

# LEGISLATIVE COUNCIL

Thursday 23 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.

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

## WORLD POPULATION DAY

**The Hon. ROBYN PARKER** [10.03 a.m.]: I move:

That this House:

- (a) recognises that 11 July 2005 is World Population Day and the day's theme is equality empowers,
- (b) recognises that the empowerment of women will greatly help to alleviate global poverty, and
- (c) acknowledges that 500,000 women die each year due to the lack of adequate reproductive health services.

As a member of the Parliamentary Group for Population and Development I bring to the attention of the House that 11 July is one day in the year that we should be reflecting on what is happening to populations in developing countries and, more particularly, in our region. The Parliamentary Group on Population and Development was formed in 1995 to support and promote the program of action that was adopted by acclamation, including by Australia, after the International Conference on Population and Development held in Cairo in 1994. The overarching aim of the program of action is to raise equality—

**The PRESIDENT:** Order! The member cannot speak to her motion at this time.

**Motion agreed to.**

## VAUCLUSE HIGH SCHOOL

### Production of Documents: Order

**Motion by Ms Lee Rhiannon 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 or custody of the Department of Education and Training, the Department of Commerce, Landcom, Valuer General's Office and offices of relevant Ministers, relating to the proposed sale of Vacluse High School including:

- (a) all documents, correspondence and minutes of meetings in relation to valuation of the site,
- (b) all documents, correspondence and minutes of meetings in relation to the possible market value of the site,
- (c) all documents and correspondence relating to any proposed or interested buyers of the site,
- (d) all documents, correspondence and minutes of meetings in relation to any decision that the site is no longer needed for public education purposes, and
- (e) any document which records or refers to the production of documents as a result of this order of the House.

**PRIVILEGES COMMITTEE****Membership****Motion by Reverend the Hon. Dr Gordon Moyes agreed to:**

That Revd Dr Moyes be discharged from the Privileges Committee and that Revd Mr Nile be appointed to that committee.

**PETITIONS****Breast Screening Funding**

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

**Anti-Discrimination (Religious Tolerance) Legislation**

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

**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 **the Hon. David Clarke**.

**Unborn Child Protection**

Petition requesting legislation to protect fetuses of 20 weeks gestation and to make resources available for post-abortion follow-up, received from **Reverend the Hon. Dr Gordon Moyes**.

**Shoreline Caravan Park, Mulwala**

Petition opposing the sale of public land in Mulwala and subsequent threat of closure of the Shoreline Caravan Park, received from **the Hon. Melinda Pavey**.

**Crown Land Leases**

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

**BUSINESS OF THE HOUSE****Withdrawal of Business**

**Private Members' Business** items Nos 82, 94 and 103 outside the Order of Precedence withdrawn by **the Hon. Michael Gallacher**.

**BUSINESS OF THE HOUSE****Postponement of Business**

**Government Business** Notice of Motion No. 1 and Orders of the Day Nos 1 to 9 postponed on motion by **the Hon. Tony Kelly**.

**BUILDING LEGISLATION AMENDMENT (SMOKE ALARMS) 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) [10.20 .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.**

In 2004, the New South Wales Fire Brigades attended 4425 house fires across the State. Almost a third of these occurred during the winter months, when people are using fires, heaters and other electrical equipment.

We usually do not hear about most house fires—and that is largely because thanks to the valiant efforts of our two fire services, the fires are controlled before they reach a catastrophic stage. Thankfully, the vast majority of people escape with their lives.

However, there has been a tragic start to winter this year, with 13 people—including seven children—losing their lives in house fires in just over a fortnight in late May and early June. I am sure I speak for all honourable members when I extend the Parliament's sympathies to the families and friends of all these victims. Our thoughts and prayers are with them all.

In a bid to prevent more tragedies as a result of house fires, the Premier and I, as the Minister for Emergency Services, announced on June 14 that the Government would introduce new laws making it compulsory for smoke alarms to be installed in all existing homes and other buildings where people sleep. These include all homes, flats, boarding houses, motels, hotels, hostels and manufactured and moveable dwellings in New South Wales.

Under this bill, all of these dwellings must be fitted with either battery-operated, or hard-wired smoke alarms, by May 1, 2006. All rental properties will be covered by these amendments, and further regulations to be developed under the Conveyancing Act 1919 will require people selling their homes to state whether smoke alarms are installed.

These reforms will be part of a major fire safety campaign, developed with the expertise of our two fire service leaders—Commissioner Mullins from the New South Wales Fire Brigades and Commissioner Koperberg from the Rural Fire Service. This will include reinvigorated community education campaigns, new media advertisements and an expansion of the Fire Brigades' Smoke Alarm Battery Replacement for the Elderly [SABRE] program to other at-risk groups, including people with disabilities and from non-English speaking backgrounds.

The statistics mount a compelling case that a smoke alarm can mean the difference between life and death. Fire Brigades figures show that in the decade to 1999-2000, 88 per cent of fire deaths occurred in dwellings with no smoke alarms. Almost 59 per cent of deaths occurred between 9.00 p.m. and 6.00 a.m., when people can reasonably be assumed to be asleep. The elderly have a disproportionately high fire death rate compared to the rest of the population, with those 65 years and older accounting for 25 per cent of the victims.

Since around the mid-1990s, it has been a requirement under the Building Code of Australia in New South Wales for all new homes and those undergoing major renovations to be fitted with hard-wired smoke alarms. Smoke alarms also have been installed in all 130,000 New South Wales public housing homes since 1996, and concerted community education campaigns by the fire services have encouraged all home owners and occupants to install smoke alarms.

As a result, it is estimated that the percentage of homes with smoke alarms installed has risen from 28 per cent in the early 1990s to approximately 73 per cent in 2004. While it is clear that the majority of people have heeded this vital fire safety message, the Government is today moving to speed up the installation of these devices by the remainder of the community.

It is estimated that these amendments will apply to around 670,000 dwellings. We want to see 100 per cent of dwellings fitted with smoke alarms, and we believe the package of measures we are introducing today will help achieve that outcome. I would urge families not to wait until the new laws take effect on 1 May next year but to buy and install a smoke alarm this week. They are relatively inexpensive—the battery-operated models retail for about \$20, and are easy to install. It is a small investment when you think it could save your's and your children's lives.

The Building Legislation Amendment (Smoke Alarms) Bill will amend the Environmental Planning and Assessment Act 1979 and the Residential Tenancies Act 1987 to require the installation and maintenance of smoke alarms in all existing buildings in which people sleep in New South Wales.

Specifically, schedule 1 to the bill inserts a new provision—section 146A—into the Environmental Planning and Assessment Act that will permit regulations to be made in respect to matters including:

- the installation of one or more smoke alarms in buildings in which persons sleep,
- the type and location of smoke alarms to be installed
- the maintenance of smoke alarms installed in such buildings, and
- prohibiting persons from removing or interfering with the operation of smoke alarms installed in such buildings.

Buildings are defined to include existing buildings, manufactured homes and moveable dwellings.

It will be an offence for any person to contravene the provisions of the regulations, with a maximum penalty of five (5) penalty units—\$550—applying. This is comparable to both Victoria and South Australia, which require the installation of alarms in all residential properties and have penalties of a \$750 fine, and five penalty units, respectively. In regard to enforcement, section 121B of the Environmental Planning and Assessment Act permits a consent authority to issue an order against the owner of premises to ensure or promote the safety of persons in the event of fire.

However, it is the Government's intent to promote compliance through a focus on community education, encouraging residents to install smoke alarms as a means of improving their home and family fire safety, rather than through the fear of sanctions. I outlined earlier, this will be assisted through community education programs, media advertisements and targeting of at-risk

groups in the community. Specific campaigns will encourage people to change their smoke alarm batteries when they change their clocks for daylight saving.

The regulations will also specify the circumstances in which the consent of an owners' corporation is not required in relation to the installation of a smoke alarm in a strata title unit. For instance, a unit owner will not be required to obtain the consent of the owners' corporation to screw a battery-operated alarm to their ceiling, although this is defined as common property.

Schedule 2 inserts a new section 29A into the Residential Tenancies Act 1987 to make it a term of every residential agreement that landlords are required to ensure smoke alarms are installed, in accordance with the new section 146A of the Environmental Planning and Assessment Act in residential accommodation. It also specifies that neither the landlord nor the tenant is to remove or interfere with the operation of the smoke alarm, unless they have a reasonable excuse.

A failure by the landlord to have an operating smoke alarm in place at the start of the tenancy would constitute a breach of agreement and enable the tenant to apply to the Consumer, Trader and Tenancy Tribunal for an order against the landlord. The landlord would also be subject to a penalty under the Environmental Planning and Assessment Act. Schedule 2 to this bill also amends section 24 of the Residential Tenancies Act 1987 to allow landlords access to their rented premises to install smoke alarms by giving the tenants at least two (2) days' notice. The bill also makes clear that these regulations will apply to existing tenancy agreements.

New regulations also will be drafted under the Conveyancing Act 1919 requiring vendors selling residential property to disclose, without warranty, that smoke alarms are installed in the property.

Discussions between the Fire Brigades and building officials about the drafting of the regulations to which I have referred are already well under way. This will enable consultation to take place at the earliest possible stage with relevant stakeholders, before the regulations' introduction. As I indicated earlier, these new requirements will take effect on 1 May 2006. However, the Government intends for the regulations to be drafted and communicated to the New South Wales public well before this date.

I cannot stress strongly enough that the Government is today encouraging all householders not to wait for this legislative deadline but to act now. I appeal to every family in New South Wales to ensure they have taken basic precautions to ensure their homes are as fire safe as possible this winter. Please do not be complacent and think "it will never happen to me." It can, it does, and a \$20 smoke alarm could be the difference between saving your family's lives and utter tragedy.

I commend the bill to the House.

**The Hon. CHARLIE LYNN** [10.22 a.m.]: The Opposition is pleased to support the Building Legislation Amendment (Smoke Alarms) Bill, which will make it compulsory for all homes in New South Wales to have smoke alarms installed in their houses. In 2004 the New South Wales Fire Brigades attended 4,425 house fires across the State. Almost one-third of them occurred during the winter months when people are using fires, heaters and other electrical equipment. We do not usually hear about most house fires, largely because of the great work of our two fire services. Because of their quick response, the fires are normally controlled before they reach a catastrophic stage. The vast majority of people involved in those house fires escaped with their lives. However, this year there has been a tragic start to winter with 13 people, including seven children, losing their lives in house fires in just over a fortnight in late May and early June. I am sure all honourable members have been touched by those tragedies and we extend our sympathy to the families affected by them.

The measures introduced in the bill, and the regulation to be introduced, will amend the Environmental Planning and Assessment Act, the Residential Tenancies Act and the Conveyancing Act to require that it be compulsory for smoke alarms to be fitted into dwellings, such as homes, flats, boarding houses, motels, hotels, hostels and other manufactured homes. It will now be a requirement that, upon the sale of a property, people have to indicate whether a smoke alarm has been installed. Basically, any premises where someone can sleep must be fitted with a smoke alarm. Statistics show that 59 per cent of deaths occur between 9.00 p.m. and 6.00 a.m., usually when most people are asleep. I have no doubt that this bill will save many lives. The reforms in the bill will bring about a major fire safety campaign that has been developed with the expertise of our two fire service leaders, Commissioner Mullins from the New South Wales Fire Brigades, and Commission Koperberg from the Rural Fire Service, who are to be complimented on their work.

The reforms will include reinvigorated community education programs, new media advertisements and an expansion of the Fire Brigades Smoke Alarm Battery Replacement for the Elderly Program [SABRE] to other at-risk groups, including people with disabilities. These reforms will be part of a major safety campaign. Insurance companies would be saved a lot of money if they issued a smoke alarm to every house in New South Wales and every year when a policy is renewed they sent out a new batteries for each fire alarm with a note that they should be installed. I wonder why they have not done that, but it is interesting that Parliament has to take these measures to protect people from themselves.

As I said, almost 59 per cent of deaths occur between 9.00 p.m. and 6.00 a.m., when it can be reasonably assumed that people are asleep. The elderly have a disproportionately high fire death rate compared

to the rest of the population, with those aged 65 and older accounting for 25 per cent of victims. Since the mid-1990s it has been a requirement under the Building Code of Australia in New South Wales for all new homes, and those undergoing major renovations, to be fitted with hard-wired smoke alarms. Since 1996 smoke alarms also have been installed in all of the 130,000 public housing homes in New South Wales. Concerted community education campaigns by fire services have encouraged all home owners and occupants to install fire alarms. As a result, it is estimated that the percentage of homes with smoke alarms installed has risen from 28 per cent in the early 1990s to approximately 73 per cent in 2004.

Whilst it is clear that the majority of people have heeded this vital fire safety message, the Government has moved this legislation to speed up the installation of the devices by the remainder of the community. It is estimated that these amendments will apply to approximately 670,000 dwellings. I am sure all honourable members want 100 per cent of dwellings fitted with smoke alarms. The Opposition believes that the package of measures that are being introduced today will help achieve that outcome and save lives. I congratulate the Government on this initiative. I think insurance companies could take a bit more responsibility in this area, and I commend the bill to the House.

**Reverend the Hon. Dr GORDON MOYES** [10.27 a.m.]: I speak on behalf of the Christian Democratic Party on the Building Legislation Amendment (Smoke Alarms) Bill. The purpose of this bill is to provide for the installation and maintenance of smoke alarms in buildings in which people sleep. We welcome this initiative. Many of us would be familiar with the recent tragic deaths of four children in a house fire in Wyong. Until that incident, nine people had perished in house fires in three weeks. The deaths prompted calls for mandatory smoke alarms in all homes in New South Wales. This bill satisfied those calls.

Statistics given by New South Wales Fire Brigades indicate that nearly 90 per cent of deaths occur in homes with no smoke alarms. Currently, approximately 72 per cent of homes in New South Wales are installed with these devices. Further, statistics over the past 10 years into house fire deaths show that deaths are rare in homes that have alarms. That may be due to the fact that when a person is asleep, smoke from a fire will actually put them into a deeper sleep. A smoke alarm provides the early warning needed to get down low and go, go, go.

I note, however, that the Building Code of Australia requires the installation of smoke alarms in all new and renovated residential buildings. They have also been fitted in all public housing residences in New South Wales. A simple battery operated smoke alarm that costs between \$10 and \$12 may be responsible for saving the life of a precious human being. We congratulate those insurance companies that are currently providing a free smoke alarm with every contents policy they sign. People should learn to replace batteries on regular dates. I would suggest, for example, the change back from daylight saving time is a good time to replace the battery. I ask battery manufacturers to consider having different and variable pictures on the alarm so that those people who are hearing impaired and who may not have the capacity to hear high-pitched alarms might be still able to be warned.

The Fire Bridges Commissioner, Greg Mullins, has remarked that when this bill is passed, New South Wales will become the third State to require mandatory smoke alarms following 12 deaths in two weeks from house fires. Under this bill it will be a condition of a property sale that smoke alarms be fitted. Also, in all existing homes, flats, boarding houses, motels, hotels, hostels and mobile homes it will be a requirement for the alarm to be fitted—essentially anywhere a person may sleep. Landlords also will be required to fit smoke alarms in all rented accommodation. The bill has two main schedules. Schedule 1 amends the Environmental Planning and Assessment Act 1979. Schedule 2 amends the Residential Tenancies Act 1987. Enforcement of the proposed laws will come about primarily through community education, rather than threat of sanction. We commend the Government for the bill, and we will support it.

**Ms SYLVIA HALE** [10.30 a.m.]: The Greens support the Building Legislation Amendment (Smoke Alarms) Bill. Smoke alarms are essential for reducing loss of life in fires. The Greens are appreciative that the Government has fast-tracked this legislation but recognise it is overdue. Unfortunately, it has taken a number of recent house fires with tragic consequences to create the sense of urgency that led to the bill being introduced. Since 1999—six years earlier than New South Wales—Victoria has required that smoke alarms be fitted in all premises where people sleep.

The bill amends the Environmental Protection and Assessment Act to allow for regulations specifying the particulars of the method of installation and the types of smoke alarms that can be installed, and in which buildings, with special provisions in relation to strata title units. The bill also amends the Residential Tenancies

Act, requiring landlords to install alarms, with two days notice to the tenant, in their rental properties. It is completely justified that landlords should install smoke alarms in rented premises.

The bill is silent on the question of maintenance, but it can be assumed that smoke alarms are fixtures belonging to rented premises and therefore subject to repair and maintenance by the landlord, including the replacement of batteries. It would not be a good outcome if a tenant who was unable to afford new batteries for a number of alarms left them without batteries and therefore not in working order. It would be useful if the Office of Fair Trading issued material instructing landlords as to their responsibilities for the installation and maintenance of smoke alarms.

Often, the areas most affected by fires are those in which people are renting or on low incomes. They are also disproportionately in regional Australia. There are a disproportionate number of fires in certain areas, because fires have a geographical and social dimension. I cite a New South Wales Fire Brigades statistic in its annual report for the year 2001-02. Nearly all the local government areas that recorded high rates of fires per 1,000 of population were in regional New South Wales. The local government area of Bourke recorded the highest number of fires per 1,000 head of population, with 45.3, followed by Kempsey with 22.1 and Cessnock with 18.9. Of the 13 local government areas with 10 or more fires per 1,000 of population, only three were in the greater Sydney area. All three were in western Sydney: Campbelltown with 16.2, Blacktown with 11.2, and Penrith with 10.1. Local government areas with a high proportion of incendiary or suspicious fires were Bourke 99 per cent, Kempsey 80 per cent, Wellington 66 per cent, Tenterfield 63 per cent, and Muswellbrook 60 per cent.

As we have seen recently, children often inadvertently cause fires and suffer the tragic consequence. Local government areas with a high proportion of fires caused by children were Moree Plains 55 per cent, Inverell 39 per cent, Greater Taree 26 per cent, and Nambucca 23 per cent. The kitchen or cooking area was the most reported area of fire origin, with 42.8 per cent of all residential building fires starting in the kitchen. The sleeping area contributed to the second-highest number of building fires, with 13.1 per cent of all residential building fires starting in sleeping areas. Falling asleep is also one of the causes of fire ignition. Significantly, smoke alarms were not present in 68 per cent of residential building fires attended by the New South Wales Fire Brigades in 2001-02. The situation has probably improved in recent years, but no similar statistics are available on the New South Wales Fire Brigades web site.

