285 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

No. 24 Page 33, schedule 4. Insert after line 36:

12 Z1-14: Breelong State Forest

An area of about 1,151 hectares, being whole or part of BREELONG State Forest No 429 and being the land designated as Z1-14 on the diagram catalogued MISC R 00307 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

No. 25 Page 34, schedule 4. Insert after line 24:

16 Z1-02: Couradda State Forest

An area of about 360 hectares, being whole or part of COURADDA State Forest No 159 and being the land designated as Z1-02 on the diagram catalogued MISC R 00284 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

No. 26 Page 36, schedule 4. Insert after line 24:

28 Z1-15: Eura State Forest

An area of about 2,266 hectares, being whole or part of EURA State Forest No 430 and being the land designated as Z1-15 on the diagram catalogued MISC R 00307 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

No. 27 Page 37, schedule 4. Insert after line 18:

33 Z3-02: Killarney State Forest

An area of about 1,858 hectares, being whole or part of KILLARNEY State Forest No 195 and being the land designated as Z3-02 on the diagram catalogued MISC R 00285 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

No. 28 Page 37, schedule 4. Insert after line 24:

34 Z1-17: Lincoln State Forest

An area of about 3,435 hectares, being whole or part of LINCOLN State Forest No 437 and being the land designated as Z1-17 on the diagram catalogued MISC R 00307 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

No. 29 Page 37, schedule 4. Insert after line 24:

34 Z3-20: Merriwindi State Forest

An area of about 1,729 hectares, being whole or part of MERRIWINDI State Forest No 839 and being the land designated as Z3-20 on the diagram catalogued MISC R 00290 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

No. 30 Page 37, schedule 4. Insert after line 36:

36 Z1-10: Moema State Forest

An area of about 2,018 hectares, being whole or part of MOEMA State Forest No 551 and being the land designated as Z1-10 on the diagram catalogued MISC R 00284 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

No. 31 Page 38, schedule 4. Insert after line 25:

40 Z3-06: Pilliga West State Forest

An area of about 34,244 hectares, being whole or part of PILLIGA WEST State Forest No 267 and being the land designated as Z3-06 on the diagrams catalogued MISC R 00287 (Edition 1) and MISC R 00288 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on those diagrams.

No. 32 Page 39, schedule 4. Insert after line 36:

48 Z3-01: Trinkey State Forest

An area of about 10,228 hectares, being whole or part of TRINKEY State Forest No 177 and being the land designated as Z3-01 on the diagram catalogued MISC R 00296 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

No. 33 Page 40, schedule 4. Insert after line 18:

51 Z1-07: Wittenbra State Forest

An area of about 6,983 hectares, being whole or part of WITTENBRA State Forest No 274 and being the land designated as Z1-07 on the diagrams catalogued MISC R 00290 (Edition 1) and MISC R 00291 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on those diagrams.

No. 34 Page 40, schedule 4. Insert after line 36:

54 Z1-05: Yarrigan State Forest

An area of about 3,130 hectares, being whole or part of YARRIGAN State Forest No 272 and being the land designated as Z1-05 on the diagram catalogued MISC R 00291 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

No. 35 Page 40, schedule 4. Insert after line 36:

54 Z1-06: Yearinan State Forest

An area of about 2,876 hectares, being whole or part of YEARINAN State Forest No 273 and being the land designated as Z1-06 on the diagram catalogued MISC R 00291 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

No. 1 Page 19, schedule 1, Part 1, lines 1 to 6. Omit all words on those lines.

No. 2 Page 21, schedule 1, Part 1, lines 1 to 6. Omit all words on those lines.

No. 3 Page 36, schedule 4. Insert after line 6:

25 Z1-04: Etoo State Forest

An area of about 2,096 hectares, being whole or part of ETOO State Forest No 269 and being the land designated as Z1-04 on the diagram catalogued MISC R 00289 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

No. 4 Page 38, schedule 4. Insert after line 25:

40 Z1-22: Pilliga West State Forest

An area of about 7,927 hectares, being whole or part of PILLIGA WEST State Forest No 267 and being the land designated as Z1-22 on the diagram catalogued MISC R 00287 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

These amendments are the absolute key amendments to the bill in relation to the supply of timber. It is interesting to note that in his summation tonight the Minister indicated that the Pauls had signed off and that a contract had been sent to them by the department. I have to inform the Committee that I spoke to George Paul at 6.00 p.m. tonight and he authorised me to advise the Committee that he has not signed a contract because, first, at this stage he is not satisfied with the resource and, second and more importantly, he does not have a contract. George Paul said to me at 6.00 p.m. tonight that he did not have a contract. If there were a contract before the bill had passed through the Parliament that would be pretty suspicious. We have not decided what may or may not happen.

I cannot understand how any bureaucrat or any Minister could pre-empt a decision of the Parliament by sending out a contract in the terms of a bill that had not been to the upper House, let alone returned to the lower House and sent to the Governor for her consent. Any activity of that type would have been pretty ordinary. The amendments reflect the letter I sent to the Minister and a letter I received from NSW Farmers supporting them. These amendments are for the people of the Brigalow and the people of the southern area where ironbark grows, the area of forest on the edge of the Goonoo—not inside the Goonoo because we have accepted that is an area that should be preserved. These are small pockets of forest outside the Goonoo. Yesterday I received an undated faxed letter from Gunnedah Timbers, which states:

Dear Duncan,

I acknowledge the communication of the 20 June regarding the amendments proposed by The Nationals during debate in the upper House on the Brigalow and Nandewar Community Conservation Area Bill 2005.

The proposed changes are almost identical to those submitted by my father to Mr MacDonald on 9th May, with the following additions.

The Greens should listen to these important additions. In the letter, Paddy Paul of Gunnedah Timbers indicated his support for our amendments and stated:

The proposed changes are almost identical to those submitted by my father to Minister Macdonald on the 9th May, with the following additions

1. That mindful of the Premier's commitment in relation to the Permanent Conservation that the following areas provided in the Bill to remain State Forests should be transferred to Permanent Conservation.

   (a) Forests in the Inverell Forest Management Area
   Bingara
   Severn
   Bebo
   Strathmore
   Daffey's

(b) That an area of the East Pilliga Forest, west of the Newell Highway and adjoining the existing Pilliga Nature Reserve, sufficient to enable the Premier's announcement of 348,000 hectares of permanent conservation to be satisfied.

At this point I reinforce what Paddy Paul said and George Paul put in his letter. First, the Pauls support the Opposition's amendments. They support the necessity for the extra forest from the specific area. But contrary to the point of view of many people who would like to paint these people as forest rapists and pillagers, in their letter of 9 May they state that forest areas that had been put aside to be harvested should be put into a permanent conservation area. This supports the dignity and decency of these people. The letter I received yesterday from Paddy Paul further stated:

1. That the Government acknowledge that only three sawmills are potential parties to a 20 year wood supply agreement—namely Gunnedah, Baradine and Gulargambone. The allocated resources for these mills totals 44,000m3.

3 That the Harvest Plans submitted by State Forests covering this 44,000m3 was based on the Assumption that the Endangered Species Licence requirements would be relaxed. As no such Reduction has taken place then the harvest potential of the remaining State Forest areas is something less than 44,000m3. It is understood that the existing licence Requirements could reduce the sustainable harvest volume from 5% to 20%.

4 In order to ensure that the forests are being sustainably logged and to assist concerns regarding log quality it should be a requirement that the average log size is not less than .15m3 per log. Since all forestry logs to the sawmills are by weight it is a simple matter to arrive at the average log weight and consequently average log size.

5 That the Government remove the gag placed on officers of State Forest and allow them to speak the truth of their knowledge of the Pilliga and Nandewar Forests and their opinion of Sustainable yield without fear of retribution.

Clearly the Minister's comments can now be seen as a distortion of the truth at the very least and misleading the House at worst. I have a copy of a letter of 20 June 2005 that was sent to the Editor of the *Northern Daily Leader,* signed by George Paul, Director of Gunnedah Timbers. That letter puts further doubt on the Minister's comments about the 44,000 cubic metres of timber. The letter to the Editor of the Tamworth *Northern Daily Leader* stated:

Dear Sir,

I would like to take this opportunity of replying to some of Mr Draper's comments on the timber industry. Mr Draper, after much initial inertia attempted to support the Brigalow Belt South Bio Region BRUS option while at the same time blaming the Proprietors of Gunnedah Timbers for not accepting the Government's 20 year wood supply agreement. Mr Draper, please learn something about the industry before offering unwarranted advice.

The Minister selectively quoted this document yesterday. I am putting the full document on the record so that honourable members can weigh up the Minister's selective quotes yesterday and today. The letter further stated:

Surely you should know by now that it is virtually impossible to obtain a water tight agreement with a Government where a question of quality is involved. I have no doubt that the Government can supply the timber industry of the Brigalow Belt with 44,000m3.

The Minister stopped quoting at that point. However, the letter continued:

I have no doubt that the Government can supply the timber industry of the Brigalow Belt with 444,000m3 of logs annually (certainly not the 57,000m3 promised by Premier Carr)—

and dare I say the Minister as well—

But I am equally sure that it cannot supply that quantity of suitable quality logs and I'm doubly sure that that volume cannot be supplied without destroying the long term sustainability of the forest.

The proprietor of the Gunnedah sawmill said that, first, there are 44,000 cubic metres but they are not a quality saw log or a sustainable yield. This supports our concern that the lack of resource, on which the Greens have signed off, will result in an environmental nightmare. There is nothing surer than that, and that is contained in the letter that the Minister selectively quoted yesterday. Quoting the full letter will show honourable members that there is an entirely different point of view. The letter continued:

It is not a question of annual compensation that you have referred to. A period of 3 months of poor quality logs could send most sawmills to the wall.

We have seen that during the moratorium. This matter is important. The letter further stated:

> Once a log is in the mill yard the ability to claim becomes difficult. The question of log quality, and in this instance, log size, must be determined before landing in the mill yard. That is why we are requesting specifications to be included in any new wood supply agreement must include a minimum log size being not less than .15m3 per log. As all log purchases are by weight it is a simple matter to determine average log volume on every load. The situation we are faced as a sawmill operator is difficult enough dealing with the Government Your interference—

this is referring to Peter Draper—

> does nothing to help my company or the timber industry of the Brigalow region.
>
> Mr. Draper is aware that Gunnedah Timbers has an existing wood supply agreement with the present State Government and believes that the company should let the contract run for a further five years and assess their option in 2010. Will you Mr. Draper, then explain to each worker why he will not then be entitled to $72,000.
>
> Mr. Draper I am bitterly disappointed that you continue to support the Government as was evidenced by your enthusiastic endorsement of the Premier's announcement of 4th May. An announcement that was nothing short of disastrous for the timber industry of the Brigalow Belt. Your silence while your fellow member Mr. Torbay tries to smear my name is further testimony of the reasons for that disappointment.
>
> Yours faithfully,
>
> George Paul
> Director. 20.6.05

When one gets past the spin and the selective quotes, one finds an entirely different picture emerging. The Coalition will not indulge in personal vilification in this Parliament.

Mr Ian Cohen: It is a bit late.

The Hon. DUNCAN GAY: It is interesting that Mr Ian Cohen says that it is a bit late. We have run a couple of debates on the Brigalow. The first one was during a censure motion and the second one is debate on this bill. We have run those debates on what we believe to be valid environmental and economic grounds. Members of the Coalition have suffered pretty incredible personal vilification throughout the debates, and it is a great pity that Mr Ian Cohen, for whom I have a great deal of respect which has only increased since I have been a member of this Parliament, has not lived up to the respect I have had for him in the past because of that vilification and his inability to deal with the concerns identified by George Paul. Mr Ian Cohen has donned the rose-coloured glasses and has signed off on an arrangement that will make forests and the people involved in the timber industry worse off. I commend the amendments to the Committee.

The Hon. IAN MACDONALD (Minister for Primary Industries) [11.21 p.m.]: The Government opposes all the amendments. They are basically designed to undo the entire decision. The Deputy Leader of the Opposition has belaboured a couple of points. First of all he tried to imply that I have selectively quoted Mr George Paul's comments in a letter that was published in the *Namoi Valley Independent* on 21 June. I quoted one paragraph that deals with Mr Paul's assessment of the availability of wood for the purpose of illustrating the different figures that had been cited. The Deputy Leader of the Opposition just glosses over the issues.

The Hon. Duncan Gay: I quoted the full paragraph. You quoted one sentence.

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition should hold on a second. He does not listen to anyone in this place. I quoted that particular paragraph for one reason, and one reason only. In that paragraph, George Paul, who is the director of Gunnedah Timbers, was saying that he thought there were 44,000 cubic metres of logs.

The Hon. Rick Colless: But not sustainable.

The Hon. IAN MACDONALD: The Hon. Rick Colless should just be quiet. I have listened to the Deputy Leader of the Opposition ramble on for quite a while. I have listened to what he said, and I am just about to explain why he is wrong. He is wrong because I was not dealing with any other issue except the issue of the quantity of wood that potentially was available for supply. I wanted to show that the estimates varied one week from the Deputy Leader of the Opposition's 20,000 cubic metres to George Paul's 44,000 cubic metres a week or two later. That is all I was doing. Moreover, in between those two estimates, every other figure was mentioned by people such as the Hon. Rick Colless and the Leader of The Nationals, Mr Stoner, as well as others. That is all I was quoting that particular paragraph for—to illustrate the difference between estimates given on the one hand by the Deputy Leader of the Opposition and his colleagues and on the other hand by Mr George Paul about

how many cubic metres of timber was available in that area. The first point I make is that that was all I was doing, and I was doing it for no other reason. I was dealing with no other issue in relation to any other point. I was merely demonstrating that the Deputy Leader of the Opposition could not get his figures right. The second point I make is that I did not say that contracts had gone out. I will repeat what I said:

> I am advised that State Forests have yesterday issued a formal letter of intent to each of the relevant mills, including to the Paul family, indicating that they will be offered a 20-year contract for the supply of cypress timber. A draft copy of the contract will be issued later this week

I emphasise the words "a draft copy" and "later this week"—

> in order to commence negotiations on the final contract with each of the mills in the area.

The first point made by the Deputy Leader of the Opposition during his contribution to the second reading debate was absolutely inaccurate. I did not say that we had sent out contracts. I said that we would be sending out drafts later that week, and I said that for a very good reason. Every one of the mill owners to whom I had spoken, which would be nearly all of the mill owners in the entire cypress industry in New South Wales, wanted to see what was in the contract and to get some idea of the scope of the contract. But we have ideas about contracts because plenty of them have been signed with mills on the North Coast and the South Coast of New South Wales. We wanted to give them an idea of the issues that would have to be canvassed in the contracts, not just the supply of a certain quantity. I was concerned to give the industry an idea of the scope of the contracts. The contracts included terms stating not only the quantity of wood the suppliers would provide but also the quality issues that they needed to address.

Mr IAN COHEN [11.25 p.m.]: The Greens do not support these amendments. The first of the amendments seek to remove areas from zones 1, 2 and 3 of the community conservation areas. Other amendments take the areas that have been removed from zones 1, 2 and 3 by virtue of the earlier amendments and transfer them into the zone 4 category where they will be available for logging. That will permit extensive logging of the remnant western woodlands. It is completely unnecessary to add timber-getting areas to the areas that are currently provided in the bill. The timber industry has now agreed that sufficient timber will be available under the Government's decisions, so the Greens oppose these amendments.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.26 p.m.]: The Minister raised what is probably a spurious issue, but I will address it because it relates to his comments about the difference in estimates of available timber. The first figure was based on the bill that was originally introduced, but honourable members may recall that the Minister first claimed that there were 57,000 cubic metres of timber. Later he had a meeting in Dubbo where he topped up the estimate a bit. The estimate was still 57,000 cubic metres, but the Minister topped it up a bit. The industry's estimate at that time ranged from approximately 20,000 cubic metres to 23,000 cubic metres. The Minister subsequently had a meeting, and when the legislation was first introduced, the estimate was topped up again. The estimate variously ranged from 23,000 cubic metres or 24,000 cubic metres to 27,000 cubic metres, depending on whom one spoke to in the industry.

The Coalition has been speaking to people who have been involved in the industry for many years. The Minister has indicated that the source of his information is some new miracle computer program. He will not even tell us where the program comes from. I suspect from the snickering of his advisers that it may well be the same program that produced the map showing towns in the wrong places. If I am wrong, I am sure that the Minister will correct me. I would be interested to know if the software on which the Minister relies was developed in Australia or the United States of America and what its margin for error might be. I will take a giant leap and suggest that if the program is the one that had the towns placed in the wrong areas, who knows what else it will get wrong? The professionals in the timber industry who are involved in the industry on a daily basis say that the Minister's estimate of available timber is wrong.