As can be seen from the statistics, there are significant geographical disparities in the incidence of residential fires throughout New South Wales. Areas with concentrations of low-income households, especially in regional areas, are at greater risk of fire. When implementing its community education programs, the Government should identify, and concentrate the greatest effort on, the local government areas or postcode areas with a higher than average incidence of fires. The implementation of policies should be geographically sensitive in order to have maximum effectiveness. We encourage the Government and New South Wales Fire Brigades to use local media, local schools, and other means to get the fire safety message across this winter.

**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) [10.36 a.m.], in reply: I thank all honourable members for their contributions to the debate. In particular I thank Opposition members and crossbench members who have wholeheartedly supported the bill and the process that has taken place over the past few weeks. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## **PAWNBROKERS AND SECOND-HAND DEALERS 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) [10.37 a.m.]: I move:

That this bill be now read a second time.

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

**Leave granted.**

The purpose of this bill is to amend the *Pawnbrokers and Second-hand Dealers Act 1996* to clarify that all agreements that amount to a pledge and loan are covered by the legislation.

In the decision of the High Court in *Palgo Holdings Pty Ltd v Gowans* that was handed down on 25 May 2005, it was held that the agreement in question, despite having the essential characteristics of a pledge and loan agreement, was not covered by the Act because it had been described in the documentation signed by the customer as a "chattel mortgage". This bill seeks to correct that anomaly and make it clear that the Act applies to all agreements that, in substance, amount to a pledge and loan agreement.

The Act has three main objects: to restrict the trade in stolen goods, to provide consumer protection mechanisms for those entering into a pawn agreement and to provide a mechanism for the recovery of stolen goods by their owner quickly and equitably.

Pawnbrokers are required to hold a licence and to keep certain records. Records of transactions are uploaded to the NSW Police within three days of the record being made. These records are then cross-matched with records of stolen goods. Pawnbrokers are also required to obtain evidence of a person's identity when they sell or pawn goods. These provisions assist in restricting the trade in stolen goods.

When consumers enter into a pawn transaction they benefit from the safeguards provided by the consumer protection mechanisms contained in the Act. The Act requires pawnbrokers to disclose all fees and charges, provide pawners with information about their rights and responsibilities and allow pawners to pay their interest charges monthly. It also gives pawners a minimum period of three months to be able to redeem their goods and, if goods are not redeemed and are sold, then the legislation gives the pawner the legal right to claim any surplus monies remaining after all allowable fees and charges have been deducted from the sale proceeds.

The pawnbrokers and second-hand dealers legislation contains other protective measures for consumers and the community at large. It is essential that all consumers have access to the benefits of these provisions and that the objectives of the Act can be met.

Parliament has recognised the importance of this legislation by passing amendments which have strengthened its operation. The *Pawnbrokers and Second-hand Dealers Amendment Act 2002* included provisions requiring pawnbrokers to enter into a written agreement when extending existing pawn agreements. These extension agreements contain such important consumer information such as the new terms of the agreement, the date of the new redemption period and what new fees and charges will be payable.

Without the amendment to the Act contained in this bill, unscrupulous persons operating for all intents and purposes as a pawnbroker will be able to require consumers to sign documents that prevent them from accessing rights they would otherwise have under the Act. Consumers who use the services of pawnbrokers are often amongst the most disadvantaged members of our community. It is critical that they can continue to receive the protection provided by the legislation.

In addition, persons wishing to offload stolen goods would be able to do so more readily. The requirements of the Act, including requirements for the lender to obtain evidence of the person's identity and provide details of the pawned goods to the NSW Police, would not apply. This could severely limit the ability of the Police in restricting the trade in stolen goods.

The bill inserts a new definition of pawnbroker into the Act. A pawnbroker means a person who carries on the business of lending money on the security of pawned goods.

For the purposes of the Act, goods are pawned if they are taken into the possession of the lender for the purpose of the lender relying on possession of the goods as security for the loan.

The bill also creates a regulation-making power for use in the event that the credit market develops new products that are not anticipated by the legislation. The regulation-making power allows regulations to be made to exclude products that may not be in the nature of pawn agreements but which may be unwittingly caught by the new definition. Alternatively there may be certain cases or circumstances where the transaction is, in substance, a pawn agreement and the goods are taken into possession by the lender but not used as security. This power also anticipates the need to be able to make regulations to cover certain cases or circumstances where goods may be taken into possession by an associate or person acting on behalf of a lender, where money has been loaned on the security of those goods.

The bill introduces certain interpretive principles to be applied in determining whether goods are pawned and whether money is lent on the security of pawned goods. These are:

- (a) that regard is to be had to the substance of the loan transaction (rather than its form or legal technicalities);
- (b) that particular regard is to be had to the ordinary understanding of the borrower as to the nature of the transaction;
- (c) that a loan can be both on the security of pawned goods and a chattel mortgage; and
- (d) it does not matter that the terms of the loan transaction provide that the lender has taken possession of the goods at the request of or on behalf of the borrower or otherwise so as to give the appearance that the lender does not rely on possession of the goods as security of the repayment of the loan.

I commend this bill to the House.

**Ms SYLVIA HALE** [10.38 a.m.]: The Greens support the Pawnbrokers and Second-hand Dealers Amendment Bill. The amendments will ensure that financial loans giving rise to chattel mortgages are treated in the same way as loans given on the security of pawned goods. This will ensure that lenders who deal in these types of loans will be required to hold a licence under the Act. This is an improvement, as currently those types of loans are not included under the Act even though they are similar in operation to loans given on the basis of pawned goods. Pawn shops and chattel mortgage lenders both rely on goods as security, and the effect of the bill is that such loans and lenders will be treated in the same way.

Financial hardship and a variety of other personal reasons lead people to pawn goods in exchange for cash. In an ideal world there would be little need for people to borrow money from pawnbrokers and payday lenders. The Greens believe that access to secure and affordable housing, decent wages, and the bare necessities of life are human rights. Nevertheless, short-term loans in exchange for goods are a reality of modern life and they must be regulated adequately.

Stolen goods have been sold to pawnbrokers, sometimes to finance a drug habit—probably more so in the past when there was less regulation. The bill would make it harder for unlicensed lenders to receive stolen goods. I wonder if the proliferation of pawnbrokers and payday lenders is indicative of greater desperation among those on low or minimal incomes. It would be an interesting exercise to analyse the number and location of these lending outlets. Of course, you would find that they are concentrated in areas where people are struggling on low incomes or have less access to cheaper forms of credit.

People can end up paying higher interest to pawnbrokers and payday lenders than they would pay elsewhere. Last week one of my staff members inquired about a payday loan from an office in Newtown, and was told that the fee for a short-term loan of \$200 for up to 62 days was about \$77.90, plus a membership fee of \$15. That is about \$95 in fees and interest to borrow \$200—an interest-rate of 40 per cent on a two-month loan. The more desperate you are for credit, the more vulnerable you are to exploitation by loan sharks, and I am thinking specifically of payday lenders, who charge anywhere between 500 and 2,500 per cent interest. These lenders and this type of lending should be outlawed. The Greens are worried about people ending up with a mountain of debt. We support the bill because its object is to afford greater protection to the most vulnerable by ensuring that those offering loans based on security of goods are brought under the Act.

**The Hon. MELINDA PAVEY** [10.41 a.m.]: I lead for the Opposition on the Pawnbrokers and Second-hand Dealers Amendment Bill, which the Opposition will not oppose. Unlike the previous speaker I will confine my remarks to the intent of the bill. If the Greens are worried about payday lenders I suggest they put some of the incredible resources within their offices to worthwhile use and consider introducing legislation dealing with payday lenders. The bill is yet another in a long stream of legislation the Government is desperate to push through in the final week of this session. I question why the Government is so intent on pushing through as much legislation as possible, regardless of whether proper discussion and consultation has been sought. However, the shadow Minister in the other place, John Turner, in his most thorough and professional manner, has conducted wide-ranging consultation with the industry—unlike the Government—and it appears that the industry supports the bill—indeed, it has been asking for it for some time. But, as usual, the Government has left everything to the last second and we are pushing it through without wider consultation.

I am advised by John Turner, the shadow Minister for Fair Trading, that the bill has the general support of the industry because it is within its interests to have transparency and proper protocols in place with NSW Police to deal with goods in pawnbroking stores. I understand that proprietors of pawnbroking outlets maintain a register of goods, and that within three days of information being recorded in the register it is passed on to NSW Police. The maintenance of a register has reduced the incidence of stolen goods in pawnbroking stores. The tactic of the Government seems to be to stall legislation until the final weeks of the session and then hurriedly push through as much legislation as it can to avoid scrutiny.

The bill will clarify what goods are pawned, and when. The Opposition supports the amendments to the Pawnbrokers and Second-hand Dealers Act 1996, which are in response to the High Court Decision in *Palgo Holdings v Gowans*, which was handed down in May of this year. The High Court held that the paperwork indicated that Palgo lent money on security of a chattel mortgage and not on security of the pawned goods. With a pawn title, the title rests in the pawnbroker. The effect of the decision is that dealers may try to avoid the legislation by adopting a similar approach to Palgo. In turn this would reduce the ability of the Act to restrict the trade in stolen goods, and consumers would be denied protection under the Act.

The Pawnbrokers Association of New South Wales has indicated that it is comfortable with the amendments to the Act, despite not being aware at the time of the second reading speech in the lower House that



the legislation would be debated. Some time ago the association advised the Minister about the anomaly in the legislation, but it took the High Court decision to stir a response from the Minister. The bill will clarify the Act to determine who may carry on a business by way of pawn pledge or other form of security. The bill will ensure greater protection under the Act by introducing certain principles to be applied in determining whether goods are pawned and whether money is lent on the security of pawned goods. The Opposition supports the amendments, but I restate my frustration about the Government rushing the legislation through with little or no consultation. I question the motives of the Government in doing so.

**Reverend the Hon. FRED NILE** [10.46 a.m.]: The Christian Democratic Party supports the Pawnbrokers and Second-hand Dealers Amendment Bill, a simple but practical bill that deals with a problem that occurred in the Local Court at Lismore in 2001 when Palgo Holdings, trading as Cash Counters Byron, was convicted of carrying on a pawnbroking business without holding a license under the Act. Palgo appealed that decision and, after being upheld by the lower courts, the High Court handed down its decision on 25 May 2005 to allow the appeal with costs and quash the conviction.

When I raised this matter in the House some weeks ago the Minister indicated that legislation would be introduced, which we are currently debating, to clarify the meaning of "pawnbroking" and "pawn". The bill will close the loophole. In convicting Palgo, the Local Court held that the transaction where the goods were retained by the lender reflected the fact that the borrower's goods had been pawned or pledged, and that Palgo should have been licensed under the Act. In contrast, the majority of the High Court took the view that nothing in the text of the Act supported the argument that pawned goods included goods that are the subject of other forms of security transactions, such as chattel mortgage or bill of sale.

The majority view of the High Court was that the paperwork indicated that Palgo lent money on the security of chattel mortgages, not on the security of pawned goods. Palgo was using a loophole in the legislation. If this bill is not passed, other dealers will adopt a similar approach to Palgo to avoid paying a licence fee. It is urgent that this important bill be passed by the House to clarify the application of the Act to persons who carry on business by way of pawn pledge or other form of security.

To determine whether a person is engaged in the business of lending money on the security of pawned goods, the court must have regard to the actual arrangement between the parties, including the borrower's understanding of the arrangement, not just on the legal nature of the arrangement as disclosed in the documentation signed by the parties. We congratulate the Minister for Fair Trading on moving promptly to close the loophole by introducing 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) [10.49 a.m.], in reply: I thank honourable members for their contributions to the debate and I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## **INDEPENDENT COMMISSION AGAINST CORRUPTION**

### **Report**

**The President** tabled, pursuant to the Independent Commission Against Corruption Act 1988, a report entitled "Report on Investigation into the Relationship Between Certain Strathfield Councillors and Developers".

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

## **CROWN LANDS LEGISLATION 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) [10.51 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 Crown Lands Legislation Amendment Bill 2005 continues the Government's important reforms to the management of Crown land in the eastern and central divisions of New South Wales. The Government is moving away from the old colonial office mentality of Crown land management, and bringing it in line with modern community expectations. Crown land is a valuable public asset and it is essential that it is managed wisely for the benefit of all. The strong and detailed reforms in this bill will put the management of Crown land on a more sustainable footing by slashing red tape; freeing up resources and providing greater flexibility in the day to day management of Crown land.

They represent the most significant reform of the Crown land legislative framework in the State's history. The reform commenced last year the Government through the Crown Lands Legislation Amendment (Budget) Act 2004. This Act enshrined the principle of market rent, to ensure the owners of Crown land—the people of New South Wales—get a fair and decent return on the private use of public land. We also embarked on the long awaited overhaul of perpetual leases and the Crown road network. The Government believes that many of these parcels of lands are best managed privately. This consolidation of the Crown land estate will allow the Government to focus resources on the public lands most used by the community, such as community halls, recreation reserves, and showgrounds.

The Crown reserve system consists of some 30,000 reserves across the State, many of which are managed by reserve trusts. The bill proposes amendments to enable a more flexible, and more accountable approach to Crown reserve management. Many reserve trust managers are volunteers. This has served the State well for many years, and we are greatly indebted to these volunteers. However, modern commercial skills and imperatives, and other issues such as public liability, place a great strain on the capacity of many of these trusts. The bill will provide these volunteer trust managers with a greater choice of management models. Through the creation of management committees, volunteers can still be involved in the vital day to day management of the reserve, but with the support of the Department or other trust managers taking on the legal responsibility and associated liability.

It is hoped that this initiative will encourage more people to volunteer their time and skills in helping to manage our great Crown reserves. The bill will enable reserve trust managers to delegate their functions with Ministerial approval. The Minister will also be able to appoint different reserve trust managers to address different reserve management issues on the one reserve. As I mentioned earlier, in addition to providing greater flexibility in the management of reserves, this bill also ensures greater accountability of those managing reserves on the public's behalf. Reserve trusts currently submit annual reports, however the reporting period and the information reported on varies between trusts. This bill enables the Minister to standardise reporting dates, and establish specific criteria against which the performance of trusts will be measured.

An on-line reporting document will be made available to enable quick identification and analysis of problems and concerns that trust managers might have. Currently, members of reserve trust boards drawn from the community are appointed for a period of up to five (5) years, but corporate trust managers are appointed indefinitely. In many cases, the indefinite appointment of corporate trust managers, such as local councils, is appropriate, because it enables long-term planning. However, although the Minister may terminate the appointments at any time, we are keen to avoid any possibility of complacency or lack of accountability. For this reason, the bill provides that corporate trust managers may be appointed for a fixed term.

The Government wants to reduce bureaucracy, and provide local councils with more responsibility for the care and control of the reserves they manage. This is consistent with the autonomy that local councils have in dealing with community land under the Local Government Act. At present, the Minister is required to consent to almost every lease and licence made for a reserve. This bill will slash red tape by allowing the Minister to authorise local councils acting as reserve trust managers, to grant leases, licences and related easements over Crown reserves that they manage in certain circumstances, without the need to obtain Ministerial consent. The Minister can revoke this authorisation at any time, and retains the power to review any council decision if necessary.

It makes sense that, if a reserve trust is authorised to enter into leases and licences, they also carry the associated risks. Councils acting as reserve trust managers will be required to indemnify the Crown against any liability or compensation claim arising from actions undertaken without the Minister's approval. The bill also proposes greater flexibility in the types of activities permissible on Crown reserves. Currently, the public purpose for which Crown land is reserved or dedicated restricts the use that can be made of the land. Examples of public purposes that land is currently reserved for include public recreation, local Government purposes, public hall, tennis court, museum, baby health clinic, wharf purposes, caravan park, camping, and so on.

This purpose states the main reason why land was set aside for the public. Yet in many cases, the reserve may be very large, and the facility provided may use only a small section of the land. Some dedications were set in stone over a century ago, and may not reflect modern community needs. Yet unless a use of the reserve is closely aligned with the purpose, it is not permitted. Sometimes, the reserve purpose is unnecessarily restrictive. For example, if land had been reserved for wharf purposes, a boat hire business may be permitted near or on the wharf, and a cafe for wharf users would be permitted; but a general store or tourist information centre may not be.

This bill is very clear, however, that additional uses of land can only be approved where they are in the public interest. Additional uses are to be authorised through a plan of management developed by the reserve trust, and adopted by the Minister. This ensures that any additional use is in keeping with the plan for the overall management of the reserve. The Minister is under no obligation to allow additional uses to occur, and must consider whether any additional use is in the public interest. Where a reserve trust proposes that additional uses are authorised through a plan of management, the Minister can require the trust to indemnify the Government against any liability or compensation claim arising from the additional use made of the reserve.

The Minister will also be able to authorise additional uses for a reserve, outside of a plan of management, provided the Minister is satisfied the use is compatible with the existing purpose, consistent with the principles of Crown Land Management, and in the

public interest. These changes will provide greater flexibility for reserve trust managers to more appropriately meet the changing needs of the community. Currently, the Minister can grant leases and licences over a Crown reserve where there is no appointed reserve trust manager. However, if there is a reserve trust in place, the Minister is only able to grant licences. Some proposals requiring leases or licences to be granted on reserves may be so complex that reserve trust managers may not have the skills or capacity to manage the associated risks.

In these cases, it may be more appropriate that the Minister grant the lease or licence directly. In doing so, the Minister must consult with any appointed reserve trust manager or other relevant Minister. Further, the Minister for Lands must be satisfied that it is in the public interest; and have due regard to the principles of Crown land management. The Government is committed to maintaining high environmental standards in dealing with the conversion of perpetual leases. The Government has already provided for covenants to be placed on converted perpetual leases to protect environmental values. And we have already placed a blanket ban on subdivision for converted perpetual leases. This bill now ensures that any covenants or restrictions on subdivision rest with the title of the land.

This means that the covenant will remain, even if the land is sold. In addition, any environmental covenants imposed by the Minister will be protected from being overridden by Local Environment Plans under Section 28 of the Environmental Planning and Assessment Act. The power to impose covenants and the protection of those covenants will be extended to the sale of any Crown land. This bill will also afford similar protections for environmental agreements with landholders under the National Parks and Wildlife Act and the Nature Conservation Trust Act. Some perpetual leases have important stands of remnant vegetation that need to be protected. Building on the current protections for most perpetual leases being sold, the bill will require the concurrence of the Minister for the Environment in lifting any of these subdivision restrictions.