No-one cavils at an estimate given by a person of the calibre of George Paul that there are potentially 43,000 cubic metres of timber, but whether the timber consists of good logs that can be used by his mill to continue a profitable operation is another matter. As important as anything else—or perhaps more importantly—this fellow, certainly along with everyone else I have spoken to in the timber industry, tells me that the pressure this legislation will put on this forest is unsustainable. There is a very real concern among the true professionals within the Minister's department, who care for this forest and know the history of the department's management of it over more than a hundred years, that it will be turned over and destroyed by this fallacy the Minister is putting forward to appease people who do not know and do not care.

I suspect in his heart the Minister knows it is wrong. I suspect—and I will give him credit for this—that he has been rolled by the two Bobs, and you would not give two bob for them in this decision because it is an ordinary decision. I hope we get support to be able to bring these areas into the conservation zone and redress the issue. It is not only George Paul. Other people I spoke to during my visit to the region said they could not understand why some of the areas were not put into the high-quality conservation zones. These guys are saying the Minister has it wrong. It is a pity that there were not enough people big enough to say, "We went out like a mob of idiots, stuffed it up and got it wrong. We are going to destroy the industry and the environment. We should listen to the people and just get on with it." That is why we sent the compromise letter. It was not totally what we wanted. We firmly believe that BRUS is the best option. But I sent a compromise in a formal letter to the Minister and as of today I have not had a formal response. That offer is here on the table within these amendments in an attempt to do something for the industry.

The Hon. RICK COLLESS [11.31 p.m.]: The Minister made an accusation about a certain comment I made regarding 44,000 cubic metres of logs annually. The letter from George Paul that the Deputy Leader of the Opposition read clarifies this point. I made the point in my speech last night that there may well be 44,000 cubic metres of logs that can be taken out over the next 20 years, but they will not be able to be taken out for the following 20 years, 40 years or 60 years. The point is, and it is exactly what George Paul points out in his letter, that the Minister is going to drive the forest into oblivion by over-cutting it. He will be cutting it at a much greater rate than 0.35 cubic metres per hectare per year, which is the maximum rate at which those forests grow. Those forests grow at 0.28 to 0.35 cubic metres per hectare per year. Forestry people have told me that for a long time. How does the Minister expect to cut the forest at a much higher rate than that and have the forest survive on a sustainable basis? That is what George Paul points out in his letter. I will repeat it. He said:

> I have no doubt that the Government can supply the timber industry of Brigalow Belt with 44,000m3 of logs annually … But I am equally sure that it cannot … be supplied without destroying the long term sustainability of the forest.

That is exactly the point I made to the Minister last night. A lot has been said about the Bingara mill, that it was in financial difficulties and about to go under anyway. The honourable member for Northern Tablelands made a big deal of this, but Peter Turner from the Bingara Sawmill points out that that situation has been forced on the Bingara mill over the past four years of the moratorium because it has had poor quality logs. In case the Minister does not realise, the quality of the logs is almost wholly dependent on the diameter of the log and obviously, as the Deputy Leader of the Opposition was pointing out, the total log volume. The problem is that small logs will only yield about 30 or 35 per cent, and in some cases even less, finished timber. When one gets the bigger logs or an average yield of all the cypress forest areas there is about a 40 to 42 per cent yield out of a log. Good-quality timber—where the logs are a bit bigger, free of knots and have been properly self-pruned, managed and thinned and so on—can yield up to 50 per cent or even more. I notice the Minister is walking away. He is not interested in this. He is turning his back on it.

The Hon. Christine Robertson: I am listening to you.

The Hon. RICK COLLESS: I know the Hon. Christine Robertson is but the Minister is not listening, and unfortunately he is the one who has the whip hand. The point is a mill such as the Bingara mill has been driven into this ever-decreasing circle with poor quality logs over the four years of the moratorium. Peter Turner told me they were previously accessing logs from plenty of forest areas where the forest had been undercut and the logs were decaying, again reducing their yield and making it that much harder for them to make money. That is why we want to bring in some of these better areas of forest with the better quality logs, to allow the sustainability and profitability of the timber industry to continue beyond the 20 years. We believe the forests that should particularly come back in are all mentioned in these amendments—the Couradda Forest, the Moema State Forest, the Pilliga West State Forest, the Wittenbra and the Yarrigan State forests, and the Yearinan State Forest. They are the ones that certainly should come back in as an absolute minimum to give the timber industry any chance of surviving beyond the next 20 years.

There is no use giving a guarantee of supply for the next 20 years if at the end of that 20 years there will not be a forest. As I said in my speech last night, you will end up clear-felling that forest to provide 44,000 cubic metres of logs a year, much less trying to supply the industry with 57,000 cubic metres of logs a year. I ask honourable members to support these amendments. They are absolutely vital if the timber industry is going to survive indefinitely into the future. I ask the Minister to please look past the next 20 years, to another 100 years after that at least.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 18

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

Noes, 21

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

Pair

Mr Gallacher	Dr Burgmann

Question resolved in the negative.

Amendments negatived.

Schedules 1 to 4 agreed to.

Schedules 5 to 7 agreed to.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.45 p.m.]: I move The Nationals-Liberal Party amendment:

No. 36 Page 50. Insert after line 5:

Schedule 9 State forests transferred to Local Aboriginal Land Council

(Section 16)

1 Z2-01: Berrygill State Forest

An area of about 2,725 hectares, being whole or part of BERRYGILL State Forest No 150 and being the land designated as Z2-01 on the diagram catalogued MISC R 00284 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

2 Z2-05: Terry Hie Hie State Forest

An area of about 5,862 hectares, being whole or part of TERRY HIE HIE State Forest No 421 and being the land designated as Z2-05 on the diagram catalogued MISC R 00281 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

The amendment transfers the Berrygill and Terry Hie Hie State Forests to the Aboriginal Land Council. The arguments for that are similar to those we mounted earlier. Frankly, we believe that the responsibility is better sitting with the land council.

The Hon. IAN MACDONALD (Minister for Primary Industries) [11.45 p.m.]: The Government opposes the amendment. The Government supports the permanent conservation of all forests in the Terry Hie Hie group and their ongoing management with the involvement of Aboriginal communities. As stated previously, the purpose of community conservation area zone 2 is for conservation and Aboriginal culture. That designation allows for indigenous land use agreements to be negotiated for traditional Aboriginal practices while forests are conserved.

Mr IAN COHEN [11.46 p.m.]: The Greens oppose the amendment. As I have previously stated, the amendment does not afford proper protection to the forest.

The Hon. Rick Colless: You do not trust the Aboriginals to manage it.

Mr IAN COHEN: I acknowledge the interjection by the Hon. Rick Colless. I said in my comments on Opposition amendments Nos 1 and 2 that there had been some considerable discussion within the Aboriginal community about representation and concerns about those claiming to be in authority. This matter needs to be further discussed with the Aboriginal community, but I think it is inappropriate that the Opposition should accuse me of not being concerned about Aboriginal representation. It is clear that a number of traditional owners, whom I quoted earlier in Committee, also have real concerns. They have contacted me and I have put their concerns on the record, and I stand by that. Many people do not agree with the interpretation by The Nationals that the appropriate representatives of the Aboriginal community are necessarily the only ones who have a right to have a say on this matter.

Amendment negatived.

Schedule 8 agreed to.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.48 p.m.]: I move The Nationals-Liberal amendment No. 37:

No. 37 Page 54, schedule 9. Insert after line 18:

6 Petroleum titles in respect of land within Zone 3

(1) If the authorisation of the Minister administering the *National Parks and Wildlife Act 1974* is required under any Act or law before a relevant application may be granted and that Minister fails to inform the Minister administering the *Petroleum (Onshore) Act 1991*, within 30 days of receiving the application, whether or not the authorisation is given, the authorisation is taken to have been given.

(2) In this clause:

relevant application means an application under the *Petroleum (Onshore) Act 1991* to grant, extend or renew a petroleum title (within the meaning of that Act) in respect of land within Zone 3 of the Community Conservation Area.

The amendment will ensure that the Minister for the Environment does not delay giving his approval to applications to explore or develop the substantial reserves of natural gas underlying the Brigalow Belt South bioregion. During the second reading debate I referred to a press release by the Minister for Mineral Resources in which he said that the bill guaranteed that exploration would go ahead. The bill does nothing of the sort! There is no way in the world the bill guarantees that mineral exploration will go ahead in these areas, because it requires concurrence between the two Ministers. Delays or activities could be put in place by one Minister. This careful amendment ensures that the Minister for the Environment will not delay giving his approval to applications to explore or develop the substantial reserves of natural gas that underlie the Brigalow belt south bioregion.

Mr IAN COHEN [11.50 p.m.]: The Greens oppose this amendment. It proposes a 30-day limitation on the time the Minister for the Environment would have to consider whether to authorise an application for the grant, extension, or renewal of a petroleum title under the Petroleum (Onshore) Act on land within zone 3. If the Minister does not reach a decision within the 30 days, authorisation would be deemed for the grant, extension, or renewal to go ahead. As the bill currently stands, mining or exploration of lands within zone 3 requires approval from the Minister for Mineral Resources as well as the Minister for the Environment.

The purpose of requiring authorisation from the Minister for the Environment is to ensure that appropriate consideration is given to the impact that mining is likely to have on the natural environment. After considering the application, the Minister for the Environment may reject the proposal, accept it, or create appropriate standards. The effect of the proposed amendment would be to impose an arbitrary limitation on the assessment process at the expense of a proper and detailed analysis. If passed, this amendment would interfere unduly with the assessment of mining permits in sensitive natural areas. Therefore the Greens oppose the amendment.

The Hon. IAN MACDONALD (Minister for Primary Industries) [11.51 p.m.]: The Government considers this amendment to be unnecessary and therefore opposes it. Ministers and relevant government departments always attend to assessments in a timely and proper manner. There is no reason to believe that authorisations of this kind would be unduly delayed.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.51 p.m.]: The comments of Mr Ian Cohen and the Minister for Primary Industries are interesting. During the last sitting week the Parliament passed a planning bill that removed elements of delay from the planning process. This week the Government we are debating a bill that allows the same sort of delays.

Mr Ian Cohen: We opposed that.

The Hon. DUNCAN GAY: I was not here that evening. It seems evident that the Government's view about the lands of the Brigalow is different from its view about the rest of the State. Does the Government believe that the previous week's bill overrides this bill? I ask the Minister to clarify whether this bill overrides the planning bill that was passed last sitting week, or whether that planning bill has precedence over this bill.

The Hon. Ian Macdonald: I am not going to do that now.

The Hon. DUNCAN GAY: For the record, I note that the Minister's advisers shook their heads and indicated that the Minister either cannot or will not clarify which of the bills has precedence in this matter.

Amendment negatived.

Schedule 9 agreed to.

Schedule 10 agreed to.

The Hon. IAN MACDONALD (Minister for Primary Industries) [11.54 p.m.]: I move Government amendment No. 3:

No. 3 Page 59, schedule 11, line 10. Omit "7". Insert instead "8".

This amendment increases from seven to eight members the quorum of a meeting of the committee. The amendment is consequential upon the expansion of the committee in Government amendments Nos 1 and 2.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.54 p.m.]: The Opposition supports the amendment.

Amendment agreed to.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.55 p.m.]: I move The Nationals-Liberal Party amendment No. 38:

No. 38 Page 59, schedule 11, lines 12–37 and page 60, lines 1–4. Omit all words on those lines.

This amendment removes the provision relating to disclosure of pecuniary interest. We do not believe there is a problem with a mining company with interests in the area putting its position on an issue to an advisory committee. One might say it is part and parcel of the function of an advisory committee to consult with interested parties. Clause 8 (3) not only prevents the committee member with the pecuniary interest from voting on an issue, it excludes him or her from deliberations.

Mr IAN COHEN [11.56 p.m.]: The Nationals-Liberal Party amendment No. 38 would remove the need for members of advisory committees to disclose pecuniary interests in matters being considered by the committee. It would result in the removal of transparency and accountability from the committee. It is not a case of members being unable to give advice; it is a case of appropriate and proper disclosure of pecuniary interests for the sake of transparency and accountability. The Greens oppose the amendment.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.57 p.m.]: If it is not enough that the committee is loaded up with 10 Greens, members who are affected by an issue within the area will not be able to vote on it.

The Hon. IAN MACDONALD (Minister for Primary Industries) [11.57 p.m.]: The Government opposes the amendment.

Amendment negatived.

Schedule 11 as amended agreed to.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.58 p.m.], by leave: I move The Nationals-Liberal Party amendments Nos 39 and 40 in globo:

No. 39 Page 61, schedule 12.1, lines 9 and 10. Omit "(including funding enforcement and regulation)".

No. 40 Page 61, schedule 12.1. Insert after line 14:

[2] Section 12 Minimum annual grants for different areas

Insert after section 12 (c):

(d) grants to waste management service providers and local councils to support the provision of waste management infrastructure—10 percent of any money paid into the Trust Fund during the year.

Amendment No. 39 will enable the Environmental Trust Fund to pay public servants' wages. The Opposition believes it is an inappropriate use of money from the trust fund, which should be used to assist environmental programs and not boost the Government's coffers, which is the bottom line. Amendment No. 40 will require the Environmental Trust Fund to allocate a minimum of 10 per cent of the money paid in each year to a waste infrastructure support program for the waste industry and local government. As the bill stands, it would be possible for more of the waste levy to be used for this purpose, which would be disastrous, given the appalling results achieved by the Government's waste strategy.

Ecorecycle Victoria runs a successful infrastructure support program that has significantly assisted the waste industry and local government to reduce waste going to landfill and improve resource recovery. The Bracks Government spends $5 million a year on this program. On the basis of $47.8 million being paid into the Environmental Trust Fund this year that works out at $4.7 million, a similar level of funding to that provided by the Victorian Government. Hypothecating a fixed percentage of money in the trust to this program will ensure that at least some of the money in the fund is used to improve resource recovery.

The Government's own modest waste reduction grant program of around $1 million per year ceased in 2001-02. On 17 September last year Minister Debus told the budget estimates committee that recycling targets were set for 2014 and that the progress that was being made was pretty good. The target for 2014 is 66 per cent municipal recycling. In the last year the target increased from 26 per cent to 39 per cent. The commercial recycling target of 63 per cent has increased from 28 per cent to 33 per cent and construction industry recycling, which has a target of 76 per cent, increased from 65 per cent to 75 per cent over the past year. That is a roundabout way of saying that substantial improvements are being made when they are not. The amount of waste going to landfill in Sydney and the extended regulated areas has gone up by almost a million tonnes over predictions. That is a clear indication that the Government's waste strategy is failing.

One of the objects of the strategy was to keep constant the amount of waste being generated. Clearly that has not happened. The percentages quoted by the Minister are, therefore, meaningless. What is important is not how much waste is diverted to form landfill; it is how much goes into landfill. On that measure the Government has been a conspicuous failure. The grants would be paid to local government and the waste industry on the basis of benchmarking against similar projects elsewhere in Australia and the rest of the world, and on clear performance outcomes. Monitoring those outcomes would be an important component of the process. The Government has wasted money like no other New South Wales Government before it.

Tight financial discipline will be needed by a future Coalition Government to ensure that it has the resources to rebuild New South Wales. We do not want the money to be squandered on projects like the failed Hornsby council bioremediation plan. The money that is coming out of the waste levy is being used to remove jobs from regional New South Wales. The Government should bite the bullet and put new money into these areas; it should not be stealing money from ratepayers in Sydney. They paid that money in good faith and had certain expectations about what should happen to it. These amendments will limit the amount of money that is being spent. I believe that these good amendments should be supported.

The Hon IAN MACDONALD (Minister for Primary Industries) [12.05 a.m.]: The Government does not support amendment No. 39 as the words appear in the current objects of the Waste Fund. Their inclusion is necessary to ensure that the environmental trust can fund measures for investigating and prosecuting, for example, illegal waste dumping. This currently occurs in the Waste Fund, which includes support for a successful program such as the local government regional legal dumping squads, and leads to a reduction in waste compliance programs. The Government does not support The Nationals amendment No. 40. The amendment may be beyond the power of the Legislative Council as section 5 of the Constitution Act 1902 requires that the bills appropriating any part of public revenue must originate in the Legislative Assembly.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 18

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

Noes, 21

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

Pair

Mr Gallacher	Dr Burgmann

Question resolved in the negative.

Amendments negatived.

The Hon. IAN MACDONALD (Minister for Primary Industries) [12.13 a.m.], by leave: I move Government amendments Nos 4, 5 and 6 in globo:

No. 4 Page 61, schedule 12.1, line 10. Insert "and local government programs" after "regulation".