The concurrence of the Minister for the Environment will also be required in the lifting of a covenant placed on converted perpetual leases in or adjoining an identified wilderness area, or adjoining a national park. In order to ensure compliance, the bill provides for authorised inspectors to enter and inspect Crown land under tenure, or private land that is subject to a covenant, for the purposes of monitoring and reviewing the environmental protection measures. In line with the principle of market rent for the private use of public land, the bill ensures that all Crown land tenures are treated in a similar way in terms of rent redeterminations and CPI adjustments. In keeping with last year's IPART review into domestic waterfront tenancies, the bill provides for a rebate to be given to water access only residents.

It will also allow councils that provide facilities such as jetties and wharves for the community without charge, to receive a rent rebate. The bill enables the Government to deal more effectively with situations where there may be multiple users of facilities located on Crown land by providing for the creation of sub-licences over Crown land. Another important reform is allowing licences to be transferable. This will again slash red tape and provide a better product for Crown land clients. Finally, the bill overhauls the outdated legislation governing schools of arts and mechanic's institutes. These were established many years ago to provide a venue for the intellectual improvement of workers and other members of the community.

However, these institutes have largely moved on from their original purposes, and many are in a state of disrepair. There may be as few as 60 institutes continuing to operate under the Trustees of the Schools of Arts Enabling Act of 1902. Many of the trustees of these institutes may experience difficulty in complying with this outdated legislative framework. There is also a very real potential for lack of accountability, because there is no requirement for the trustees of schools of arts to report on what they are doing. This bill provides a simple way forward in managing these valuable community assets. It provides the opportunity for trustees responsible for schools of arts to voluntarily transfer the ownership and management of the institute to either the State or local Government, for management for community purposes.

The bill makes it possible for the community to decide what happens to these assets and ensure, if possible, that the assets continue to be used for public purposes. Where there are no remaining trustees or members of the institute with legal capacity to enter into such an agreement, the transfer may proceed, provided that the responsible Minister is satisfied that the transfer is in the interests of the general public and the local community. In conclusion, the Crown Lands Legislation Amendment bill 2005 provides a common sense approach to the management of Crown land in New South Wales. It cuts red tape, introduces greater flexibility, and helps deliver better services and facilities for the people of New South Wales.

The Carr Government has an active and ongoing commitment to improving the sustainable management of the Crown land estate in New South Wales—for this and future generations. The strong and detailed reforms in this bill help secure this future. I commend the bill to the House.

**The Hon. RICK COLLESS** [10.51 a.m.]: In another place the Coalition opposed this bill, and for very good reasons. We had serious concerns about the embedded powers of entry in the bill authorising the exercise of power by the Department of Planning, Infrastructure and Natural Resources to harass people over native vegetation and threatened species management decisions. The Coalition's other major concern relates to the environmental covenants placed on the conversion of perpetual leases to freehold land. Following discussions with various people over some of the issues, I am able to announce that the Coalition will not oppose the bill. The Coalition's concerns relating to powers of entry are well founded by reference to some of the tactics employed by some ideologues in the Department of Planning, Infrastructure and Natural Resources in their relentless pursuit of innocent primary producers in relation to their native vegetation management.

The more interesting point relating to this bill is the way in which powers of entry can be justified and managed. As a practising soil conservationist for 25 years I had an "authority to enter" card from the Director General of the Soil Conservation Service that authorised me to enter land for the purpose of inspecting various matters relating to soil conservation. A similar provision exists under the Surveying Act and the weeds Act. The important element of this legislation is the protocols surrounding the way in which authority to enter is

exercised. I hope the Minister will confirm during his reply that his department will put in place the appropriate protocols for the exercise of authority to enter. The important point is to ensure that landholders are asked for permission to enter their land and that the authority to enter is used only as a last resort. In any case, landholders should be advised of any intention to enter their land.

Justification for concern over covenants applied to perpetual leases was amply demonstrated last night in this House during debate on legislation providing for covenants for protection of the environment, protection and management of natural resources, and protection of cultural heritage and other significant values of land, or any item of work on the land. The Coalition's concern is that land that has been converted from perpetual leasehold to freehold will be subject to constraints authorised by the Native Vegetation Act and the Threatened Species Conservation Act for protection of the environment. Notwithstanding that that legislation already applies to perpetual leases, the provisions of part 4A, "Restrictions and covenants impose on land", extend restrictions to all Crown land conversions, not just perpetual leases. Numerous soldier settlement blocks in New South Wales are held under perpetual leases.

Conservation is being imposed upon people by changes in tenure. An example of that is the Brigalow Belt South bioregion bill that was debated in this House last night. I know only too well from my experience in the Soil Conservation Service that the conservation of land by changing tenure is very difficult to achieve. Virtually the only way to achieve conservation of land is by changing the way in which the land is managed. Having dealt with concerns expressed in another place relating to authority to enter and covenants that will be applied to land, I reiterate the Coalition's general support for the bill.

**Mr IAN COHEN** [10.57 a.m.]: This bill gives effect to the second stage of reforms, the implementation of which began with the Crown Lands Legislation Amendment (Budget) Act of last year. The purpose of the bill is ostensibly to provide a more flexible and accountable system to manage Crown land. The Greens support some aspects of the bill, but in Committee will move amendments to strengthen some of the environmental protection provisions that are currently little more than cosmetic.

The objects of the bill include greater flexibility and accountability in the management of reserve trusts. This will include the ability of councils, as reserve trust managers, to grant leases, licences, and related easements over Crown reserves managed by them without the Minister's consent. This is potentially a worrying trend. Councils control a vast amount of Crown land, and this delegation could see land being leased for any number of purposes, perhaps inconsistent with protecting conservation values.

The bill provides for Crown reserves to be used for additional purposes so long as those purposes are aligned to protecting the public interest. This is a matter of concern for the Greens. There is no definition of "public interest", and therefore Crown reserves could end up being used for any number of unforeseen purposes. The bill proposes changes in the way reserve trusts are managed. I understand there is a need for greater flexibility and that, as times change and the management of reserve trusts becomes more complex, there may be need for reforms. However, I hope we will not see a situation of community reserve trusts being stripped of their powers. I understand that that is not the intent of the legislation.

Part 4A of the bill provides for restrictions and covenants to be imposed on land relating to the protection of the environment and other significant values. The Greens support this move. However, it does not go far enough. Covenants may be imposed in connection with the sale of Crown land for the following purposes: protecting the environment; protecting or managing natural resources; and protecting cultural, heritage or other significant values of the land, or any item or work on the land.

In Committee I will move an amendment to broaden the values to be recognised in the imposition of covenants on Crown land. I will also move an amendment for covenants to be administered by the Minister for the Environment, rather than the Minister for Lands. There is concern that there is not adequate expertise in the Department of Lands in relation to environmental and conservation values, and as this expertise lies with the Department of the Environment, the role of environmental protection should lie with the Minister for the Environment.

The bill provides a concurrence role for the Minister for the Environment prior to the lifting of a covenant that restricts subdivisions. The Greens support this provision. A concurrence role is also provided for the Minister for the Environment in relation to lands that are subject to a conservation covenant that is within, part of, adjoins or abuts identified wilderness or adjoins or abuts a national park. This role is also to be commended. However, some leases that are tens or even hundreds of metres away from a national park border

may have the same conservation values as leases adjoining a national park. Such leases would not be protected because they do not share a border with a national park. Furthermore, Crown lands that satisfy these criteria form only a small fraction, less than 5 per cent, of leases with conservation value.

If managed properly, the Crown reserve system could be an effective way of ensuring connectivity of vegetation. Isolated areas of high conservation value rely on corridors of vegetation for biodiversity values. Species need to be able to move across areas to be viable. The viability of threatened species relies on the connectivity of areas of conservation value. The Government is very good at espousing rhetoric about protecting biodiversity, but it is not following that up with action. Allowing areas to be sold without placing conservation covenants or restrictions on them simply because they do not adjoin or abut a national park will sound the death knell to threatened species in those areas.

The Greens support the provision in the bill that prevents conservation agreements from being overridden by environmental planning instruments. The Government's decision to place a covenant on all converted Crown leases, preventing their subdivision, is supported. Despite some safeguards in the bill for leases in wilderness areas and those adjacent to national parks, I am alarmed that the Government is going ahead with plans to allow three million hectares of Crown leases to be sold. The bill does not adequately safeguard the conservation values already protected by the Crown lease system. The 11,000 Crown leases that are subject to conversion hold critically important conservation values. There would be long-term conservation benefits to retaining the Government's interest in these public lands, most of which protect remnant vegetation.

In 1993 Bob Carr said, "This is the public's land; it doesn't belong to John Fahey. It is not his to sell off." The Government announced a change in policy in the May 2004 mini-budget to sell off Crown land. The Carr Government will privatise the same leases that Labor tried to prevent from being sold when John Fahey was Premier. This includes thousands of leases that contain critically important remnant vegetation. The leases are used mainly for grazing and the lessees are to be encouraged to convert to freehold title for just 3 per cent of the freehold market value. This is indicative of the lack of value that is placed on the environment.

**The Hon. Duncan Gay:** The only difference is that we were up-front and they lied to you.

**Mr IAN COHEN:** I acknowledge the interjection by the Deputy Leader of the Opposition. The Government is doing a massive backflip on its position of a decade ago. Crown leases play a critical role in providing habitat for threatened species in some areas in a network of remnant vegetation, particularly in areas such as the vast Central Division. The retention of vegetation on such land is vital to prevent regional species becoming extinct and will form the basis of future landscape rehabilitation efforts. Proper ecological assessment of Crown lands is needed. That needs to be done by an independent assessor, perhaps from the Department of Environment and Conservation, who is expert in flora and fauna identification. In central and western New South Wales in particular, Crown lands are often the only areas of conservation value left. Riparian land in particular, which follows drainage lines, often has very high conservation value.

Travelling stock reserves should also receive very high consideration for protection, because generally they are important areas of high conservation value. They are being sold off at ridiculously low prices, and are open to degradation by heavy stocking. Mining reserves can also have good conservation values and, therefore, also need to be considered. Identified vegetation corridors must be properly assessed for biodiversity values if threatened species are to have any chance of survival. Once land is converted to freehold title, it will be much more difficult and expensive for the Government to permanently safeguard conservation values. Controls on the management of Crown leasehold land are superior to controls applying to freehold land. Addressing this issue through conservation covenants is acceptable, but such a system has not been tried and tested under the Minister for Lands. The Department of Lands does not have the expertise and resources to place the most appropriate covenants on thousands of leases; the Minister for the Environment would better fulfil that role.

Under this bill there will be better accountability and transparency in relation to reserve trusts, as they will be required to adopt plans of management and publicly exhibit them. The Greens support that move. Changes made by this bill will enable schools of arts to transfer voluntarily to either the Local Government Act or the Crown Lands Act. I understand that currently many of those institutions operate outside legislation, because the relevant legislation is out of date. Liability issues are also involved, and staff from the Minister's office have explained to me that we have moved beyond many people managing the facilities of schools of arts, often in a vacuum. In today's world of potential litigation the Greens recognise that such issues must be remedied. The bill remedies that matter to a significant extent.

I understand there are some concerns by residents with regard to water access over Crown land. Much has been said about the increases in rent this bill will provide. However, with the \$250 rebate, which will be available to residents based on a determination by the Independent Pricing and Regulatory Tribunal, the increase will not be substantial. Moreover, I am told that hardship provisions are available for those to whom the increase will cause a genuine problem. Redeterminations and adjustments of rents and licences and enclosure permits are available. The Greens will move amendments relating to the exemption of rent for enclosures that have in place conservation agreements under the National Parks and Wildlife Act or the Nature Conservation Trust Act.

Division 5A deals with powers to enter and inspect land and to obtain information. There was a great deal of debate in the other place on those powers, with the Opposition arguing strongly against the provision. The Greens support the changes in the legislation, especially in relation to the enforcement of covenants and the protection of conservation values on converted Crown land. There has been significant discussion between my office and the office of the Minister for Lands. I thank staff from the Minister's office for their patience and preparedness to meet with us a number of times to deal with the details of this bill, particularly with issues that the Greens have raised—which involved a degree of difficulty, given the nature of the land use issues.

The Environmental Liaison Office [ELO] has a number of concerns with the bill and, unless the bill is significantly amended by the Government, it encourages support for the Greens amendments. Andrew Cox, Executive Officer of the National Parks Association of New South Wales, wrote on behalf of the ELO:

This Bill helps facilitate the Government's plan to convert to freehold up to 11,000 Crown grazing leases covering a total of 3 million hectares. This plan is opposed by conservation groups. Department of Lands has mismanaged the process of Crown lease conversion, underestimating the conservation values that most of these hold and their future role in landscape restoration efforts, especially in the heavily cleared western woodlands, or the sheep-wheat belt of Central NSW. There is also a lack of support for landholders that seek to manage their lands to protect conservation values.

While the Bill deals with aspects of management of other types of Crown lands in addition to Crown leases, the ELO Group believes the most important aspects of the Bill are those applying to Crown leases. While the Bill includes some improvements to the process of disposing of Crown leases, we believe the Bill does not go far enough to clearly safeguard the conservation values of these leases. For more than 90% of the leases, there will be no guarantee that the Minister for the Environment will have a role in overseeing the quality and duration of covenants placed by the Minister for Lands on converted Crown leases.

The NSW Greens have proposed a series of amendments that are all strongly supported by the ELO group. They ensure the Minister for the Environment has a central role in the system of conservation covenants and support landholders who wish to permanently conserve conservation values on leases. They also improve transparency and prevent State Forests from logging land that is under conservation covenant.

I will deal with the Greens foreshadowed amendments in Committee. Mr Cox from the National Parks Association of New South Wales also wrote:

If these amendments are passed, the Bill will provide important safeguards to protect the irreplaceable conservation values on Crown leases.

The Greens are not enthusiastic about the bill in its present form. I understand that the Government will not support the Greens proposed amendments, which will go part of the way towards alleviating these problems. The Greens amendments seek to strengthen the conservation provisions in the bill. Even though the Government will not accept our proposed amendments we will not oppose the bill. We have some concerns about the bill but we hope to continue our constructive dialogue after its passage. With that degree of caution, I indicate that the Greens support the bill.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [11:12 a.m.]: I am deeply suspicious of the Crown Lands Legislation Amendment Bill. The Government wants to manage Crown lands "by slashing red tape; freeing up resources and providing greater flexibility in the day-to-day management of Crown land". In his second reading speech Parliamentary Secretary Graham West said:

They represent the most significant reform of Crown land legislative framework in the State's history.

This Government sells off land to its developer mates to balance its budget because it is not willing to borrow money to build infrastructure. A freedom of information request relating to the sale of Beacon Hill High School revealed that a number of properties were to be sold by the Department of Education and Training. Every one of those properties was crossed off the list except for Beacon Hill High School. The Premier's Department refused that freedom of information request on the basis that it was not "in the public interest". Flemington markets were sold for \$82 million but that money has not yet been paid to Sydney Markets Ltd, or to the old Sydney Markets Authority.

A conflict of interest arose after the Government received advice in relation to that matter. If the land at Flemington markets were rezoned, it would be worth \$1 billion. Strathfield council is to rezone that land. Honourable members might not know much about Strathfield council but I am sure they remember the passing over of envelopes of money by developers. Yesterday the Government introduced legislation to enable it to change council voting systems so that it has complete control of those who are elected to councils—and this could happen in the case of Strathfield council. Yesterday the Government introduced legislation in an attempt to gain control of Strathfield council, which has a record that is worthy of note.

For several years the Government has had available a register or database of properties for sale. It has consistently refused to put that register of properties on its web site despite being requested to do so for a number of years. The Crown Lands Legislation Amendment Bill refers to new types of leases but it does not refer to sales. It is hard to believe that no Crown land will be sold. The Parliamentary Secretary said that the reforms in this bill would free up resources and slash red tape but it will not make it easier for the Government. The Government is selling property hand over fist, in many cases at bargain basement prices. This bill is just another part of its strategy.

We have heard much about public-private partnerships and the granting of long leases to people, for example, at Manly Quarantine Station. I am not quite sure of the status of that station at the moment. The bill is all about the use of Crown lands. The Government, which wants only to obtain rent and money, has not really considered the public interest. In my view the Government's proposal to slash red tape is dangerous. The Government is big on getting returns from Crown land by employing silly strategies. For example, people who have water access only to their properties are being charged because their jetties cross over Crown land. The Government is silly and niggardly in some instances but in others it is quite profligate with public resources.

Environmental groups are concerned about the restrictions being placed on the use of Crown lands. They are concerned also that their conservation values will not be preserved in the Government's grab for a quick buck. I endorse those concerns. I am not quite sure what the Government's agenda is in relation to the bill. I will not oppose it but I am worried about the Government's agenda. Is the Government's agenda as simple as it has said it is? The Government's track record on looking after public assets is poor. As I said earlier, I am concerned that this bill might be part of a deeper strategy.

**Reverend the Hon. FRED NILE** [11:17 a.m.]: The Christian Democratic Party supports the Crown Lands Legislation Amendment Bill, which will reform the framework of Crown lands management to provide a more flexible and accountable system that is better able to manage Crown lands in line with community expectations. I am pleased that the title "Crown lands" has been retained. There were some rumours that the word "Crown" would be replaced with the word "State", in the same way as the residence "Governor's House" was renamed "Government House." If we change the term "Crown land" to "State land", we will pre-empt Australia's constitutional monarchy.

I have participated in many debates in this place on the removal of all reference to an oath to Queen Elizabeth II. No changes in this regard should be made until the people of Australia have voted in favour of a republic at a referendum, at which time it would be inappropriate to use the term "Crown land" as we would not have a monarchy. The term might then be changed to State land, Labor Party land or something else. However, I am happy that the Government has retained the term "Crown land" in the bill and I urge it not to be tempted to make any such change. The bill deals with a large number of administrative matters that will improve the management of Crown land. One provision in the bill will enable local councils, as reserve trust managers, to grant licences and related easements over the Crown reserves they manage, so long as they indemnify the Crown.

The legislation will also enable the Minister to grant leases, easements and rights of way over Crown reserves as well as licences. I am pleased that the legislation includes a provision allowing the Minister to grant rebates on rent, for example, for residents with water access only properties or for councils that provide community facilities without charge. The bill does not quantify the rebates but simply gives the Minister the power to grant them.

Crossbench members have been lobbied repeatedly by residents of water access only properties—that is, residents who can reach their homes only by water. I believe these ratepayers are being dealt with unfairly—indeed, they are being victimised—by the charging system. Representatives of the Home Access Association said that their main argument centred on equity, which had been completely ignored until now. They ask:

Why should we pay a tax for access while the rest of N.S.W. does not?

Such residents must pay a minimum fee of \$350 per annum for water access, although many pay more than \$1,000. Yet nothing is done to make residential access easier—rivers are not dredged, for example—and the homeowners must pay for the jetties, their maintenance and insurance. Although residents build and maintain jetties, they do not own the jetties, which must be available for use by members of the public. They are public property. So it is an insult to residents then to require them to pay \$1,000 or more to access their properties.

The association makes a legitimate point about justice. If residents with water access only properties must pay, then everyone should have to pay to cross the council footpath into their driveway. The principle is the same, but we would obviously never agree to that. I certainly do not want to tempt the Government to introduce another tax along those lines. New South Wales residents do not need a house entry tax! I hope the Minister for Lands—who is a very sincere person—will conduct a genuine review of this situation and ensure that residents of water access only properties get justice. Australians should not be discouraged from, or penalised for, living in locations that can be accessed only by water. It is part of the Australian way of life.

I have received letters of concern about the bill from the National Parks Association of New South Wales, which argues that the bill does not safeguard adequately the conservation values already protected by the Crown lease system. The association states:

Specifically, we are disappointed that the Bill does not significantly address the concerns raised about Crown leases in the letter to the Premier ...

In a letter dated 9 June the New South Wales Farmers Association wrote:

The NSW Farmers Association has written to Minister Tony Kelly MLC indicating that we are concerned with the Crown Lands Legislation Amendment Bill 2005.

The Association believes that the amendments in the Bill are restrictive and seriously hamper the enjoyment of any Crown land that was converted to freehold.

The correspondence with the Minister is attached to the association's letter. I understand that the Opposition in the other place opposed the bill but that, following discussions and assurances from the Government, it will not do so in this House. I understand the Minister intends to address some of the Opposition's concerns when he replies to the debate—I hope he has not forgotten about that. For this reason, the Christian Democratic Party supports 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) [11.24 a.m.], in reply: I thank the honourable members who contributed to this debate. The Crown Lands Legislation Amendment Bill continues the Carr Government's reforms in the sustainable management of Crown land. With these reforms we are dragging Crown land management out of the old colonial office mentality of the nineteenth century and bringing it into line with the modern needs and expectations of the community. Crown land is a very important public asset, and it must be valued and treated as such. The bill builds on the legislative reforms of last year, which together represent the most significant overhaul of Crown land management in the State's history. This bill will free resources, slash red tape—

**Reverend the Hon. Fred Nile:** Green tape.

**The Hon. TONY KELLY:** I acknowledge Reverend the Hon. Fred Nile's interjection. The bill will introduce greater flexibility and accountability to the way in which we manage the 30,000 Crown reserves that dot the State. It also provides more environmental safeguards when it comes to the conversion of perpetual leases.

On this point, I will clarify concerns raised by some members in the other place about the bill's powers of entry provision with regard to perpetual leases. Powers of entry provisions can be found in most natural resources and planning legislation, including the Native Vegetation Conservation Act, the Water Management Act, the Environmental Planning and Assessment Act and the Soils Conservation Act—to which the Hon. Rick Colless alluded earlier. In reality, these powers are used infrequently but they are required in the interests of the broader community in order to address non-compliance. In the case of leasehold lands, powers of entry and inspection are required to ensure compliance with conditions of tenure.



As the State owns the land or retains some equity in it, it is appropriate that powers of entry and inspection are available to ensure that lease conditions are met and that significant environmental values are protected for future generations. An authorised officer may enter a property only with the landowner's consent or with the authorisation of the director-general. Entry is granted primarily by the landowner but, if permission is not forthcoming, by an authorisation of the director-general in exceptional circumstances. The landholder's consent must always be sought in the first instance. Authorised officers will be issued with identification cards, which they must produce to the landholder. Officers are not entitled to enter any part of the premises used only for residential purposes unless they are invited to do so by the landholder. Protocols and guidelines will be prepared for authorised staff, setting out procedures and appropriate conduct when undertaking inspection.

The bill will also enable the protection of environmental values on the sale of other Crown land tenures to freehold where necessary, such as Crown paper roads. As a means of promoting conservation on Crown land, I will also consider providing appropriate rent rebates for Crown land subject to voluntary conservation agreements and other similar agreements. Together, the reforms to Crown roads and perpetual leases represent a positive change to the way in which we manage Crown land and, importantly, will allow the Government to focus attention on Crown lands that should remain in public hands—for example, our State parks, showgrounds, community halls and recreation reserves.

The bill also streamlines our treatment of the various tenures that operate over Crown land. It will ensure a standard approach to rents across the State and offer a better product for Crown land clients. In that regard, I point out the bill takes cognisance of a particular group of Crown land clients whose only access to their homes is by water. The bill recognises this group of people and ensures that other occupiers are eligible for an appropriate rental rebate to reflect their particular circumstances. There are also associated hardship provisions. Finally, the bill overhauls the century-old legislation governing school of arts buildings and mechanic institutes, and provides greater options to the community in determining how these facilities are used and managed into the future. The reforms in the Crown Lands Legislation Amendment Bill put the management of State land on a more sustainable footing and will help to ensure that the great community wealth locked up in these public assets is harnessed and managed better for current and future generations. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time.**

### **In Committee**

**Clauses 1 to 5 agreed to.**

**Mr IAN COHEN [11.31 a.m.]:** I move Greens amendment No. 1:

No. 1 Page 5, schedule 1. Insert after line 23:

**[6] Section 36A**

Insert after section 36:

**36A Public comment in relation to sale of Crown land**

- (1) In addition to the public notice requirements under section 34, the Minister is required to give at least 28 days public notice of any proposal to sell Crown land.
- (2) The notice is to be placed on the website of the Department of Lands and is to invite public submissions to be made in relation to the proposed sale before the end of the 28 day period.
- (3) The Minister is to take any submissions received under subsection (2) into consideration before proceeding with the sale and in deciding whether to impose a restriction on use or public positive covenant under Part 4A in connection with the sale.

This amendment requires the Minister to seek public comment in relation to the sale of Crown land. Currently there is no such requirement. This would result in greater transparency and accountability. Under this amendment the Minister would be required to give at least 28 days notice of any proposal to sell Crown land. This would include displaying such proposals on the department's web site and seeking public comment. The Minister would then be required to consider any public submissions made. I had a discussion with the Minister's office about display on the department's web site and I hope that the Minister considers that form of transparency to be an effective way to communicate with the public. I commend Greens amendment No. 1 to the Committee.

**The Hon. TONY KELLY** (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, Minister for Lands, Minister Assisting the Minister for Natural Resources) [11.31 a.m.]: The Government opposes this amendment. This proposal would result in complexity, delay and uncertainty in the sale of Crown land. The bill already includes significant provisions for the protection of the environment in relation to the sale of Crown land.

**The Hon. RICK COLLESS** [11.32 a.m.]: The Opposition also opposes this amendment. In relation to the sale of Crown land, a lot of perpetual leases held in New South Wales are, in fact, soldier settlement blocks. Soldier settlement blocks were granted to returned soldiers from World War I and World War II, who regarded the blocks as being the equivalent of freehold land. They were granted to ex-soldiers in order to rehabilitate them and to settle the land. They have spent their whole lifetime improving and spending money on these blocks. For the environmental movement to now consider that this land should somehow be advertised and placed on the department's web site is an infringement of the rights that the leaseholders have had for as long as 60, and, in some cases, 70 years. The Opposition is absolutely opposed to this amendment.

**Amendment negatived.**

**Mr IAN COHEN** [11.32 a.m.]: I move Greens amendment No. 2:

No. 2 Page 7, schedule 1 [11], proposed section 77A. Insert after line 23:

- (3) The Minister is required to obtain the concurrence of the Minister for the Environment before:
  - (a) imposing a restriction on use or public positive covenant as referred to in this section, or
  - (b) releasing, varying, rescinding or revoking any such restriction or covenant.

This amendment seeks to ensure that the Minister for Lands must seek concurrence with the Minister for the Environment before imposing or lifting restrictions or covenants on Crown land. The Department of Lands does not have the same expertise as the Department of the Environment and Conservation, and the Minister for the Environment should be involved. There is already a concurrence role for the Minister for the Environment in the lifting of covenants. It would be appropriate for this concurrence to be extended to imposing covenants as well. I commend Greens amendment No. 2 to the Committee.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [11.34 a.m.]: The Government opposes this amendment. It is not practical. It would have very substantial resource costs for both agencies and would delay the processing of applications for the purchase of land. The Department of Lands is currently working very closely with the Department of the Environment and Conservation to develop protocols and processes for imposing appropriate covenants to protect environmental values.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [11.34 a.m.]: That comment from the Parliamentary Secretary, representing the Minister in this House, is interesting. Just last evening I moved a very similar amendment in the Bragalow bill and the Government voted against it. Yet in relation to this legislation, the Government contradicts itself. I am happy to support the Government in relation to this amendment but I wonder about the delicious irony of its voting down an identical amendment last evening.

**Amendment negatived.**

**Mr IAN COHEN** [11.35 a.m.]: I move Greens amendment No. 3:

No. 3 Page 8, schedule 1 [11], proposed section 77A. Insert after line 5:

- (7) Despite any other provision of this Act, the sale of any Crown land under Part 4, or the grant of any application to purchase land as referred to in subsection (1), may not, if the land concerned comprises or contains any of the following, proceed unless a restriction on use or public positive covenant is imposed on the land as provided by this section:
  - (a) natural areas and features of significant conservation value,
  - (b) significant open space or forests,
  - (c) native flora or fauna communities or habitats,
  - (d) water catchments or sources of ground water,

- (e) wilderness areas (including wild and scenic rivers),
- (f) Aboriginal relics and sites,
- (g) items of significance to European heritage or history,
- (h) recreational or tourist areas.

This amendment seeks to expand the range of values of land where a positive covenant or restriction must be imposed. Covenants include environmental protection, water quality, protection of species, and protection of wilderness, Aboriginal relics and sites and other listed values. This amendment, together with amendment No. 2, would ensure that areas of high conservation value are protected. There is no such guarantee at present. The Government's proposed system of covenanting does not go far enough and leaves high conservation areas open to destruction. I commend Greens amendment No. 3 to the Committee.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [11.36 a.m.]: The Government opposes this amendment. It is also impracticable and highly inflexible. It will result in covenants being imposed in many situations where they are quite unnecessary. The cost to the landholders and to government in monitoring compliance will be considerable. In addition, there will be uncertainty as to whether and when the provision applies. For example, does it mean that there can be no sale without a covenant if there is a small area of native plants on the site, even when they were planted by the landholder for ornamental purposes?

**The Hon. RICK COLLESS** [11.37 a.m.]: This amendment exemplifies very well the nonsense that the extreme environmentalists go on with, and I will explain why. The amendment says that the sale of any Crown land may not proceed unless a restriction on use or public positive covenant is imposed on the land as provided by this section and then lists a number of items. The Hon. Henry Tsang referred to native flora and that a single plant of a native species could have been planted by the landholder himself. The amendment refers to "water catchments or sources of ground water". It may come as a surprise to Mr Ian Cohen that every square inch of land in this country and the world is a water catchment—when rain falls, it runs off. Mr Ian Cohen wants to apply this amendment to all land, and it is absolute nonsense. The Coalition opposes this amendment.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [11.38 a.m.]: It is worth noting that if Greens amendment Nos 2 and 3 were put in place, the great majority of sales of Crown land would require covenants to be imposed with the concurrence of the Minister for the Environment at enormous cost.

#### **Amendment negatived.**

**Mr IAN COHEN** [11.38 a.m.]: I move Greens amendment No. 4:

No. 4 Page 9, schedule 1 [11]. Insert after line 27:

#### **77C Operation of profits à prendre under Forestry Act 1916**

If a restriction on use or public positive covenant is imposed on land in accordance with this Part, any profit à prendre reserved under section 25F of the *Forestry Act 1916* in respect of the land is extinguished to the extent that it affects the operation of the restriction or covenant.

This amendment seeks to ensure that where a restrictive or positive covenant has been put in place over a piece of land, profits à prendre in respect of that land are extinguished. Obviously, if a covenant has been placed on a piece of land because of its conservation values, logging should not be allowed to proceed on the land, otherwise the covenant would be meaningless. I commend Greens amendment No. 4 to the Committee. I have listened with interest to the debate that has taken place in the past few days. I note that the Hon. Rick Colless and others on his side of the House have been constantly labelling me as a green extremist. Those sorts of comments have an impact.

All members are entitled to take part in a healthy and robust debate, but I regard that sort of labelling as vilification and beneath the dignity of this Chamber. In question time I will be raising the issue that such vilification can impact on the way that members of our communities perceive and act against genuine conservationists who are attempting to pursue their beliefs. This type of vilification is on a par with all sorts of unacceptable discrimination of all sorts in our community, such as racism. It demeans this Chamber.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [11.40 a.m.]: I have a lot of respect for Mr Ian Cohen. He is in fact a very moderate Green. I acknowledge and respect the contribution he has made to the environment. I oppose the amendment.

**The Hon. RICK COLLESS** [11.40 a.m.]: The Coalition opposes the amendment. I might respond to the comments made by Mr Ian Cohen. I have not described him personally as an extreme green. I have expressed concern about the extreme environmentalists who are behind the debates that he brings forward. In my speech on the Brigalow bill I pointed out the difference between the real environmentalists and the extreme environmentalists involved with these issues. The real environmentalists include people like David Johnson from Baradine. He is a sincere and hardworking environmentalist and has done a lot of work for the environmental movement. But he does not take his position to the extreme. Extreme environmentalists tend to argue beyond practical management and beyond the real science. I am concerned about the extreme environmentalists who argue for shutting down all logging operations and locking up all land, as part of some unrealistic environmental agenda that is not in the interests of the best environmental outcomes for this State.

**Amendment negatived.**

**Mr IAN COHEN** [11.42 a.m.], by leave: I move Greens amendments Nos 5 and 7 in globo:

No. 5 Page 27, schedule 1 [40]. Insert after line 2:

**143E Rent exemptions for enclosure permits**

Despite any other provision of this Act, rent under this Act is not payable in respect of an enclosure permit to the extent that the permit relates to land that is subject to a conservation agreement under the *National Parks and Wildlife Act 1974* or a Trust agreement under the *Nature Conservation Trust Act 2001*.

No. 7 Page 37, schedule 2. Insert after line 13:

**[9] Schedule 5, clause 12A**

Insert after clause 12:

**12A Rent exemptions**

If a lease is subject to a conservation agreement under the *National Parks and Wildlife Act 1974* or a Trust agreement under the *Nature Conservation Trust Act 2001*, the part of the lease to which the agreement applies is not subject to any rent under this Act or the Principal Act.

These amendments provide for rent exemptions for enclosures and leases that are subject to conservation agreements under the National Parks and Wildlife Act or a trust agreement under the Nature Conservation Trust Act 2001. A landholder who has entered into a conservation agreement and is making positive steps towards ensuring environmental protection of that land is making a positive public contribution and should not therefore be subject to paying rent. There are currently about 150 voluntary conservation agreements in New South Wales, and a fraction of those are on Crown land. So the amount of rental we are talking about is minute. However, the exemption of those people from paying rent would send a positive message about environmental conservation. I commend Greens amendments Nos 5 and 7.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [11.43 a.m.]: The Government opposes both amendments. Regarding Greens amendments No. 5, the Minister currently has the discretion to waive part or all of the rent in any circumstances considered appropriate. This includes cases where an enclosure permit is subject to a voluntary conservation agreement. The Greens proposal would remove that discretion, and would result in zero rent, even in a situation where the voluntary conservation agreement had no effect on the productive value of the land in question.

Greens amendment No. 7 also is opposed by the Government. As indicated in relation to Greens amendment No. 5, the Minister currently has the discretion to waive part or all of the rent in any circumstances considered appropriate, including where a lease is subject to a voluntary conservation agreement. The Greens proposal would remove that discretion, and would result in zero rent, even in the situation where the voluntary conservation agreement had no effect on the productive value of the land in question. Further, if there is a loss of productivity associated with a voluntary conservation agreement, this would be reflected in the rent for the land under clause 12 (1) of schedule 5 to the Crown Lands (Continued Tenures) Act 1989, which requires that any restrictions, conditions or terms to which the land is subject must be taken into account. There is no need for a special provision. This Greens proposal would be inequitable, as it would reduce to zero the rent payable for part of a lease on Crown land subject to a voluntary conservation agreement, while a person entering into a voluntary conservation agreement on freehold land would have no corresponding benefit.

**The Hon. RICK COLLESS** [11.46 a.m.]: The Opposition opposes the amendments.

**Amendments negatived.**

**Mr IAN COHEN** [11.46 a.m.]: I move Greens amendment No. 6:

No. 6 Page 36, schedule 2. Insert after line 33:

[8] **Schedule 5, clause 12 (1) (b1)**

Insert after clause 12 (1) (b):

(b1) despite paragraph (b), regard is to be had to any measures carried out by the holder to maintain or improve the biodiversity values of the land,

Clause 12 (1) (b) of schedule 5 to the Crown Lands (Continued Tenures) Act 1989 states that, in the redetermination of rent, any improvements on the land which were made by the holder, or are owned or are in the course of being purchased from the Crown by the holder, shall be disregarded. This amendment seeks to ensure that where the biodiversity values of the land have been maintained or improved, this should be taken into consideration in the redetermination of rent. Once again, this would send a positive message about the value of preserving biodiversity and conservation values of land. I commend the amendment.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [11.47 a.m.]: The Government opposes the amendment. Under current provisions, any improvements made by the landholder are disregarded for the purposes of setting rent. This Greens proposal would move away from that principle and provide a reduction in rent for any measures to maintain or improve biodiversity. The proposal would add substantially to the costs and uncertainty of setting rent, because of the difficulty of defining works that maintain or improve biodiversity, and the resultant impact on market rent. It would also result in complex appeals to the local land board and the court. In addition, the proposal would be inequitable, as it would provide a reduction in rent to a person who carried out measures to maintain or improve biodiversity values on Crown land while a person carrying out exactly the same measures on freehold land would have no corresponding benefit.