No. 5 Page 63, schedule 12.3, lines 3 to 6. Omit all words on those lines. Insert instead:

[5] Section 7

Omit section 7. Insert instead:

7 Sunset of payments—forestry industry restructuring expenditure

Payments from the Fund under this Act in respect of forestry industry restructuring expenditure may not be made after 30 June 2007.

No. 6 Page 63, schedule 12.3, line 15. Omit "2006". Insert instead "2007".

Amendment No. 4 amends the Environmental Trust Act to enable the environmental trust to fund local government programs that promote waste avoidance, resource recovery and waste management. The amendment arises from a recent meeting that my colleague the Minister for the Environment had with the

President of the Local Government Association, Ms Genia McCaffery. Ms McCaffery requested that schedule 12.1 be amended to insert local government programs as a specific purpose for which funding may be spent by the trust. In light of the fact that local government is a collection mechanism for a significant part of the waste levy that will go into the reformed Environmental Trust Fund, the Government has agreed to this proposition.

Amendments Nos 5 and 6 amend schedule 12.3 to extend by one year the sunset provision for the payment of timber industry restructuring expenditure under the Forestry Restructuring and Nature Conservation Act. As a result, these payments will be able to be made up to 30 June 2007, rather than by 30 June 2006. This will ensure that mills on the North Coast that had developed innovative programs to value add can benefit from the Government's investment scheme to improve the utilisation of timber resources. The amendments will allow these mills an extra year to finalise their investment strategy.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [12.14 a.m.]: Whilst on the surface the Opposition is happy to support any extension on payments, in particular for 12 months, can the Minister reassure the Committee that this does not breach commitments made in documents relating to five years support for work in the thinnings industry, et cetera? I need that reassurance. It seemed to me that something that goes to 2007 does not address the five-year period, which should take us to 2010.

The Hon. IAN MACDONALD (Minister for Primary Industries) [12.16 a.m.]: My understanding is that these amendments are about the investment strategies of these particular mills. They are not about the worker assist program and they are not about the thinnings program, which is a recurrent ongoing program. It is my understanding that that is to go on indefinitely. That is as I understand what the honourable member is saying. What is happening to the thinnings program has nothing to do with this particular amendment; it is an ongoing program

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [12.16 a.m.]: To clarify that, is the Minister giving the people a guarantee that this amendment will not stop the thinnings program in 2007?

The Hon. IAN MACDONALD (Minister for Primary Industries) [12.17 a.m.]: Absolutely.

Amendments agreed to.

Schedule 12 as amended agreed to.

Title agreed to.

Bill reported from Committee with amendments and report adopted.

Third Reading

The Hon. IAN MACDONALD (Minister for Primary Industries) [12.19 a.m.]: I move:

That this bill be now read a third time.

The House divided.

Ayes, 22

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

Noes, 17

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

Pair

Dr Burgmann	Ms Cusack

Question resolved in the affirmative.

Motion agreed to.

Bill read a third time.

ADJOURNMENT

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, Minister for Lands, and Minister Assisting the Minister for Natural Resources) [12.27 a.m.]: I move:

That this House do now adjourn.

RESIDENTIAL PARKS RESIDENTS PROTECTION

Ms SYLVIA HALE [12.27 a.m.]: Approximately 50,000 residents live in 950 residential parks across New South Wales. The Government is presently reviewing the parks and villages Act, which governs residential parks and villages in this State. We have seen widespread closures of residential parks in the State, and up to 40 residential parks are under threat of closure. Despite this, the Government has yet to make any legislative response to the issues raised in the course of the review.

Many park residents are given termination notices on the grounds that there is to be a change of use because the park is to be redeveloped—even though the appropriate consent authority has given no approval for the redevelopment. One preferred tactic of park operators is to issue termination notices, clear their parks of residents and then apply for rezoning, knowing that councils will be more amenable to the request if there are no residents left to object. One way of stopping this practice would be to amend section 102 of the Residential Parks Act so that a change-of-use notice of termination can be issued only after rezoning and development consent has been granted.

It is legal in New South Wales for all landlords to issue no-grounds termination notices to almost all tenants, whether they are in residential parks or other dwellings. Tenants have no security of tenure—it does not matter whether they are good tenants. This is patently unfair. No-grounds evictions should be prohibited, and both the Residential Parks Act and the Residential Tenancies Act should be amended accordingly.

Residents of the Liverpool local government area experience extremely high levels of housing stress—that is, many of those in the bottom 40 per cent of incomes are paying more than 30 per cent of their incomes on housing costs. The problems will increase as affordable housing options disappear. The potential closure and redevelopment of Lansdowne Caravan Park, in Lansvale, is a case in point. I commend Fairfield City Council for defending Meriton Apartments' appeal in the Land and Environment Court against the council's refusal to consent to the park's redevelopment. Apart from flooding, noise, and similar planning issues, the council is aware of the intolerable social impact that closure of the park and loss of affordable accommodation will have on the locality.

I am pleased that a group of residential park residents from the Central Coast are taking matters into their own hands in the wake of the threat to close their parks, Erina Gardens and Karalta Court. The park residents are trying to create alternatives to privately owned and run parks, where they are at the mercy of the park operator. These residents are working with Gosford City Council and the Centre for Affordable Housing to undertake a feasibility study, finance a loan, and find a suitable piece of land, so they can live in their own community-owned and run park.

At present site fees from Erina Gardens amount to about $1.2 million each year. This is more than enough money for residents to buy a piece of land, meet mortgage payments, and maintain a park, particularly when the landlord's profit margin is removed from the equation. Interested participants have formed a registered co-operative, Karalta Road Park Home Owners Incorporated. The co-operative is applying for a grant from the Registry of Co-operatives and Associations to undertake a project feasibility study. The Greens commend these residents and Gosford council for their remarkable initiative. We believe that co-operative residential parks have

the potential to provide a real alternative and source of affordable housing for many people. However, we would like to see greater government support for the project.

The Centre for Affordable Housing might, for example, act as a guarantor for loans taken out by an incorporated housing co-operative or association. Later this year the Greens will introduce a private member's bill to amend the Residential Parks Act. Our bill will amend the Act to provide greater security of tenure for residents, to delay the issuing of termination notices until applications for rezoning or redevelopment have been approved and to ensure that adequate compensation provision is made for residents displaced by park closures. The Greens hope that the Government will enter into constructive dialogue with park residents, the Park and Village Service, and others, when it considers how it will respond to the review of the Residential Parks Act.

If parks close, pressures on public housing will inevitably increase. Many residents will encounter genuine hardship if they are unable to find alternative, affordable accommodation or are unable to relocate their homes and yet are denied adequate compensation for the loss of a dwelling in which they may have sunk their entire life savings. I note that the Minister has indicated that the legislative response to the review of the Residential Parks Act will be presented very soon. It is unfortunate that the response has taken so long to appear, but certainly it will relieve many tenants of a great deal of anxiety if the proposals that the Minister produces resolve many of the problems that the residents currently face. It may also alleviate their concerns about insecurity of tenure.

NORTH COAST FILM-MAKING COURSE

The Hon. CATHERINE CUSACK [12.32 a.m.]: Last Thursday evening I attended the cinema in Murwillumbah to watch a screening of a collection of short films made by 16 North Coast women. These women had undertaken a 14-week course in film-making and the collection was the result. The film collection showcased a diverse range of experiences and issues confronting women—from the stresses of work, single parenting, and life on the North Coast, to friendship and dreaming, to a brave film dealing with the tragic issue of incest. The films were innovative, vibrant, colourful and overflowing with creative energy.

The finale film, *Mother of a Job*, which was made by three single mums—Jasmin, Jude and Lucinda—featured footage, scripts, effects, and even music written by the women, set to slow-motion images of their sons fire-dancing at night on the beach. Indeed, the film was more art than documentary. I am not a film critic; I am a mere punter. The honesty and creativity of these films affected me deeply; there was nothing at all contrived or superfluous. The presentation comprised a collection of six short films, ranging in length from 2 to 5 minutes and totalling 25 minutes. The film collection had been made by a group of 16 women, who came from Pottsville, Tweed, Burringbar, Mullumbimby and Byron Bay. Most were single mothers and their ages ranged from 23 to 65.