**The Hon. RICK COLLESS** [11.48 a.m.]: The Opposition opposes Greens amendment No. 6.

**Amendment negated.**

**The Hon. HENRY TSANG** (Parliamentary Secretary) [11.49 a.m.], by leave: I move Government amendment No. 1, 3 and 4 in globo:

No. 1 Page 38, Schedule 2 [14], proposed clause 10, lines 17 and 18. Omit "**parks and wilderness areas**". Insert instead "**parks, wilderness areas and other prescribed land**".

No. 3 Page 38, schedule 2 [14], proposed clause 10, line 24. After "abuts", insert ", or is within 100 metres of,".

No. 4 Page 38, schedule 2 [14], proposed clause 10, line 28. Omit "Act.". Insert instead:

Act, or

(c) comprises or contains land prescribed by the regulations.

The bill currently provides that the concurrence of the Minister for the Environment is required before removing or varying covenants over specified perpetual leases that adjoin or abut national parks, or that are within, adjoin or abut wilderness. The Government's amendments provide that the requirement for the concurrence of the Minister for the Environment before removing or varying a covenant would be extended so that in addition to the leases that abut or adjoin national parks or wilderness the requirement would apply, first, to leases that are within 100 metres of a national park or wilderness area and, second, to any other land prescribed by regulation. The first part of the Government's proposal, extension of the provision to leases that are within 100 metres of national park and/or wilderness, will ensure that leases separated only by a road or watercourse, or some other narrow strip of land are, nevertheless, subject to the concurrence requirements. The second part of the Government's proposal allows the Minister to prescribe by regulation any other land that may be particularly sensitive or require particular care to remove or vary covenants. I commend the Government's amendments to the Committee.

**The Hon. RICK COLLESS** [11.51 a.m.]: The Opposition will not oppose these three amendments.

**Mr IAN COHEN** [11.51 a.m.]: The Greens do not oppose these amendments, which seek to expand the situation in which the Minister for the Environment is to have concurrence in relation to certain Crown lands. Instead of the provision applying only to land adjoining or abutting national parks or wilderness areas,

this amendment extends that provision to land within 100 metres of national parks or wilderness areas. Although the Greens do not think this is adequate, we certainly would not oppose it. The provisions make some slight improvement. However, the amendments also include concurrence over other prescribed land. There is scope for concurrence of areas of high conservation value that are not yet national parks. This could be highly desirable, particularly in Crown lands in central and western New South Wales where there are very few national parks. But as the regulations are not yet available, it is difficult to assess whether this will occur. I urge the Government to expand the concurrence role for the Minister for the Environment by using the regulations and going beyond just the rhetoric of protecting biodiversity and conservation values. The Greens support the amendments moved by the Government.

**Amendments agreed to.**

**The Hon. HENRY TSANG** (Parliamentary Secretary) [11.53 a.m.]: I move Government amendment No. 2:

No. 2 Page 38, Schedule 2 [14], proposed clause 10, line 21. After "abuts", insert ", or is within 100 metres of,"

This amendment will protect environmental values and add greater flexibility to determining future management arrangements over perpetual leases.

**Mr IAN COHEN** [11.53 a.m.]: Even though I understand that the Government amendment will be accepted and the Greens amendment will not, I move Greens amendment No. 8:

No. 8 Page 38, schedule 2 [14], proposed clause 10, lines 21 and 22. Omit all words on those lines. Insert instead:

- (a) adjoins or abuts a national park or is connected to a national park by an area of vegetation (whether or not the area is interrupted by any road or watercourse), or

The amendment relates to the concurrence requirements for the Minister for the Environment. Under the current bill the Minister for the Environment is to have concurrence in relation to land that adjoins or abuts a national park or wilderness area. The Greens believe that this is too narrow. To ensure connectivity this should be expanded to include Crown lands that are joined to national park or wilderness areas by any area of vegetation. There could be a parcel of high conservation value tens or even hundreds of metres from a national park that would not require concurrence, even though it would be highly important to protect such areas.

**Government amendment agreed to.**

**Greens amendment lapsed.**

**Schedule 1 as amended agreed to.**

**Schedules 2 and 3 agreed to.**

**Title agreed to.**

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

**SYDNEY 2009 WORLD MASTERS GAMES ORGANISING COMMITTEE 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) [11.57 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.**

On 13 June 2004 the International Masters Games Association announced that Sydney had been chosen to host the 2009 World Masters Games. I would like to congratulate the New South Wales Major Events Board on its successful bid for the games. The World Masters Games is the biggest mass-participation, multinational, multisport festival in the world. The event will be held in Sydney from 10 to 18 October 2009.

I should explain that the term "Master" is an age designation—it is certainly not a gender designation—and that it does not denote a level of sports proficiency or a particular sports achievement. The games are open to anyone, with participants competing as individuals and not in national teams. There are no qualification or selection criteria to compete at the games. The only entry requirement is that competitors satisfy the minimum age for competition specified in the technical rules of the respective international sports federations. For most sports, the minimum age is 30 to 35 years. Though past games have featured competitors over the age of 90 and centenarians, the largest group competing at the games is aged between 35 and 50.

Apart from the sports competition, the games offer social and cultural interaction for people from around the world who share similar attitudes towards lifelong sport, fitness and physical activity. Australia has previously staged the games, firstly in Brisbane in 1994 and then in Melbourne in 2002. The Brisbane and Melbourne Games were very successful, attracting nearly 25,000 participants each. Early estimates for Sydney 2009 indicate around 30,000 participants with 12,000 from overseas and 10,000 from interstate. On this basis, the Department of State and Regional Development has estimated an economic impact from the games of nearly \$60 million.

Given its mass participation nature and demographic profile, the games provide an opportunity to complement programs targeting community health, fitness and obesity, to drive messages about active and healthy living and promote the social and community benefits derived from participation in sport and physical activity. For aspiring Sydney 2009 competitors, there will be a maximum 27 sports on the games program, comprising 17 core sports and up to 10 optional sports. In terms of venues, it is proposed that games' competition uses many of the Olympic legacy facilities with the main sports hub at Sydney Olympic Park. Other Olympic venues proposed include the Sydney International Regatta Centre, Blacktown Olympic Park, the Dunc Gray Velodrome, the Ryde Aquatic Leisure Centre and the Sydney International Shooting Centre.

The games will also use soccer fields, baseball and softball diamonds, squash centres, tennis courts, golf courses, beaches, and indoor sports halls across metropolitan Sydney. In terms of the games budget, expenditure is currently estimated at just under \$A19 million. I am pleased to advise the House that the Government has committed \$A8.5 million funding support for the games spread over 2004-05 to 2009-10. The main non-Government revenue sources for the games are registration fees paid by each competitor and corporate sponsorship. Unlike the Olympics, World Masters Games participants also meet their own travel, accommodation and meal costs. I acknowledge the strong support of the State Chamber of Commerce and its chief executive officer [CEO], Margy Osmond, for the games. The chamber has indicated it will strongly advocate the commercial benefits of the games to the Sydney corporate community and drive corporate engagement with and direct participation in the games.

I now turn to the provisions of the Sydney 2009 World Masters Games Organising Committee Bill. Under the games host city contract, the Government is required to establish an organising committee as a legal entity under New South Wales law. Following analysis of a number of options, a limited-life statutory entity similar to the Olympic Co-ordination Authority was considered the best mechanism to deliver the Government's contractual obligations to the International Masters Games Association [IMGA] and protect its position as the games' underwriter. Accordingly, the bill constitutes the Sydney 2009 World Masters Games Organising Committee [SWMGOC] as a statutory corporation representing the Crown and sets out its objectives, functions and governance.

SWMGOC has been so titled to emphasise its exclusive focus on the games and to maximise commercial revenue opportunities. The bill acknowledges the contractual relationship between the State of New South Wales and the International Masters Games Association and requires SWMGOC to take into account the host city contract and Sydney's bid commitments in the exercise of its functions. SWMGOC's objective is to plan, organise and stage the 2009 games in accordance with the obligations imposed and rights conferred under the host city contract. Its functions include: organising the sports competition and a program of associated events; procuring and organising the competition and non-competition venues; organising transport for participants and officials; marketing and promotion of the games; liaison with Treasury on the games' expenditure; and co-ordination of games-related activities with State and Commonwealth agencies and private organisations.

Provision has been made for SWMGOC, with the consent of a landowner, to control certain land around venues to erect temporary structures, if required, for operational, merchandising or hospitality purposes. Temporary developments will have to meet normal statutory planning requirements. In the exercise of its functions, SWMGOC will be subject to the direction and control of the Minister for Tourism, Sport and Recreation. SWMGOC's affairs are to be managed and controlled by a CEO. The Director-General of the Department of Tourism, Sport and Recreation, Mr Bob Adby, will continue to act as SWMGOC's CEO until an appointment is made. A Games Advisory Committee will be appointed by the Minister to advise the Minister and the CEO on the achievement by SWMGOC of its statutory objectives and the facilitation and co-ordination of the conduct of the games.

The Games Advisory Committee will comprise the CEO and no more than 7 other members with expertise in sport, sports administration, commerce, tourism, event management, finance or the law. The advisory committee can create sub-committees to provide it with advice and assistance to carry out its functions. The CEO will manage the budget of both SWMGOC and the games. This is important in managing revenue from non-government sources such as corporate sponsorship, private donations, registration fees, sports participation fees, et cetera. SWMGOC's budget, the games budget and SWMGOC's corporate plan are subject to Ministerial approval. SWMGOC will be subject to the Public Finance and Audit Act and the Public Authorities (Financial Arrangements) Act and it will be subject to audit review by the Auditor-General. Pending SWMGOC's establishment, the Department of Tourism, Sport and Recreation is undertaking preliminary games planning. The department will also provide a range of administrative support services to SWMGOC once it is established. A special freedom of information [FOI] provision has been included to protect documents that are confidential to the IMGA.

The bill provides for SWMGOC's dissolution on 30 June 2010 and for the transfer of its assets, rights and liabilities to the State. On dissolution, SWMGOC staff employed under the Public Sector Employment and Management Act will be transferred to the

Department of Tourism, Sport and Recreation. The SWMGOC Act will be repealed on 31 December 2010. The 2009 World Masters Games is an example of the Government's selective investment in major events that can deliver economic and social benefits for the State and, importantly, support our tourism industry. This follows beneficial investment in events such as Rugby World Cup 2003, the Edinburgh Military Tattoo, Easter in Sydney and the Super Series cricket test at the SCG this October. In September and October 2000, Sydney successfully delivered the world's biggest elite multisport festival—the Olympic and Paralympic Games.

Just five years ago, Olympic and Paralympic athletes competed in state-of-the-art venues in what were universally acclaimed as "the best Games ever". In a little over four years' time, masters' athletes from around the world will have the opportunity to compete in venues used for the 2000 Games. In delivering the Olympic Games and the key matches in Rugby World Cup 2003, Sydney demonstrated to a global audience its ability to plan, organise and stage major international sporting events. I am sure this event management excellence will ensure that Sydney delivers the "best ever" World Masters Games in October 2009. I commend the bill to the House.

**The Hon. PATRICIA FORSYTHE** [11.57 a.m.]: The Opposition is pleased to support the Sydney 2009 World Masters Games Organising Committee Bill. This positive initiative is in the best interests of the community and we are pleased to be associated with it. The object of the bill is to constitute the Sydney 2009 World Masters Games Organising Committee [SWMGOC] as a statutory corporation and government department with a limited life, the objective of which is to plan, organise and stage the Sydney 2009 World Masters Games. The bill sets out the functions of SWMGOC. The irony of the legislation was not lost on members of the Opposition. The Australian Labor Party when in Opposition supported the successful bid of the Coalition Government for the Sydney Olympics and Paralympics. Labor supported the establishment of the organising committees, and the Labor Government later had the task of seeing through the execution of the Sydney Olympics and Paralympics. The irony is that although the Carr Government has been successful in securing the Sydney 2009 World Masters Games, in 2009 the Coalition will oversee the Games as the Government of the day. For that reason, the Coalition will support the bill.

**Pursuant to sessional orders business interrupted.**

### QUESTIONS WITHOUT NOTICE

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#### BULLDOGS RUGBY LEAGUE CLUB DRUG DEALING ALLEGATIONS INVESTIGATION

**The Hon. MICHAEL GALLACHER:** My question without notice is directed to the Minister for Justice, representing the Minister for Police. Who was it within the New South Wales Police Force who made the decision to downgrade the allegations of a player or players from the Canterbury Bulldogs rugby league team being involved in a drug deal from one being investigated by the drug squad to an unspecified local area command for investigation? Who investigated the drug dealing allegations? How many officers at the local area command were directly responsible for the investigation? Is this matter now finalised? Why was this important investigation never heard of again?

**The Hon. JOHN HATZISTERGOS:** The Commissioner of Police made a statement about this matter to which I refer the Leader of the Opposition. To the extent that the question raises anything additional to what the Commissioner of Police has said in his statement, I will refer it to the Minister for Police.

#### INSTITUTE OF TEACHERS

**The Hon. KAYEE GRIFFIN:** My question is directed to the Minister for Education and Training. Will she tell the House the progress that has been made on the New South Wales Institute of Teachers?

**The Hon. CARMEL TEBBUTT:** As honourable members are aware, legislation to establish the New South Wales Institute of Teachers was passed through this Parliament at this time last year with bipartisan support. The institute provides a professional voice for teachers and will raise the status and standing of teachers throughout the community. It also offers an assurance of quality teaching to the parents and students of all schools around this State. The institute recognises that great teaching already exists in New South Wales. It will formally accredit highly accomplished teaching and teachers who are in professional leadership roles.

The students of New South Wales deserve the highest standard of teaching. Any degree of research shows that it is actually the quality of teaching that makes a significant difference to student outcomes and this Government is working to ensure that students receive high-quality teaching. Under our plan, every student in every classroom, and their parents, will ultimately have the assurance that the teacher in the classroom has met



the rigorous standards of the New South Wales Institute. The focus of the institute in these early days is on new teachers. From the beginning of this year all new teachers in New South Wales schools, together with teachers who are returning to work after an absence of five or more years, must be accredited against the institute's framework of professional teaching standards. These standards form an objective and high benchmark of professional performance.

In February this year I approved the standards for graduate teachers and for professional competence. Copies of the standards were distributed to all teachers in New South Wales. I am pleased to tell the House that already this year more than 5,500 teachers have entered the profession or have returned after an absence of five or more years as new scheme teachers. These are the first teachers to be employed under the new Act. They are now working toward accreditation at the next level of professional competence. To guide and assess their progress, more than 300 Teacher Accreditation Authorities have been appointed across all school sectors. A Teacher Accreditation Authority is a school or an education officer who is authorised to accredit teachers by reference to the standards.

A range of policies and support materials have been developed in close consultation with teachers and the education community to support the process. At the beginning of term three this year, the institute will deliver to each school and Teacher Accreditation Authority a teacher accreditation manual that will cover the nuts and bolts of the accreditation process. It will guide those who are responsible for accreditation and the new scheme teachers through the process. Earlier this year a draft of the manual was distributed to all schools to obtain their feedback. At the end of this year the first new scheme teachers will begin being accredited at the level of professional competence.

Preparation is well under way for the election of the institute's Quality Teaching Council in the second half of this year. The Quality Teaching Council will be the institute's source of advice on professional matters. It will have 21 members, including the chair of the institute, 10 appointed members and 10 elected members. Ten of the council's members will be elected teachers. Of these, seven will be from government schools and three will be from the non-government sector. Elected representatives from government schools will include one primary principal and one secondary principal. At least two of the elected representatives will be from rural areas of New South Wales.

Appointed members to the council will include a representative of parents, teacher employers and the Board of Studies. A majority of the council overall will be practising teachers. All Teacher Accreditation Authorities have been invited to submit teachers' names and details to begin building the council's electoral roll. I look forward to reporting further to the House on the progress of the Institute of Teachers.

#### **COAL MINES INSURANCE OPERATING PROFIT**

**The Hon. DUNCAN GAY:** My question without notice is directed to the Special Minister of State, and Minister for Industrial Relations. Is it a fact that Coal Mines Insurance is about to announce an operating profit of \$43 million for the 2004-05 financial year? Is it also a fact that the Construction, Forestry, Mining and Energy Union-dominated board of Coal Mines Insurance has requested that half of this profit be placed into the Health and Safety Trust that currently holds \$8 million in unspent funds, with the remaining \$21.5 million to be placed in prudential management? Why is \$21 million being locked into the Health and Safety Trust, which has not yet spent its current revenue of \$8 million? Why has the \$21 million not been directed to delivering medical assessments, rehabilitation, risk and injury management as well as health education to benefit industry policy holders, instead of being locked up in the Health and Safety Trust?

**The Hon. JOHN DELLA BOSCA:** I will seek advice and details on the matters referred to in the Deputy Leader of the Opposition's question. I will provide a response as soon as is possible.

#### **DEPARTMENT OF JUVENILE JUSTICE DIRECTOR GENERAL RESIGNATION**

**The Hon. Dr PETER WONG:** My question without notice is directed to the Minister for Justice, representing the Minister for Juvenile Justice. Can the Minister inform the House of the reasons for the sudden resignation of the Director General of the Department of Juvenile Justice? How many other senior staff have tendered their resignations or have resigned in the past month?

**The Hon. JOHN HATZISTERGOS:** I will refer the matter to the Minister to Juvenile Justice.

## **RURAL FIRE SERVICE ASSOCIATION ANNUAL CONFERENCE**

**The Hon. IAN WEST:** My question is addressed to the Minister to Emergency Services. Will the Minister inform honourable members about any outcomes from the Rural Fire Service Association's annual conference that was held last weekend?

**The Hon. TONY KELLY:** I was very pleased to be asked to address the annual conference of the Rural Fire Service Association [RFSa] in Bathurst last Sunday. It was a particular honour to be there with surgeon and burns specialist and inspirational Australian of the Year, Dr Fiona Woods, and Peter Hughes, who survived the Bali bombing. The fact that the RFSa attracted speakers of such calibre shows how seriously the association is taken in the wider community. The RFSa represents the interests of the vast majority of the Rural Fire Service's 69,000 volunteers and staff, and does so very effectively. It plays a crucial role in ensuring that the voices of both the staff and volunteers are involved in decision making in the Rural Fire Service right up to the highest level.