Nobody had film-making experience. Indeed one student had never before touched a computer! The collection of six films included *Meeting Pixie Purple* by Jennifer, *Every Breath I Make* by Danielle, *Diversity of Our Passions* by Cate, Catherine, Wendy, Melody and Roni, *One Woman's Story* by Pat, Sally, Robyn and Sue, *To Esther* by Paola, and *Mother of a Job* by Jasmin, Jude and Lucinda. It was made possible by a $14,000 grant from the Department of Women, and I congratulate the Government on that support. There was in-kind funding from Pottsville Community Technology Centre [CTC] and co-sponsorship from the Smith Family. Indeed, the Smith Family showed its own film. I note that its chief executive officer, Elaine Henry, is one of the most highly regarded and effective social policy operators in New South Wales, and her high standards of professionalism were very much in evidence in this film.

But the greatest accolades awarded by the students themselves were to Alison Turner of Pottsville CTC, who conceived and co-ordinated the project, and their teacher, Marcia Owen, who clearly has a passion for women's issues and offered inspirational leadership, which guided these women to great things. The women also thanked their sole male adviser, Shane Hailing, who assisted with editing. Shane came in contact with Pottsville CTC as part of his work-for-the-dole program and was contracted by Alison for the project. The film-making course was clearly a life-changing experience for all involved. I felt very privileged to have been invited, as a member of the public, to join these women, their partners, friends and many children to share in these remarkable reflections on their lives.

There is unfortunately a sad postscript. The organisations and funding that made these film courses possible are all under threat. The film project was originally designed as a TAFE Outreach Program, but because of underfunding to TAFE it could not be offered in Pottsville. Alison Turner was not deterred. She applied for

and received a grant from the Office of Women. The Office of Women's $1.125 million Women's Grants Program, which made the film course possible, has been cut in this year's budget by almost 90 per cent to just $150,000. The Pottsville CTC, which brokered the funding and co-ordinated the project, is jointly funded by the Commonwealth and State Governments—and that funding runs out at the end of the financial year, in eight days time.

The Pottsville CTC has been a free and willing partner in so many government, social and technology programs. For example, during Seniors Week more than 2,500 people visited the CTC at Pottsville alone. Yet it is to be cut adrift in a week's time to fend for itself. I have no doubt, given the commitment and drive of Alison and her team, that the CTC will survive, but without core funding it is difficult to see how it will fulfil its potential. Eighty CTCs have been established around regional New South Wales in small towns known to have lack of technology access. CTCs are all about excellence and equity, they fulfil multiple promises we make as a nation to our citizens in smaller communities. Now there are in jeopardy 80 expensively fitted out centres that serve identified high priority needs.

Some CTCs, like that at Tenterfield, have already closed and auctioned off their equipment. Others such as at Clunes have closed their doors to the public and are struggling forward with booked training courses only. It is just not good enough. It is not fair to those communities that identified services are extended and then ripped back without recognition of their success and need for some core funding. It is certainly not fair to the 80 workers in those small communities who now face losing their jobs. It is also not fair to the committed management committees and staff whose special commitment and innovative approaches to a new idea are now being exploited in order for CTCs to survive. I call on the Federal and State governments to act to save this fabulous resource, which, although established at great expense to taxpayers, has well and truly established its worth. I thank the Pottsville CTC and congratulate all the participants and teachers who completed the women's film-making course.

BOEING AUSTRALIA EMPLOYEE CONTRACTS

The Hon. PETER PRIMROSE [12.37 p.m.]: We know from the media today that the cracks are already starting to appear in John Howard's master plan to return Australian workers to the standards of the dark satanic mills. It is all in the detail. And as Australian workers start to see the detail of what John Howard and Kevin Andrews have in mind for them, they are calling their members of Parliament from the Liberal Party and The Nationals to tell them that this is not what they were promised. When John Howard was elected he said that no Australian workers would be worse off. We now know that was a lie. Kevin Andrews says that industrial relations changes are needed to create more jobs.

Yesterday, 17 of the country's foremost legal academics and economists told us the truth—that there is not a scrap of evidence to show that one single new job will be created by these changes. Australian workers will be less secure and more likely to be exploited by unscrupulous employers than ever before. But of course, that is exactly what John Howard wants: workers "who know their place". Kevin Andrews told another lie—an important one. He told Australian workers that they would not be forced into signing individual contracts. He told them they had a choice: they could have collective agreements, if that is what they wanted.

At the Boeing's Williamtown site, workers are employed to maintain the F18 fighter jet squadron. They are highly skilled and recruited from throughout Australia as specialist aircraft tradespeople. They are entrusted with the maintenance of a fighter squadron, but they are not trusted by John Howard to be members of a union with a collective agreement. These workers have been told to sign individual contracts; they have no choice. And when the workers asked for a breakdown of the wage being offered so that it could be compared with their current wages, the company refused. What we do know is that the Boeing contracts would force workers into working 43 hours per week with no overtime rates—even for compulsory overtime—no weekend penalty rates and no annual leave loading, for wages that are only slightly above the award.

This is the ugly truth behind the lies told by John Howard and Kevin Andrews. Australian workers are being forced to sign American-style contracts to give up even their most basic rights: overtime, annual leave loading and penalty rates for weekends. Just two weeks ago, Boeing advertised for new human resources managers. Boeing specifically said that applicants should be prepared to introduce major industrial relations changes to the company. What else does the company have in mind? John Howard may regard Boeing as a model employer but workers at Boeing do not accept this sort of standover tactic. They are demanding the right to a collective agreement and have established a peaceful protest line outside the company's gates.

The Australian Manufacturing Workers Union [AMWU], the major aircraft and aerospace union, has won collective agreements for all of its members in the industry—more than 5,000 members, including more than 1,000 workers employed by Boeing. John Howard is fond of telling us that he is a family man. He even has taxpayer-funded air flights to Sydney so that he can spend weekends with his family in his own home. Yet he plans to introduce legislation that will force family men and women—like those working at Boeing—to give up their precious weekends and nights with their families by being forced to work whatever hours the company calls for. Unions like the AMWU believe that the workers at Boeing have the right to have a collective agreement. The AMWU is supporting the workers at Boeing who are protesting for the right to a collective agreement. And despite John Howard's new legislation, the AMWU will continue the fight to give every worker at Boeing this same right, just like the other 5,000 members in the aerospace industry. It may not be John Howard's way but it is the Australian way!

BRINGELLY AND NORTHWEST SECTOR LAND REZONING

The Hon. JOHN RYAN [12.42 a.m.]: Last Saturday I attended a meeting at Rossmore Public School, where more than 600 local residents gathered to protest about a decision by the State Government to rezone their land with a new suburban conservation zoning to be known as 7B, or "Landscape and Rural Lifestyle Area." Currently their land is zoned for rural uses. The controversy has been sparked by the formal release and exhibition of sector plans for new housing land in north-west and south-west Sydney known more commonly as the Bringelly and Northwest sector release areas. These sector plans indicate how land is to be used within those release areas, including major roads, medium- and high-density housing, and land corridors to be retained for green space. Affected local landholders and businesses have up until 1 August 2005 to respond to the Department of Infrastructure, Planning and Natural Resources [DIPNR] with written submissions.

While major responsibility for growth centres planning resides with the Minister for Infrastructure and Planning, Craig Knowles, the Assistant Minister for Infrastructure and Planning, and Minister for Western Sydney, Dianne Beamer, has been more prominent in media announcements that have been part of this process. The decision-making processes that surround this massive development have all the hallmarks of a repeat of the Orange Grove fiasco, where big money spinners have greater access to the ear of the Carr Government than smaller battlers. Most of the smaller landholders only found out about what the Government plans as a result of recent protest meetings. Few of them understand what they can say or do to challenge the impact of these new zonings. Their local council at Camden has run out of the information packs and many of the residents come from culturally and linguistically diverse backgrounds.

A significant proportion of the land in the south-west sector is owned by a number of very large landholders, including well-known people such as Mr Tony Perich, the family of the late Dominic Vitocco, and Roy Medich. There is nothing wrong with their ownership of large parcels of land, but hundreds of other landholders own parcels of land in the release area ranging down to five hectares in size. About a third of the land in the south-west sector is to be conserved as green space either as part of the new Western Sydney Parkland, or as farms, and finally in the proposed new green belt or "rural lifestyle" zoning. It is hard not to conclude from the maps that the new green belt zoning has had a greater impact on smaller landholders than it has on larger landholders.

Significantly the State Government consulted the larger landholders about the release plan during earlier stages of the planning process. Between March and November 2003, landholders with holdings in excess of 100 acres were permitted to be represented in planning workshops that were conducted by the Department of Infrastructure, Planning and Natural Resources. Other stakeholders who were part of the earlier consultation process included relevant local councils and government departments. All of the participants in the workshops though were required to keep the details of the workshops confidential. Smaller landholders, like the ones who are complaining now, were effectively locked out of the process. Even though the State Government has the resources to contact all of the smaller landholders by direct mail, the onus to find out about these plans has been left up to the landholders themselves.

There have also been more serious allegations made about this process. The most serious allegation brought to my attention is that earlier and secret drafts of the release plan indicated that a larger proportion of land proposed for the new green belt zoning was on property owned by one of the larger landholders. It has been alleged to me that somehow this property owner and others have been able to have this zoning removed and it has now been placed on lands held by the smaller landholders. Curiously, a central section of the newly announced Oran Park land release appears to be located on land that forms a small natural lake on the landholder's property. It is hard not to notice that this large water body, which two years ago was clearly visible

and recordable by aerial photography, appears to have vanished over the last 18 months. Of course the drought has been in part responsible, but the watercourse cannot disappear. It would be impossible to just build over this land, as appears to be suggested in the new land release maps.

I know many of the larger landholders who own land in the Bringelly release area and to date I have no reason to doubt their integrity. However it is beyond doubt that they have an entree into the Carr Government that is stronger than many of their smaller neighbours. Most of them know planning Minister Craig Knowles very well. Many of them are frequent subscribers to Labor Party fundraisers. A number of them are directors of a development company called the Bringelly South West Group Pty Ltd. The chairman of that company is none other than Mr Neil Bird, who is also Deputy Chairman of Landcom. While Landcom is not involved in the Bringelly development, clearly this company, through Mr Bird, has a powerful and influential voice within the Government. This is all the more reason the Carr Government should be making every effort to ensure that the smaller landholders get a fair hearing. The Carr Government could start by extending the 1 August 2005 deadline for receipt of submissions in response to the Bringelly land release plans. Additionally the Government should be convening local information meetings where residents can view maps and hear expert explanations about the land release plans.

PACIFIC HIGHWAY UPGRADE

Mr IAN COHEN [12.47 a.m.]: I would like to add further comments and information to the speech I made earlier this month on the Pacific Highway upgrade on the far North Coast. Since I spoke I have attended more public meetings in Bangalow and Meerschaum Vale and gained further insights into how much opposition there is to this proposed six-lane highway across flood plains and prime agricultural land, through water catchments and through the habitats of many endangered and threatened species of flora and fauna.

Millions of dollars have already been spent on buying land along the previously proposed route. Even more families, communities and livelihoods will be destroyed by the latest proposal, and the affected people are angry and upset. They had based their purchases on the understanding that the Pacific Highway and its proposed upgrade were away from them. Basically, they are looking to keep the Pacific Highway or motorway on the highway route, but that is not the current proposal. I have received an unprecedented number of emails, faxes, letters and telephone calls from residents of the affected area, desperately seeking my help to prevent their homes from being purchased by the Roads and Traffic Authority.

The residents want face-to-face explanations from roads Minister Costa and Parliamentary Secretary Roozendaal. I have invited both to address public meetings on the North Coast, with assurances that they would be treated in a cordial manner, about changes to the proposed route without community consultation. As yet, there has not been a response from either the Minister or the Parliamentary Secretary. Once again I invite them to come up and talk with the people of the local area, who have a real desire for open communication. I am talking about a wide range of community members—farmers, hobby farmers, people who have been on the land for generations and townspeople. They are extremely keen to discuss the matter. They have valid arguments, and I would like them to be able to present those arguments to the Minister and the Parliamentary Secretary.

Has the Government given serious consideration to upgrading the New England Highway, which was originally intended for the bulk of heavy vehicle and freight transport? Because more business is needed further west, this highway could be upgraded and, at the same time, the Government could work with the Federal Government on a national highway strategy to develop the highway and support communities further inland to the west. At present many people are intimidated by interstate B-double transport when they travel on the Pacific Highway. They have said they would not drive at night—and I have had the same experience—because they fear that trucks travelling in a dangerous manner might bear down on them at speeds well in excess of the 100 kilometres per hour speed limit for those areas. We have heard many times in this Parliament and elsewhere about members of the trucking industry being put under great pressure to meet their deadlines. They often have to work under very difficult circumstances to keep within their schedules.

Also, with decreasing supplies of oil available for petrol and diesel in the near future, it is essential for the Government to seriously explore alternative transport options. We are faced with an energy crisis, and oil production worldwide is predicted to peak some time between now and 2020. After that, oil production will be in decline. In Australia the peak date is predicted for this year. Resulting higher oil prices will affect, among other things, transport costs. Therefore, why has the rail service on the North Coast been so abysmally neglected when this is clearly the better option for moving heavy freight? Is the Government aware of the technology called Trailerail or Triple Crown trailers, which are connected together and provide a slack-free ride on the rail?

Each Triple Crown dedicated train can move up to 125 units from terminal to terminal at any time and have high-speed capability. The rail bogie utilises a swing motion truck, which is capable of operating smoothly at speeds of 70 miles per hour or more—these are American figures—without damaging truck hunting. The optional passenger service package permits a 90 miles per hour operation. It has two-stage suspension and a smooth ride is provided by the special two-stage rail bogie suspension. The primary suspension is a special steel spring package designed specifically for the Trailerail or RoadRailer service. An additional set of rubber marshmallow springs is added for a further smooth ride. These vehicles can go on rail and on road and is the sort of integrated transport option that could really revolutionise transport in Australia. As people in Australia travel similar distances to those in America, this system could have a great impact on transport in Australia. We need governments to look forward towards such an approach.

Another problem relates to a dual carriageway, which has often been touted by the Government. I believe we can look at a dual carriageway, not as a six-lane highway but one lane north and one lane south, with adequate barriers to make travel absolutely safe. Overtaking lanes could be provided in the appropriate areas, which would mean upgrading the existing Pacific Highway to make it an effective regional road. As the honourable member for Ballina told the public meeting at Bangalow, trucks can be regulated off the Pacific Highway onto the New England Highway, and I ask the Government to consider that measure.

DEATH OF MR ALBERT JAIME GRASSBY, A FORMER MEMBER OF THE LEGISLATIVE ASSEMBLY

The Hon. TONY CATANZARITI [12.52 a.m.], by leave: Tonight I wish to speak about a sad occasion—the passing of one of the most exciting, dedicated and hardworking members of Parliament this country has ever seen. I speak of my dear friend Al Grassby. Albert Jaime Grassby passed away on 23 April 2005 after suffering for months with pneumonia and finally succumbing to a heart attack. Al was a proud former resident of Griffith. Al Grassby's enthusiasm and passion for politics inspired and encouraged me to get involved in local community affairs, taking on rural and social issues that I cared about. Initially, I entered local government, where I devoted 14 years to Griffith City Council, and now I speak of Al Grassby in the upper House of the New South Wales Parliament. Al inspired me with the will, the determination and the belief that I had to get involved and do something to help the community in the same way that he did.

Al was an amazing influence, full of life and flair. His commitment to helping people was obvious to everyone who ever had the chance to meet and know him. He was a tireless worker for his constituents. He was affectionately known to everyone as the voice of the people. He was so very popular that people would be happy to stop to talk with him regardless of whether they had voted for him or if their politics clashed with his. He was a true fighter for all people, whether they were rich or poor, farmers or shopkeepers, labourers or engineers. He was the human dynamo, as Gough Whitlam would call him, who would work all night trying to get a win for anyone, regardless of their colour or creed, and he would follow it up with a meeting first thing in the morning about a local issue that made a difference to only a few people. But he would give his all, and by that I mean his whole charming self. All he wanted to do was help.

Al helped in many ways. He started off with a background in journalism, but served as State member for Murrumbidgee in 1965, and as shadow Minister for Agriculture and Conservation between 1968 and 1969. He earned a high profile and much popularity in the local community. The Federal Australian Labor Party leader Gough Whitlam encouraged him to enter Federal politics. He won the electorate of Riverina at the 1969 Federal election. Following Gough Whitlam's victory at the 1972 election, he was appointed Minister for Immigration. I am honoured to have known him in my home of Griffith. Al loved Griffith. He would often proudly refer to it in conversations as the capital of the world and the best community in the world because of its vibrant multiculturalism. Yet there was not a single town across the Riverina that Al did not know.