The conference was timely, coming as it did after the recent tragic series of house fires that have claimed 13 lives. This was discussed at the conference as well as the Carr Government's new legislation to make smoke alarms mandatory. Other issues that were discussed included recruitment, particularly in the light of changing demographics of rural New South Wales, and the availability of water for firefighting—issues that are of significance to the Rural Fire Service and the Government. The Rural Fire Service Association is actively helping its members through its scholarship program, by allowing members to build on their professional and personal development, and through its \$485,000 grant last year to brigades around the State for equipment and other resources to top up money already provided by the Government.

I take this opportunity to commend the outgoing Rural Fire Service Association President, Steve Yorke. For the past three years Steve has been a strong advocate of the RFSa and has worked constructively through a range of challenges with both the Rural Fire Service and the Government. Under the RFSa rules one can be president for only one three-year term. I welcome the new President and Captain of the Bugaldie Rural Fire Service Brigade, Chris Lord. Chris has been a member of the Bugaldie brigade, which is north of Coonabarabran, for 13 years. I wish Chris all the best in his term as president, and I look forward to working with him in the same spirit of co-operation that has been typical of the RFSa's attitude over recent years.

Coincidentally, while travelling to Sydney last Sunday night, I met Chris by chance in Dubbo. I am particularly pleased to inform the House that Chris is a volunteer. It is significant for the future of the RFSa that it has a volunteer as its head. The State Government commends the Rural Fire Service Association for its conference and on its tireless work on behalf of our volunteers.

## **NSW POLICE SENIOR OFFICERS POLICE INTEGRITY COMMISSION INVESTIGATION**

**The Hon. PETER BREEN:** My question without notice is directed to the Minister for Justice, representing the Minister for Police. Is the Minister aware that the complaints that led to the Operation Vail investigation by the Police Integrity Commission were the subject of previous complaints to police internal security? Who at police internal security assessed the complaints? On what basis were the complaints rejected? What information was given to the complainant as to the reasons for rejecting the complaints? Did the complaints to police internal security include complaints about false applications for telephone intercepts, false applications for listening devices and false applications for search warrants? If so, what was the outcome of those complaints?

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

## **MARSDEN REHABILITATION CENTRE STAFF MEMBERS PHYSICAL ABUSE ALLEGATIONS**

**The Hon. JOHN RYAN:** I direct my question without notice to the Minister for Disability Services.

**The Hon. Michael Costa:** Are you still here?

**The Hon. JOHN RYAN:** I will be here for a long time. Minister, have seven staff from the Tarrio Unit of the Marsden Rehabilitation Centre at Ryde been redeployed to other duties following allegations that they physically abused clients? Are NSW Police and the Department of Ageing, Disability and Home Care conducting separate investigations into those allegations? Did it take more than one month for staff from the

Minister's department to notify parents that they had concerns about the welfare of residents? Has the Minister received correspondence from concerned parents? Will the Minister keep those parents informed about departmental investigations and what steps he has taken to ensure the ongoing safety of residents?

**The Hon. JOHN DELLA BOSCA:** The question deals with a number of serious matters. My general answer to the first part of his question is yes. The general terms of events that he described are alleged to have occurred. However, of course, those matters have been referred to police for investigation. I understand an external investigator has been appointed to examine the matters. Other than acknowledging the general terms of the allegation and the fact that police are investigating them, it is not appropriate for me to comment on or confirm the other matters until the investigation is completed.

### INDUSTRIAL DISPUTE DATA

**The Hon. GREG DONNELLY:** My question without notice is addressed to the Minister for Industrial Relations. Will the Minister provide details about current industrial dispute levels in New South Wales?

**The Hon. JOHN DELLA BOSCA:** The Australian Bureau of Statistics has released the industrial dispute data for the 2005 March quarter. It is, once again, a clear demonstration that the New South Wales industrial relations system provides a co-operative and harmonious environment that is good for workers and businesses. I will cite some examples to demonstrate that point. The national average for working days lost per 1,000 employees for the March quarter was 5.2. In New South Wales it was 1.4, a quarter of the national average. New South Wales accounted for just 9 per cent of the working days lost nationally, even though our State is home to about one-third of all Australian employment. Those figures are not just a one-off. New South Wales has a record of reducing industrial disputation over a long period.

Since 1985 the number of working days lost per 1,000 employees in New South Wales has fallen by 98 per cent. Evidence shows also that disputes are resolved quickly in New South Wales with almost half of all disputes lasting more than five days occurred in Victoria. Honourable members would be aware that the Victorian system operates entirely under the conflict-driven Federal industrial relations system. In contrast, only 20 per cent of long-running disputes occurred in New South Wales. Regarding lockouts, the latest was played out at the Williamstown Air Base, where Boeing locked out its workers three times in the past month. Lockouts provide another indicator of how confrontational the Federal industrial relations system can be; 91 per cent of all lockouts in Australia occur in the Federal system.

The proportion of long-running disputes that include lockouts has increased from 8 per cent of 10 years ago to close to 60 per cent under the Federal regime. That is more than a seven-fold increase. And regarding the construction industry, the Federal Minister claimed, "The industrial record of this industry is deplorable". Obviously the Federal Minister has not looked closely enough at the construction industry in New South Wales, an industry with a history of productive and harmonious industrial relations. New South Wales accounts for just 1.2 per cent of all the country's working days lost in the construction industry, per thousand employees, compared to almost 13 per cent in Victoria. As those comparisons are very illustrative of the point, I will repeat them: New South Wales accounts for just 1.2 per cent of the country's working days lost in the construction industry per 1,000 employees, compared to almost 13 per cent in Victoria.

The New South Wales industrial relations system enabled construction for the Sydney Olympic Games to be delivered on time and on budget. The Federal Government's submission to the Cole royal commission clearly proves that building projects are 20 per cent to 30 per cent cheaper, more efficient and more productive in Sydney than in Melbourne, because of our industrial relations climate. In Victoria, organisations that employ many people have claimed that the cost differential between New South Wales and Victoria could be much higher than the Commonwealth's estimates given to that royal commission. In one example, identical chemical plants were built in Sydney and Melbourne. In the Sydney example, the job was completed on time and on budget. The Melbourne job was completed a year late and \$20 million over its budget. The company blamed that on bad work practices and poor industrial relations.

I remind honourable members that those bad work practices are institutionalised in Victoria because of the confrontational Federal industrial relations system. The Federal Government wants to impose that system on all of us. It is not the industrial record of the industry that is deplorable; it is a record of the Federal industrial relations system that is deplorable. Just ask Bluescope Steel: last week a representative from that large multinational, indeed global, employer defended the New South Wales industrial relations system arguing that the New South Wales Industrial Relations Commission provides quick and co-operative dispute resolution. He

said that the New South Wales system provides parties with swift access to effective remedies against the misuse of industrial power, without the need for crippling economic damage. The Federal Government wants to override the New South Wales industrial relations system, a system that resolves disputes quickly, keeping costs down, and a system built on the principles of fairness and co-operation.

### BEACON HILL HIGH SCHOOL CLOSURE

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** My question is directed to the Special Minister of State, representing the Premier. Why did the Premier's Department write to Sue Covey and deny her request for papers on the closure of Beacon Hill High School citing:

... you have not demonstrated the value or benefit to the public of this information, how this information will contribute to the public understanding of the subject outlined, or to what extent the information will be communicated to the public.

Does the Government take the position that citizens who are concerned about the closure of public education facilities and represent a group of similarly concerned citizens have no public interest in their application to find out why a school was closed? Does the last clause imply that their ability to publicise the findings from their freedom of information application are important as to whether they should get the information? Will this information be provided to Mrs Covey, as should happen under the Act?

**The Hon. JOHN DELLA BOSCA:** I thank the member for his courtesy in providing me with a copy of his question. I am unable to provide an answer, but will consult the Premier and provide the member with an answer as soon as practicable.

### TUGGERAWONG PUBLIC SCHOOL

**The Hon. CATHERINE CUSACK:** My question without notice is directed to the Minister for Education and Training. Is she aware that Tuggerawong Public School is losing two demountable classrooms and a teacher because it failed to reach projected enrolments this year? Is she aware that school staff and members of the Teachers Federation have written to her department pointing out that her policy of reducing classroom numbers cannot be enforced after losing the two classrooms and a teacher? Is she also aware that the parents and citizens association has been waging a two-year battle to have the old toilets replaced following numerous failed attempts to stop offensive odours? Why is a lack of assistance from the Minister's department forcing the school to seek funding under the Federal Government's Investing in our Schools Program to build new toilets, rather than it being able to apply under this program for funding for other works such as new carpet and airconditioning? What action is the Minister taking to fix these problems?

**The Hon. CARMEL TEBBUTT:** The advice I have received is that departmental officers visited Tuggerawong Public School in April 2005 and met with the school principal to inspect toilets at the school. An officer from the department's local asset management unit also attended the school on 2 May 2005 to arrange for further maintenance. The Department of Commerce is currently obtaining quotations from the school facilities maintenance contractor on a number of options to improve the amenity of the toilets. The department will continue to work with the school to ensure that students at Tuggerawong Public School have access to a clean and safe environment.

With regard to the demountable issue I am pleased to inform the House that Tuggerawong Public School recently received new double modular design range [MDR] classrooms as part of this Government's class size reduction program. Two new permanent classrooms have been provided at the school for educational and support spaces. Modular design range classrooms are excellent. For example, a connecting wall adjoins two classrooms to an MDR to allow for classes to combine activities. There is also a withdrawal room to enable small group work or to provide a computer room. Following a review of enrolment numbers conducted at the start of 2005, two demountables have been identified for removal due to a decrease in expected enrolments.

I am aware that the school community submitted a request to retain one of the demountables that is additional to the school's accommodation entitlement. The school community proposed to retain this demountable for uses other than as a teaching space. I am advised that the department's demountable specialist committee reviewed the matter at the school's request and upheld the release of the demountable due to the need for it to be placed in another school for teaching purposes. The installation of the new double classrooms, the modular design range classrooms, means that the school will be able to achieve its class size reduction objectives. Modular design range classrooms were installed as part of the Government's class size reduction program. I point out once again that the Hon. Catherine Cusack raises issues in this House but does not provide us with all the facts.

### WESTERN DIVISION LEASEHOLDERS ASSISTANCE

**The Hon. PETER PRIMROSE:** My question without notice is directed to the Minister for Rural Affairs, and Minister Assisting the Minister for Natural Resources. What is the Government doing to assist rural leaseholders in the Western Division of New South Wales to cope with current serious drought conditions?

**The Hon. TONY KELLY:** As Minister Assisting the Minister for Natural Resources, I am pleased to be able to advise the House that the Treasurer has again agreed to waive this year's rents for Western Lands leaseholders. That direct and immediate benefit for Western Lands leaseholders to the tune of \$1.4 million this coming financial year builds on the ongoing commitment of the Carr Government to farmers, graziers, their families and communities. Over the past four years the Carr Government waived \$8 million in Western Lands lease rents—much needed relief for those in the grip of the worst drought in 100 years. The waiver of the rent is extremely effective, cutting red tape and providing immediate relief to western farmers and graziers who are doing it tough. I point out that, unlike the Commonwealth Government's drought measures, this assistance is not subject to any assets test. The Carr Government has also—

*[Interruption]*

I am about to tell Opposition members all the other things that this Government has done and I was going to refer, in particular, to the good work of the Minister for Primary Industries. The Carr Government also paid wild dog destruction rates to the Wild Dog Destruction Board on behalf of Western Lands leaseholders for 2003, 2004 and 2005. That amounted to \$3.2 million being paid by the Government in support of drought-affected leaseholders to date. In paying that amount to the Wild Dog Destruction Board the Government is acknowledging that the board provides an essential service to leaseholders in the Western Division and that the work the board undertakes must continue. This is just one aspect of the Carr Government's commitment to working with farmers and landholders in this time of prolonged drought. Since July 2002 the Government has committed around \$160 million in drought assistance as a result of the efforts of the Minister for Primary Industries. This year's budget includes a further \$16 million, with more funds to be made available if and when needed.

Areas of drought funding have included: \$62 million on transport subsidies for livestock producers; \$12 million on interest rate subsidies under the exceptional circumstances drought assistance program; \$41 million through the State Government's Special Conservation Scheme to help farmers invest in drought management programs on their land; a waiver of the 2003-04 water access fees for irrigators in the Lachlan Valley; the reintroduction of the subsidy for the cost of transporting stock to sale or slaughter until the end of winter, with a review in spring; three additional drought workers funded by the Department of Primary Industries; and \$11 million since 2002 on emergency drought assistance to secure town water supplies, including short-term measures such as building pipelines to other catchments, drilling for bore water and assistance in developing drought management plans.

Since October 2002, through the Department of Community Services drought assistance package, the Government has provided \$7.8 million in grants of up to \$2,000 to more than 3,200 individuals and families to cover food, clothing and other household items; telephone and electricity accounts; medical expenses; fresh water for household purposes; fuel and motor vehicle expenses; and minimum credit card payments. The Government will continue to work with farming families in New South Wales, including Western Division farmers, in seeing this drought through.

### NSW POLICE SENIOR OFFICERS POLICE INTEGRITY COMMISSION INVESTIGATION

**The Hon. DON HARWIN:** My question without notice is directed to the Minister representing the Minister for Police. Why has the Police Integrity Commission recommended that consideration be given to prosecuting Deputy Commissioner Madden and Assistant Commissioner Parsons for breaching the Telecommunications Interception Act when in a similar, unrelated internal investigation several years ago, where an officer played a recording of a telephone intercept to another person, a decision was made by the police service, based on legal advice, not to prosecute under the Telecommunications Interception Act but rather to proceed simply with departmental charges under the Police Service Act? Why are Deputy Commissioner Madden and Assistant Commissioner Parsons being treated differently?

**The Hon. JOHN HATZISTERGOS:** There is no difference. If the honourable member had read the report and concentrated on the words of the Police Integrity Commission, he would understand.

**The Hon. Michael Gallacher:** They did not refer it to the Feds for a decision. They made the decision before. They did not send it off.

**The Hon. JOHN HATZISTERGOS:** The Leader of the Opposition knows that the Police Integrity Commission is not a prosecuting body.

#### WANDELLA STATE FOREST PROTESTERS INTIMIDATION

**Mr IAN COHEN:** My question without notice is directed to the Minister for Justice, representing the Minister for Police. Will he urgently investigate incidents that occurred last night on a logging road into Wandella State Forest west of Cobargo? Nine people wearing balaclavas and armed with baseball bats and sticks approached the protest camp at 9.00 p.m. and physically assaulted two people. They named individual protesters and made death threats against three people, including an elderly man who lives nearby. Will the Minister for Police also investigate allegations that the first call at 9.30 p.m. to Bega police was met with a refusal to act? The person was told to ring the emergency number 000 if the thugs returned, and this was after a series of assaults. At 11.00 p.m. the thugs returned and made further threats. The emergency number was called and protesters were informed that police were on their way. At 11.30 p.m. Narooma police rang to say that they were not travelling to the site. Will the Minister for Police act to investigate this police inaction? What action will the Minister for Police take to guarantee the safety of these members of the community? [*Time expired.*]

**The Hon. JOHN HATZISTERGOS:** I am advised that protesters in the Wandella State Forest have alleged they were intimidated overnight by unknown individuals. I am advised also that Forests NSW has referred this allegation to the police for investigation. To the extent that Mr Ian Cohen raised additional issues in his question, I will refer them to the Minister for Police.

[*Questions without notice interrupted.*]

#### DISTINGUISHED VISITORS

**The PRESIDENT:** Order! I welcome to the President's Gallery Mr Mike Horan, Queensland Nationals member for Toowoomba South, and shadow Minister for Primary Industries and Fisheries, Parliament of Queensland.

#### QUESTIONS WITHOUT NOTICE

[*Questions without notice resumed.*]

#### HAWKESBURY RIVER OYSTER INDUSTRY

**The Hon. AMANDA FAZIO:** My question is addressed to the Minister for Primary Industries. Will the Minister update the House in relation to the State Government's assistance package for Hawkesbury oyster growers whose oyster crops have been affected by QX disease?

**The Hon. IAN MACDONALD:** I thank the Hon. Amanda Fazio for her question. I know she is a great lover of Sydney rock oysters. The Sydney rock oyster industry is worth \$36 million to the New South Wales economy annually, and the Hawkesbury River is the third largest production area in the State. But earlier this year growers on the Hawkesbury were hit by an outbreak of the deadly QX parasite—a particularly virulent disease that affects only Sydney rock oysters. As a result, 23 growers saw their entire oyster leases wiped out, and more than 50 jobs were under threat. The State Government understood the devastating effect the outbreak had on oyster growers and the local community. In April the Premier and I visited the region to announce the first stage in a comprehensive State Government assistance package. I had been there two weeks earlier and met the growers. This package included the delivery of 200,000 QX-resistant juvenile Sydney rock oysters—

**The Hon. Duncan Gay:** It was nothing more than a media conference. I hope you've got something substantial to say.

**The Hon. IAN MACDONALD:** The Hon. Duncan Gay is right on the ball; that is what I like about him. The package also included a \$200,000 grant to supply millions of additional oysters for the coming growing season. In fact, the State Government recently secured five million Pacific triploid oysters from Tasmania for Hawkesbury growers. These juvenile oysters are expected to be available to growers in the region

in 10 weeks. The State Government has also created a QX disease task force to develop a further long-term package to help the industry remain viable. Since April this task force has been working diligently to formulate the second stage of assistance, which was developed with the full input of growers.

Today the Premier and I announced the details of the stage two support package. The State Government has provided a further \$2.8 million in assistance for the industry in a comprehensive package that will help growers recover as soon as possible. The package includes \$2.7 million in funding over three years for measures designed to get production back on track. This will take the form of a \$150 per tonne subsidy paid to growers to remove dead stock and infrastructure.

The clean-up of the oyster leases is one of the biggest challenges facing the industry and it is also one of the most pressing. Dead or diseased stock must be removed from the river as soon as possible to allow the environment to recover sufficiently before oyster production resumes. With 400 hectares of oyster leases in the area and more than 18,000 tonnes of dead or diseased oysters, this is a mammoth task. The lease infrastructure must also be disposed of to remove every last trace of the parasite. The clean-up will be carried out by local industry members, who have the specialist expertise, a skilled work force, and easy access to lease areas.

In the past 10 years the State Government has spent \$4 million researching the QX parasite. This led to the development of a new oyster strain that is 70 per cent resistant to QX. For the information of the Hon. Duncan Gay, the farm gate value of the industry in the Hawkesbury is \$3.7 million. As part of the package we have provided even more funding for further research. We have dedicated \$65,000 to this additional research, which is being conducted by an expert from the Queensland Museum. Education will help growers to plan their stocking and re-stocking initiatives to avoid periods when the disease is most likely to break out. As part of the stage one package the State Government gave growers immediate and free access to rural financial counsellors. We are expanding that initiative, with the expenditure of another \$13,000. The State Government will also explore other measures to help the industry make the transition from stick technology to tray technology.

There is no doubt that it has been a heartbreaking time for Sydney rock oyster growers on the Hawkesbury. But the Government has listened to their concerns. Today we met with growers and other industry representatives and they were fulsome in their praise for the package that has been devised in conjunction with them in the past month. The Government is listening, and we will resuscitate the oyster industry in the Hawkesbury—not whinge like members of The Nationals!

### **CORRECTIONAL CENTRES MENTAL HEALTH SERVICES**

**Ms SYLVIA HALE:** My question is directed to the Minister for Justice. Is it true that there are no dedicated psychiatric inpatient beds available for women in New South Wales prisons? If so, how can the Minister justify this situation, given that 73 per cent of women in the State prison system have a history of contact with psychiatric or mental health services? What steps has the Minister taken to ensure that a scenario such as that involving Cornelia Rau in the Queensland correctional system could not happen in New South Wales? What steps has the Minister taken to ensure that women in New South Wales prisons who have mental health problems have access to appropriate health services and are not simply incarcerated behind closed doors?

**The Hon. JOHN HATZISTERGOS:** That question is based on a fallacy. The Long Bay prison hospital has accommodated women when necessary. But, to a large extent, the question should not be directed to me. As the honourable member should know, the provision of health services within the correctional system is a matter for the Minister for Health, who is responsible for Justice Health.

*[Interruption]*

The honourable member asked me about psychiatric beds and the provision of psychiatric facilities and I am trying to answer her question as best I can. First, by addressing the implicit fallacy in her question that there are no such facilities in prisons; and, secondly, by pointing out where the correct responsibility lies.

The honourable member's question allows me to place on record the Government's important health initiatives for women inmates. In March last year the department opened a new facility called Biyani, which is part of the Long Bay therapeutic picture. The facility was officially opened by Her Excellency the Governor of New South Wales, Professor Marie Bashir—who, I am sure all members acknowledge, has considerable professional experience in psychiatric care. The Biyani program is a major part of the Government's commitment to reducing the number of offenders with mental health issues and intellectual disabilities in

correctional facilities. It offers a therapeutic alternative to a custodial sentence for women offenders with mental health disorders or intellectual disabilities who also suffer from drug and alcohol problems.

The main focus of the Biyani program is to stabilise mental health and drug and alcohol problems and to help the women gain access to long-term community rehabilitation programs and resources. It provides an option to divert women from custody at the pre-sentence stage, and it has community linkages with mental health and other community services. It also fosters the development of further community partnerships. It supports offenders' reintegration into the community by maintaining and supporting current community ties and by developing community ties when they do not exist. A major strategy for participants in the program will be the encouragement and support of residents' relationships with their children.

In addition, the Mental Health Step Down Unit at Mulawa has been established to accommodate stable mentally ill women in normal discipline conditions to assist with their transition into the normal prison discipline population. This unit was created from existing resources and is operated as a therapeutic community. Supported by offender services and programs staff, custodial officers deliver programs to offenders in the unit.

A major redevelopment has also been approved for Mulawa Correctional Centre, whose construction will be phased over the next five to six years. New facilities to be constructed include a mental health screening unit, a health services unit, a new gate house, a reception building and a new visiting section. Perimeter security will also be upgraded. Stage one of the Mulawa redevelopment includes a \$14.2 million mental health screening unit and health services unit. The work is programmed for completion later this year.

The Government has also initiated a number of other programs across correctional facilities dealing with a wide range of issues for female inmates who present with challenging behaviours. I have referred to those programs previously. If the honourable member requires further information about the provision of particular health services I suggest that she direct her questions to the Minister for Health.

#### **MURWILLUMBAH HYDROTHERAPY POOL CONSTRUCTION**

**The Hon. JENNIFER GARDINER:** My question is directed to the Minister for Local Government. Is it correct that the planned construction of a hydrotherapy pool at Murwillumbah has been delayed by more than a year due to the dismissal of the Tweed Shire Council? Is the Minister aware that part of the funding for this project was raised by the community? Will the Minister ensure that projects such as this that have widespread community support and involvement are not delayed by the administrators?

**The Hon. TONY KELLY:** I am obviously not aware of everything that happens in the State's 152 councils. However, the dismissal of councillors does not amount to the dismissal of the council. The council operates exactly the same as if there were 12 councillors except that, in this case, there are three commissioners. It is entirely the decision of councils as to what projects they undertake, and it is not my job to interfere with the day-to-day operations of any of the 152 councils in the State.

#### **SCHOOLS AND TAFE TECHNOLOGY**

**The Hon. CHRISTINE ROBERTSON:** My question is addressed to the Minister for Education and Training. What action is the Government taking to introduce new technology to schools and TAFE colleges?

**The Hon. CARMEL TEBBUTT:** The Government is committed to providing maximum exposure to new technology to students in schools and TAFEs throughout the State. In a technological age it is imperative that our students are computer and technology literate, and that they are up to date with the latest developments in these areas. We are also ensuring that we use the latest technology to provide the most effective means of teaching students. Our recent budget acknowledged that, with the announcement that the Government will spend \$942 million during the next four years to give students and teachers in New South Wales schools access to state-of-the-art technology. I will provide the House with two examples of what the Government is doing.

Schools, TAFE colleges and administrative areas are upgrading their technology by replacing routers to support broadband services to school and TAFE sites. Routers are vital communication components that connect networks, allowing access to the Internet and email. In March I approved the expenditure of more than \$5.5 million for the purchase of 1,450 Cisco entry and mid-level routers to replace existing routers in schools. This \$5.5 million technological upgrade is part of the State Government's four-year program to upgrade bandwidth in schools and TAFE colleges. The routers will enhance operational procedures, including the



managing of Internet traffic, and the identifying and isolating of viruses. They will also support student videoconferencing and other advanced services, including web conferencing and interactive distance learning.

The routers reduce the risk of viruses entering school and TAFE computers by employing an advanced virus identification and filtering system. The Government's \$247 million broadband initiative announced in December 2002 involves upgrading the wide area network telecommunications services for individual departmental sites. The new routers operate by providing the interface between each local school network and the broader Department of Education and Training telecommunications network. The network upgrade will enable the Department of Education and Training to substantially extend the use of the broadband network that connects 2,500 teaching establishments across the State.

A further example of how State government schools are enhancing their technology is the increased use of electronic whiteboards in government schools. Electronic whiteboards allow all students to engage in the teaching and learning process. The screen serves as a giant touch computer screen that can be written on with special electronic pens in a collaborative lesson. The resulting work can be saved and used in future lessons.

The western region within the Department of Education and Training is currently involved in a major trial of electronic whiteboards and has co-ordinated the purchase of 80 whiteboards for use in 41 schools, ranging in size from the smallest single-teacher school to the largest comprehensive secondary school. In addition, 40 electronic whiteboards are installed in distance education access schools. All distance education access schools have a PolyCom videoconference camera, standard personal computer, and television to enable connectivity between schools as well as the distance education studios.

The Centre for Learning Innovation within the Department of Education and Training is currently collecting case studies of how schools are effectively using electronic whiteboards and it is making these case studies available on line to all teachers. A professional learning community, the Teaching and Learning Exchange, has been established to share learning among schools engaged in utilising electronic whiteboards in their classrooms.

The Centre for Learning Innovation is also planning to undertake a pilot of electronic whiteboards and software tools in up to 10 schools in the south-eastern Sydney region. It is proposed that schools will receive a varying mixture of electronic whiteboards, software tools, and specialised training to identify the key components of a successful teaching and learning program built around the use of electronic whiteboards in the classroom. This program is about the Carr Government recognising the importance of technology in schools and the utilisation of new state-of-the-art equipment in New South Wales government schools and TAFE colleges. I look forward to reporting further on these initiatives.

#### **NATIONAL PARKS AND WILDLIFE SERVICE FUNDING**

**The Hon. JON JENKINS:** My question is directed to the Minister for Justice, representing the Minister for the Environment. Recently the National Parks and Wildlife Service acquired many hundreds of thousands of hectares of new land to manage. How many hectares are now managed by the National Parks and Wildlife Service, including all parks, wilderness, reserves and other conservation areas under its control? What is the current funding regime for National Parks and Wildlife Service land? If the regime is on a per-hectare basis, what is the dollar value per hectare? How will the Government fund the maintenance of hundreds of thousands of hectares of new land? What new taxes and duties will be introduced to fund the maintenance?

**The Hon. JOHN HATZISTERGOS:** I will refer the matter to the Minister for the Environment.

#### **MASCOT POLICE STATION CLOSURE**

**The Hon. MICHAEL GALLACHER:** My question is directed to the Leader of the Government, representing the Premier. How can the Premier claim that, as he said on Sydney radio today, "Our counterterrorism experts appear to be one step ahead of the people who may be representing a threat", when the Government has closed Mascot police station, and Port Botany Water Police often finish work at 4.00 p.m., leaving Kurnell oil refinery, the airport, and the Port Botany container port open to a terrorist attack?

**The Hon. JOHN DELLA BOSCA:** I am pleased the Leader of the Opposition monitors morning radio and listens to the Premier, and I hope he learnt something, as I usually do. The Premier is frequently on the public record—

**The Hon. Michael Gallacher:** Far too often, actually.

**The Hon. JOHN DELLA BOSCA:** I think he is appropriately on the public record about matters and measures taken co-operatively with the Commonwealth and individually within New South Wales in relation to the potential for a terrorism threat. The New South Wales Government has taken a leading role under the leadership of the Premier in these matters, which the Prime Minister has publicly acknowledged on a number of occasions. I will refer to the Minister for Police, and ask him to provide information about, the specific matters raised by the Leader of the Opposition, particularly the closure of Mascot police station and the implications that might have for the security of the airport or Botany Bay.

### RECREATIONAL FISHING RESEARCH

**The Hon. TONY CATANZARITI:** My question is addressed to the Minister for Primary Industries. What is the latest research effort to boost recreational fishing in New South Wales?

**The Hon. IAN MACDONALD:** Scientists at the Department of Primary Industries are at the forefront of cutting-edge research to improve the quality of recreational fishing in New South Wales. This is important work. More than one million people in this State like to wet a line at least once a year. Recreational fishing is also an economic powerhouse for many small communities, as it supports local businesses and regional tourism. Since the introduction of the recreational fishing licence in 1998, millions of dollars have been invested in innovative research programs to support this vital sector.

*[Interruption]*

I should run a book. Am I going to do what they are saying or am I going to do something different? Often the results of this research provide fresh and sometimes unexpected information which can be used to educate recreational fishers on sustainable fishing practices. Last week I visited the National Marine Science Centre in Coffs Harbour to announce the latest round of funding for one of these exciting projects. Scientists from the Department of Primary Industries at the centre have almost completed a two-year project examining the survival rate of fish after they have been caught and released by recreational anglers. This is extremely valuable research, as figures reveal that more than 60 per cent of fish caught in New South Wales waters by recreational anglers are released. This is often because the fish have not yet reached the legal size.

By carrying out research into the most effective catch-and-release methods, we can help to ensure that these fish survive the release process and are better able to reach full maturity and complete the breeding cycle and boost fish numbers in our waters. The research into catch and release has so far yielded some valuable new insights. For example, after being caught and released, snapper has a 67 per cent survival rate, yellow fin bream a 72 to 100 per cent survival rate, depending on the circumstances, and sand whiting a 93 per cent survival rate.

The researchers have determined also that removing hooks from fish before releasing them is one of the main causes of mortality in species such as yellowfin bream. If the line is instead cut and the hook left in the bream, the hook will eventually corrode and the fish is more likely to survive. The survival chances of mullet increase if the line is cut in the water and the fish is not exposed to air. These findings have added new insights to traditional catch-and-release methods, which in the past have focused on attempting to remove hooks from caught fish.

While in Coffs Harbour I also announced additional funding for a further three-year project that will build on these initial findings. The project will enlist the help of recreational fishers in several areas of the State who, along with Department of Primary Industries staff, will tag caught fish before they are released. They will then be monitored in the wild to assess their survival rates. Department of Primary Industries researchers will use this new information to design a better model for fish hooks, one that will have less impact on fish and corrode more quickly, significantly reducing the chance of mortality. The latest stage in this exciting research program has been jointly funded by the Department of Primary Industries and the New South Wales Saltwater Recreational Trust, and is worth almost \$1 million. Once again, recreational anglers in New South Wales are seeing first-hand the benefits provided by the funds raised from the recreational fishing licence scheme.

While in Coffs Harbour I also attended a meeting of the Saltwater Recreational Fishing Trust committee, which comprises leading angling experts from across the State. In their conversations with me the committee members endorsed the effectiveness of the recreational fishing licence scheme and the valuable projects it supports. A small number of opponents to the licence scheme have, like Opposition members, been busy pedalling misinformation and inaccuracies claiming that the funds raised by the scheme are misdirected into government administration. These funds are for research.

**BIG BROTHER EXPLICIT FOOTAGE**

**Reverend the Hon. FRED NILE:** I ask the Minister for Justice, representing the Minister for Community Services, a question without notice. Further to my question on notice of 8 June concerning the *Big Brother* television program, is it a fact that the head of Channel 10 corporate relations, Margaret Fearn, admits that the channel made an error over explicit scenes such as a *Big Brother* contestant rubbing his penis in the hair of an unwilling, unknowing female contestant? Is it a fact that the President of Young Media Australia, Jane Roberts, claims that the penis incident broke the television industry code of conduct? As more than 33,720 children under 12 years of age and 65,070 children aged 13 to 17 years watched this obscene exposure incident on Channel 10, and as Channel 10 is based in Sydney, what action has the department taken to protect the children of New South Wales from moral danger?

**The Hon. JOHN HATZISTERGOS:** This is more a question for the Federal Government, which controls these matters. In any event, I will refer the matter to the Minister for Community Services.

**Reverend the Hon. Fred Nile:** The question relates to the department protecting children in New South Wales.

**The Hon. JOHN HATZISTERGOS:** I do not quite know how the Minister is expected to go into every living room.

**Reverend the Hon. Fred Nile:** It was shown by Channel 10.

**The Hon. JOHN HATZISTERGOS:** The channels are licensed by the Federal Government. In any event, I will refer the matter to the Minister for Community Services. I am sure she will provide the appropriate answer.

**Reverend the Hon. FRED NILE:** I ask a supplementary question. The point of the question was whether officers of the department have had discussions with Channel 10? The department has responsibility for the children of New South Wales.

**The Hon. JOHN HATZISTERGOS:** I very much doubt it. But I will include that as part of the question I will refer to the Minister for Community Services.

**MILLFIELD BRIDGE DEMOLITION**

**The Hon. DAVID CLARKE:** My question is to the Minister for Roads. Is the Minister aware of plans by the Roads and Traffic Authority to proceed with the demolition of the wooden Millfield bridge on Monday, at a cost to taxpayers of \$700,000? Is the Minister aware that this bridge forms part of the Great North Road between Sydney and the Hunter Valley?

Is the Minister aware also of concerns by the Convict Trail project and the local community about the loss of this bridge, and of their calls for its demolition to be halted to allow time to get a second estimate of the cost to save this bridge? Is the Minister further aware of claims by the Convict Trail project that only seven of the original 27 bridges on the Great North Road remain, and that some of them are under threat of being demolished? What action is the Minister taking to ensure that historical roads and bridges are not demolished unnecessarily?

**The Hon. MICHAEL COSTA:** Not only am I aware of the demolition of the Millfield bridge but I absolutely approve of it. I would like to be the person who takes a chainsaw and puts the first cut through the bridge. I know this bridge very well; it is three kilometres from my house.

**The Hon. John Ryan:** A conflict of interest?

**The Hon. MICHAEL COSTA:** There is no conflict of interest here. We have just built a new state-of-the-art bridge there. The Millfield bridge is not a heritage bridge; it is well and truly representative of other bridges across the State that do not warrant upgrading. The Millfield bridge should have been pulled down years ago. When I became roads Minister I asked the Roads and Traffic Authority why the Millfield bridge had not been pulled down. I was told the reason was that bats needed to be relocated from the wooden bridge to the new concrete bridge.

I asked the RTA where the bats were because no local had ever seen one, and I was informed that under the conditions of the environmental study undertaken, the wooden bridge had to be left next to the new concrete bridge for 18 months to allow the bats to migrate. I spoke to people who had lived nearby for 50 years and asked, "Have you seen any bats?" They had not seen one. I went back to the RTA and asked, "Where are these bats?" I was told, "You have misunderstood. They are microbats"—the size of my thumb! It gets worse! Two nights later a neighbour rang and said, "We have some sort of insect in our house that we are trying to kill. Will you come down and give us a hand?" It turned out they were not insects; they were microbats.

So, three kilometres down the road from me we are spending money to protect microbats that residents up the road are killing! If that has anything to do with protecting our historical environment, I'll be blown! The Millfield bridge was not around when the Convict Trail was built; it was built in the forties. It has absolutely nothing to do with the Great North Road walk. More importantly, the new bridge has a walkway. So, those who want to retrace the steps of the convicts can walk along the state-of-the-art concrete walkway. I congratulate the demolition team. In fact, on the way home I will ask them to speed up their work, if they can. Thanks for the question.

### PRISONERS EMPLOYMENT

**The Hon. JAN BURNSWOODS:** I ask a question of the Minister for Justice. What is the latest information on inmate employment in New South Wales correctional centres?

**The Hon. JOHN HATZISTERGOS:** The success of Corrective Services Industries, a division of the Department of Corrective Services which employs New South Wales inmates in a wide range of industries, is well documented. Great care is taken to ensure that all work done by prison industries does not affect local businesses. In fact, the local union representative of the Protective Industries Services Council, Barry Tubner, said of the system and protecting local jobs from prison labour "... it is the best system in Australia and I haven't seen a better one in the world". Notwithstanding these fine statements, in April this year the shadow Minister issued a number of press releases condemning Corrective Services Industries. On 13 April the shadow Minister issued a press release stating, "Cheap prison labour sends business broke, families onto the dole queue" says New South Wales Opposition." Included in that press release was the claim:

Seventy-five prisoners are operating the textile section of the gaol on equipment installed by the Victorian firm ... which is enjoying the fruits of cheap prison labour.