Al's energy would see him at three or four functions on a day, or driving from Griffith to Broken Hill just to attend a function that night. This was all part of the day in the political life of Al Grassby. One story that makes me smile and shows his spirit concerns a night that he was racing through the Riverina somewhere on the way to or from what was no doubt an important representation. He arrived very late in a small country town with his ministerial driver. When they got to the only inn in town they found that it had only one room booking left. The room had a double bed and a small single fold-out. Al took the room and told the driver they were staying there together for the night. They were going to toss a coin to see who got the double bed. He did not see the man driving him around the electorate as an employee, but as another bloke who has just as much right to the double bed as he did. For the record, Al won of the toss.

Al was a man who genuinely believed in people. He would always give anyone a chance, and most of the time he would take anyone at straight-up face value. This tended to cause Al some problems, and he would receive a lot of media attention that often misrepresented him as a person. Perhaps it was hard for some people back then to believe that he was really as completely generous and idealistic as he seemed. Although the media often used Al Grassby for their needs they also often seemed to abuse him. I know it is something that washed off Al's back, but it is something I will always remember. Al was a man known for his outlandish dress sense, but I am happy to report that the fancy suits and brightest ties definitely were no accident. There was a method to his dress. The proudest one of them all was his Riverina rig, which was specially handmade by local Griffith tailors Domenico Barbero and Pasquale Catanzariti. The Riverina rig certainly was colourful and the reason behind it all was to unashamedly promote our region of the Riverina.

One great story from more than 30 years ago concerned wool. The local industry was struggling badly, so Al had a completely woollen coat made up in town. He wore it everywhere with pride to proudly promote and advocate the sale of our woollen products. Every time he would see a journalist he would walk up to them and proudly tell them, "This is the way to use wool." He never let a chance go by. He supported his local community in every way like no other person has or ever will. What a great ambassador! His passion knew no bounds. During a particularly bad time for the Australian wheat industry in 1969 the community was in uproar against the Federal Government led by Prime Minister John Gorton with Doug Anthony the member for Richmond, the Deputy Prime Minister and the leader of the Country Party. People were angry at the way the situation was being handled and Al was especially active in his support for the farmers. He felt that the Government was not doing enough to help, and he was so frustrated that he began to call on the Deputy Prime Minister to come to Griffith to debate him in front of everyone.

At this stage Al was not even the local member. He was the Australian Labor Party candidate for the seat of Riverina, so of course he was ignored at first. But he just kept calling on Mr Anthony to come to Griffith, and finally it happened. Doug Anthony came to town because Al just would not give up. It was amazing. Al's commitment to and care for his community was so great that he saw the need to provide music and song, in native languages, for the many migrants from diverse cultural backgrounds who had settled in the Murrumbidgee area. He took it upon himself to form the Continental Music Club, a program that went to air on Radio 2RG Griffith, and still continues today through local community radio. People, particularly the older folk of non-English speaking backgrounds, looked forward to this hour-long Sunday program, and they would listen to the music, songs and community events that were of interest to our region. This was a very popular program, and it was enjoyed by all. Al also formed a local dance group in Griffith, all in an effort to get people out to meet each other. People of every background and language could meet in a social environment and enjoy the diverse culture that the town had to offer. He took his beliefs in sharing multiculturalism very seriously!

There are many, many stories that I could recite of Al Grassby that are hilarious and would leave you shaking your head, and, if you had met him, bring back memories of his eccentricity. Some of the best stories are from his days as the Federal member for the seat of Riverina. Al had become the member after an amazing 23 per cent swing to take a seat that by all rights seems destined to have never been represented by the Australian Labor Party based on the demographics. He swept into Old Parliament House in Canberra, and I suggest that his colleagues were never the same. Al was a devoted member of Parliament. That much is an understatement. In those days in Canberra the members had no staff and shared offices. There were no computers and, when Al was around, no peace and quiet.

Al worked hard, and his office was an endless parade of visitors and delegations, filled with the sounds of him bashing away into the night on his ancient typewriter as hard as he could, or of his voice as he yelled down the phone to someone in one of the many languages he had learned. Mr Barry Cohen, the former member for the Federal seat of Robertson, was lucky enough to share an office with Al in the old Parliament building. For years he has told many a great story about Al. On one occasion Al burst into the office frothing at the mouth, and said, "I don't know what this party is coming to. I've got thousands of farmers all going broke and all they want to talk about is homosexuality. I've never even met a homosexual!" Barry replied, "You're kidding. There's at least half a dozen in this Parliament!" Al's eyes widened like dinner plates. "I don't believe it. Who are they?" he said. Barry replied, "Give me a kiss and I'll tell you!"

Al was never quite the same again. Later when he was accused of nefarious activities I would retell the story and say, "He's so naive he hadn't heard that hoary old line." Justice was done when he was cleared of all accusations. After Al was elected he became the Australian Federal Minister for Immigration from 1972 to 1974. This is an important step in the history of Australian multiculturalism, as he initiated extensive reforms in immigration, citizenship and human rights legislation, resulting in his being credited with introducing the

multiculturalism policy to Australia. Although it was the Holt Government that had officially ended the white Australia policy in the mid-1960s, it was Al Grassby who set about removing all traces of it from Australian law and government practice. This earned him the title of the father of multiculturalism in Australia. Al's stance as the figurehead for tolerance in this country gained him many enemies, I am sad to say.

Throughout his life and political career, Al Grassby would receive letters filled with threats, racism and hate. Personal attacks would take the form of "Grassby, you immigrant. Go back overseas", or they would attack the cultures he was championing by saying, "These people don't belong here. Tell them to go back where they came from." And the language was far worse—dreadful and disgusting. Several times his household was phoned, and Al was threatened with death. The worst was the horrible day when a 2.30 a.m. call left Al's household and family terrified after a coward promised they would find their daughter, Gabriella, at school with her throat cut. That was truly terrible. The Federal election for the seat of Riverina was equally horrible. Racist advertising appeared in newsprint across the electorate, such as the 17 May 1969 advertisement in Al's local paper, the *Area News,* which stated on page 8:

> For Your Childrens Sake, Stop Coloured Immigration. Grassby Must Go.

Extremists suddenly began to arrive in the Riverina from all over the country to actively campaign against him. They were not local people. They came out of the woodwork from everywhere else. They came in cars and utilities, and one group came in a van. These were the people who splattered pamphlets throughout the community. There was a whole series of printed assaults that ranged from the obscene to the extreme.

The campaign resulted in Al's defeat, and it was undoubtedly due to the amazing racist campaign waged against him—much to the disgust of those in politics. Al's Labor colleagues were united in their support of him and he received messages from many members on the other side of politics. One of the more notable messages came from the Rt Hon. Mr Ian Sinclair, who was then the Deputy Leader of the Country Party. He telegraphed the following message to Al:

> The Country Party was in no way associated with the campaign attack against Mr Grassby. It is not our style of politics to be associated with a campaign containing such malicious attacks against an individual. We share with Mr. Grassby his great concern at the threats that have been made on his personal safety and that of his family. Intimidation by threats or deliberate acts is un-Australian and reprehensible. Whoever is responsible for these threats should be severely punished, the Country Party believes.

Al appreciated the support of his colleagues, and never gave in to the racist lunatic fringe. He always fought back with words of wisdom on multiculturalism whenever he was confronted, and he never vacated the field to those who sought his downfall. His ideals were unparalleled, and his strength in his beliefs was admirable.

After he left Parliament, Al was appointed the first Commissioner for Community Relations. This enabled him to continue to pursue his passion for ensuring that Australia became a rich, blended, and tolerant society. It enabled him to continue to fight for the right for people from a range of cultures to live together in harmony. Al Grassby never retired. He never gave up. Until the last, he was fighting to continue to make this country a great place. Al is survived by his wife, Ellnor, his daughter, Gabriella, his son-in-law, Lionel, and his grandson, Khedra. I would like to conclude my tribute to my friend, Al Grassby, with the phrase he used to open his Continental Music Club each week:

Bonjorno, Bonjorno,
Amici a scoltatore [friends and listeners]
This is AI Grassby, on the banks of the Murrumbidgee,
Where the things that unite us
Are far greater,
And more important,
Than the things that divide us.

Vale, Al Grassby.

Motion agreed to.

The House adjourned at 1.09 a.m. Thursday 23 June 2005
until 10.00 a.m. on the same day.