A further press release by the shadow Minister issued a couple of days later stated:

Carr Government lies about prison sweatshops affecting New South Wales business.

The shadow Minister was then prompted to move a motion in the Legislative Assembly condemning the Government for its practices of using "cheap prison labour to manufacture products, taking New South Wales workers out of employment". He requested the Hon. Charlie Lynn, a discerning person with great credibility in this place, to call for documents to determine whether that was the case. The documents were assembled. It is interesting to note that since the documents were obtained and inspected by the Opposition we have not heard a single word from the Opposition about their contents and whether the revelations that prompted the press releases were justified. We did not hear anything about it because the shadow Minister wrote a letter to none other than the person he condemned in these press releases and the Victorian firm that was reaping the fruits of cheap prison labour. In his letter dated 20 May 2005 he wrote:

I am now in possession of documents that clearly show that Wilsons does not own and has not supplied curtain manufacturing equipment at Long Bay.

The Carr Government does not make these documents public, hence the information can be obtained only from the direction of the Parliament. He continued:

I apologise for and unreservedly withdraw my misstatement concerning [the Victorian firm].

He continued:

Wilson's have demonstrated a concern for jobs and a livelihood for workers in private enterprise.

He said that they have acted in an appropriate commercial manner, appropriate with the charter. In other words, the press releases can be put through the shredder. The shadow Minister issued them condemning a legitimate business and he then wrote the letter. After condemning them he did not publicly apologise for making the

statements and to say that he was wrong. He wrote a private letter to Mr Williamson after attacking his firm. That is the level to which the shadow Minister has stooped. We have not had many questions on Corrective Services from the Opposition because time and time again they are prostituted into asking questions based on false facts.

**The Hon. John Ryan:** Point of order: I think we have heard enough of the Minister's answer to realise that this is an attack on a member of the other House and ought to be dealt with by substantive motion. It ought to be dealt with in debate to provide an opportunity for an adequate response.

**The PRESIDENT:** Order! I remind the Minister that his answer must remain relevant to the question asked and that he should not make any imputations against members of either House.

**The Hon. JOHN HATZISTERGOS:** It is important that members are discerning when they ask these questions. So that honourable members are aware of the contradictions in these claims, a couple of months ago the shadow Minister said—

**The Hon. John Ryan:** Madam President—

*[Time expired.]*

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

**Questions without notice concluded.**

#### QUESTIONS ON NOTICE

**The PRESIDENT:** I remind honourable members that as today is the last day of sitting day before the adjournment of the House for the winter recess, if members have any questions on notice to lodge they should be provided to the Clerk at the table by 4.00 p.m. today.

#### STANDING COMMITTEE ON LAW AND JUSTICE

##### Report

**The Hon. Christine Robertson,** as chair, tabled report 28, entitled "Back-end Home Detention", dated June 2005, together with submissions, tabled documents and correspondence.

**Ordered to be printed.**

**The Hon. CHRISTINE ROBERTSON** [1.03 p.m.], by leave: In tabling the report entitled "Back-end Home Detention" I advise the House that in conducting inquiries into back-end home detention and community-based sentencing options concurrently, the Standing Committee on Law and Justice found that the core principles in relation to both terms of reference were inextricably linked. The committee believes that the back-end home detention inquiry terms of reference cover issues of great importance. However, the committee considers that it will be most effective if it reports on this inquiry by providing its evidence to the House and informing it of its progress and direction in relation to its broader inquiry into community-based sentencing options.

It is the committee's intention that the broader policy review being undertaken through its inquiry into community-based sentencing options will contain specific recommendations and conclusions on back-end home detention in its report to the House. The committee thanks all those who participated in the back-end home detention inquiry by providing submissions and giving evidence at its public hearings. The information they provided was most valuable for both inquiries and will help inform the committee in its community-based sentencing inquiry. Participants will be informed of the outcomes of the inquiry into community-based sentencing options.

*[The President left the chair at 1.04 p.m. The House resumed at 2.30 p.m.]*

**SYDNEY 2009 WORLD MASTERS GAMES ORGANISING COMMITTEE BILL****Second Reading****Debate resumed from an earlier hour.**

**The Hon. PATRICIA FORSYTHE** [2.31 p.m.]: As I said earlier, the Opposition supports the bill. We look forward to the World Masters Games being held in Sydney in 2009. We look forward to the opportunity, as the Government of New South Wales in 2009, of ensuring the appropriate delivery of what no doubt will be the world's best World Masters Games. The World Masters Games are of particular interest to some members of the Opposition, including my colleague the Hon. Robyn Parker, who will also participate in the debate. I acknowledge the efforts of the bid committee in securing the seventh World Masters Games in 2009 for Sydney by presenting a better case than its bid competitors, the Shiga Prefecture, in Japan, and Copenhagen, Denmark. The Coalition is delighted that Sydney was selected.

The World Masters Games are different from the Olympic Games and the Paralympic Games because they are not about elite sportspeople, per se. There are no qualifying contests and very few minimum standards. As participants must have reached a certain age, these games attract many former elite athletes and the competitions are of significantly high standard. The next World Masters Games will be held in Edmonton in Alberta, Canada, from 22 to 31 July this year. The World Masters Games web site is listed under the heading "The largest sports festival on earth". The Sydney 2009 World Masters Games will be an event of great significance, in that once again Sydney will be the focus of world attention.

Unlike with other sporting events, the expected 30,000 participants in the World Masters Games will, presumably, have money and resources to meet competition expenses that young competitors struggle to find. The games are expected to make a significant contribution to Sydney's economy. The Edmonton World Masters Games are expected to attract 21,000 athletes including 1,000 competitors in 27 sports categories and 2,000 companions, coaches or managers. Participation in the World Masters Games is open to a significantly wide range of ages, but the minimum age is 30 to 35 years. During my preparation for this debate, I took the opportunity to contact my brother, John Wingrove, who has competed in a number of Pan Pacific Masters Games and Australian Masters Games. I do not often give my brother a plug, but I do not think he will mind my mentioning in *Hansard* that he is in his sixties—63 in fact—and is still competing in world standard games, he is well known in baseball circles as a former country representative and State competitor.

My brother has participated in a number of Masters Games, including the Central Australian Masters Games, in which he won five medals—two gold, one silver and one bronze—as a player or coach. He won a silver medal at the Pan Pacific Games and attended the Australian Masters Games in Newcastle and Canberra as a player and coach. In 2004, as the oldest competitor in the baseball section and an invitation player with a local Gold Coast team, he won his team's batting trophy. He generally plays in the over 35 age group, but in Adelaide he was playing in the over 40 category. He has been invited to play for Australia in the over 60 age group in the baseball category at the Masters Games in Phoenix Arizona, but given that the those Games will be conducted in temperatures above 42 degrees Celsius, he may not attend.

I mention my brother's experiences because they illustrate what the World Masters Games are all about—competing as an individual at elite sporting levels, albeit not representing one's country per se, and participating in events that have no minimum standard qualifying contests. Some of Australia's great sporting competitors, such as Dawn Fraser, have contributed significantly to sport through participation in the Masters Games. If the Government wants to impress upon people of all ages the importance of fitness and participation, there can be no better way to get that message across than by promoting the World Masters Games in Sydney.

Two significant aspects of the bill should be noted during this debate. The organising committee will be dissolved on 30 June 2010 by virtue of the sunset provisions of the bill. Consequently there will be a transfer of the committee's assets, rights and liabilities to the State Government on that date. The Government intends to provide the organising committee with a significant budget, but the games are expected to recover the costs incurred by the State of New South Wales in hosting the events. Clause 36 (1) prohibits a person from disclosing information known to them that is not widely known. From my experience as a member of a committee that inquired into ticketing associated with the Sydney Olympic Games, I well understand the way in which information associated with ticketing or sponsorship may be misused in a manner akin to insider trading. The bill makes it clear that a person who engages in that type of conduct will commit an offence that attracts a maximum penalty of 50 penalty units.

The Opposition believes that the bill is appropriate, and the Opposition supports the Sydney 2009 World Masters Games. We congratulate the organising committee on its successful bid to host the 2009 World Masters Games in Sydney. We look forward to Sydney again being showcased to the world as a centre of outstanding sporting facilities and as a good place to visit. The Sydney 2009 World Masters Games will present another opportunity to use facilities that were constructed when Sydney hosted the Olympic Games and Paralympic Games. All things considered, the 2009 World Masters Games will be a win-win for Sydney and New South Wales. The Opposition supports the legislation.

**Mr IAN COHEN** [2.40 p.m.]: On behalf of the Greens I support the Sydney 2009 World Masters Games Organising Committee Bill. However, it is a shame that the word "Masters" is used in the title. As a fair percentage of the athletes at the Games will be women, I suggest it would have been more appropriate for the words "Mature Elite" to appear in the title. As an earlier speaker said, it is appropriate that we recognise the fantastic contributions of a significant number of outstanding athletes from Australia, including Betty Cuthbert and Dawn Fraser. This House should come up with a title that is more fitting and inclusive of those who will participate in the games.

The bill establishes an organising committee for the 2009 World Masters Games—for want of a better title—to be hosted by Sydney in October 2009. It is wonderful that such open and inclusive games are coming to Sydney—that is, open to virtually anyone, with no qualification or selection criteria. Participants do not compete for their country, but as individuals. Such equity of access is to be applauded. The only requirement is a minimum age, for most events, of between 30 and 35. Most elite sports competitions are for athletes in the under-30 age group, so it is great that these games encourage participation from people in older age groups. Much emphasis is placed on elite athletes but the trickle-down effect of Australia's sporting achievements on the national and international stage has not extended to the remainder of society in the form of increased participation in physical activities and associated physical and mental health benefits.

Let us hope that the games will encourage participation by the general public, especially those not-so-young who may lean towards being couch potatoes. I hope also that such participation will be supported by the Government. Previous World Masters Games have been held in Brisbane, in 1994, and in Melbourne, in 2002, each event attracting about 25,000 participants. It is expected that approximately 30,000 people will participate in Sydney, and the games will attract about 12,000 visitors from overseas and 10,000 from interstate. This will be a significant boon for the tourist industry across a wide spectrum, from backpacker premises to the five-star end of town. However, with such an influx of people, we must be mindful of the environmental impacts of the Games. Just as happened during the Sydney 2000 Summer Olympics and the Gay Games, Sydney's population will increase by tens of thousands, and this will significantly impact on the city's public transport services, its water and energy consumption, and its waste creation.

**The Hon. Robyn Parker:** The trains might be on time for once.

**Mr IAN COHEN:** I acknowledge the interjection that the trains may be on time. That would certainly be a welcome benefit. The transport departments made great efforts during the Olympic Games, during which trains were not only on time but also working to capacity to deliver people to and from the Games. Host cities for such major sporting events should commit themselves to environmental and social impact assessment, with community participation in the planning process. Let us hope that once the committee and administrative procedures are established there will be an opportunity to ensure an environmental legacy of which we can be proud. Perhaps the Masters Games will carry forward the environmental messages and actions that characterised the Sydney 2000 Summer Olympic Games. I regularly participate in a two-kilometre swim with a group from my home town. We hold a competition once a year.

**The Hon. Rick Colless:** What about the grey nurse sharks.

**Mr IAN COHEN:** We swim where grey nurse sharks are often seen. I have seen a few of them. It is a wonderful swim across the bay to Byron—the Hon. Rick Colless should try it. Our final swimming event for the summer is the Watego 2.5-kilometre open ocean swim. It invites intense competition, as does the Cole Classic swim, which attracts the very young and the very old. People in their eighties complete the course, and those who finish late get a clap and a cheer for having participated. The event is more than competition between people; it is about proving to oneself that one can compete, and in good time. The swimming events are very enjoyable. They are quintessentially Australian events in which everyone encourages one another, young and old, the super fit and those not so fit who are testing themselves over the arduous course.

I have competed in a significant number of those events. It is an uplifting experience to be out in the water, swimming together with thousands of other swimmers. Photographs depicting the Cole Classic, and that great Australian sport, are on exhibition at the nearby State Library. I am confident that the World Masters Games would be a similar great experience for the Australian community and will set an example for young and old. The term "elite athlete" is not restricted to people in their teens and early twenties. Swimmers can compete in major events well into their sixties, seventies and, sometimes, eighties. I commend the Sydney 2009 World Masters Games Organising Committee Bill but hope it will be renamed the Sydney 2009 World Mature Elite Games Organising Committee Bill, or something similar, to acknowledge our great women athletes.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [2.46p.m.]: It is wonderful that Sydney has won the bid to conduct these games, and this is a critical time for us. I will not repeat the comments of other members who have spoken about organising the games and the nature of the competition. The bill deals with the creation and dismantling of the administrative machinery for the games and, as such, is welcome. A number of people, myself included, hope to compete in those games.

**The Hon. Melinda Pavey:** What will you be doing?

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I will be running. It is important that the Government promotes health. Australians are now the second most overweight and obese people in the world, and we are experiencing an increase in the incidence of diabetes, which is weight related, and high blood pressure, which is also weight related. People who exercise tend to use less alcohol, tobacco and other drugs. There is an immense positive health benefit from exercise. Tobacco use is the greatest preventable cause of death and the greatest public health problem of our time, to quote the Surgeon General of the United States of America. Diabetes and obesity are looming epidemics because of lack of exercise resulting from increased use of technology and the encouragement of consumerism. It is very important that the Government tackle this problem.

The World Masters Games and the excitement associated with them could be very much channelled into a major health promotion initiative for the State Government, which does not do very much, not even at a parliamentary level. I have asked for health promotion programs for the staff of Parliament House and, as yet, that request has fallen on deaf ears. I will have to take up the cudgels for a little longer on that. I have some experience in these matters. In my time at Sydney Water I instituted a health promotion program. Of course, retirement on the grounds of age is no longer mandatory under the anti-discrimination laws; one cannot be forced to retire at the age of 65. On that basis, I established the criteria of fitness. Systematic fitness testing was put into place with a protocol that I worked out with Professor John Brotherhood, who was with the University of Sydney at that time. I believe that resulted in a few voluntary, but no compulsory, retirements. There was a real change in culture at Sydney Water, a considerable drop in the rate of smoking and alcohol consumption, and a large increase in the number of people exercising. Contrast that with the fact that we do not have anything like that here.

After the unfortunate train accident at Waterfall and the suggestion that the train driver had suffered from a medical problem, all train drivers were subjected to a fitness test, which resulted in a large number of retirements, a shortage of drivers and a disturbance to train timetables. That amply demonstrates the fact that the Government is not thinking ahead about the fitness of its work force. That needs to be pointed out in a forum such as this. I remember conducting fitness tests in one of the depots in eastern Sydney. An extremely overweight and heavy smoker who was high up in the hierarchy was at first dismissive of my suggestions, but in a weaker moment he said he would really like to stop smoking and get his weight down to a reasonable level. He was at least 40 kilograms overweight.

I said, "I will see whether I can get a Rolls-Royce service for you." I rang up St Vincent's Hospital and said, "Do you run a quit-smoking program to assist someone who is likely to suffer a heart attack?" The hospital staff said, "Yes, of course. Which ward is he in?" I said, "He is not yet in any ward, but he soon will be." The hospital staff said, "Is he not yet in hospital? Which hospital are you sending him to?" I said, "I am not sending him to hospital as he has not yet had a heart attack." I then said, "Does he have to have a heart attack and survive that attack before he can come to you?" The hospital staff said in a serious tone, "Yes, that is our criteria for admission." They did not realise I was taking the micky out of the system.

It is absurd that we have to wait until people are either dead or in an intensive care unit before we are able to obtain help for them. At an overall level in society we need to address the notion of the maintenance of fitness and we need a role model for that. I believe these Games would provide such an impetus. The



Government should run a campaign in conjunction with the Games and encourage more people to compete. I hope I will be able to compete in the Games. I now fit the definition of what is known as a fast runner in the Corporate Cup, a six-kilometre run around the Domain. For the benefit of those honourable members who might not be aware of this fact, anyone over the age of 50 has to go in the 26-minute race. Yesterday I was chuffed to find that I broke the record for the 26 minutes for the first time since 2001, so progress has been made. I hope other honourable members are able to join me in running around the Domain in preparation for the World Masters Games. We must keep pressure on the Government to establish a health promotion program in the lead-up to these Games and beyond.

**The Hon. ROBYN PARKER** [2.52 p.m.]: I support the Sydney 2009 World Masters Games Organising Committee Bill. These Games will provide a great opportunity for many athletes in Sydney. I am reminded of a word that was often used by a former member, the Hon. Michael Egan, in relation to Sydney. These Games are a great opportunity to "showcase" Sydney. As I come from the Hunter region I believe the Games will result in great benefits and spin-offs for many regional tourist areas. One advantage of games such as this is that competitors, support teams and family members take the opportunity to explore areas outside the Sydney metropolitan area. When my family attended the World Masters Games in Melbourne we took the opportunity to visit some of the tourist locations around Victoria and many people from other countries did the same thing.

In essence, the World Masters Games embody attitudes to sport that we should all have, encourage and foster—participation in and competition with the right sort of spirit. I have attended a number of Masters Games at different venues around Australia and that is a common theme. Whatever the sport, wherever the location is and whoever the participants are, there is a shared camaraderie and willingness to co-operate. One often sees athletes coaching one other. That spirit of competition is often absent in other sports. It is an uplifting experience to watch any Masters Games and to see people having a go. It is appropriate that these Games should be held in Australia because having a go is part of our cultural ethic. People at whatever age and whatever level have a go and they try very hard.

Other honourable members have said that elite athletes, former Olympians and Commonwealth Games participants are still participating in these Games but there is no entry criteria, although some sports have distance, time or weight requirements. This is an opportunity for us to relive the spirit created during the Sydney Olympic Games. It is an opportunity for everyone to become involved in this great event. No doubt the committee being set up to establish the Masters Games will have plenty of volunteers—one of the most wonderful spin-offs from the Olympic Games. I said earlier that I have attended a number of Masters Games around Australia—the Trans Tasman Masters Games, the Pan Pacific Masters Games, the Australian Masters Games, and the World Masters Games.

Other Masters Games competitions exist around the world. On several occasions the Hunter region has hosted the Trans Tasman Masters Games and the New South Wales Masters Games, so it is actively participating in these Games. I have attended these Masters Games to support my husband, who has actively participated in a sport that he took up only a few years ago. His sporting career is quite significant. He was the recipient of the Australian sports medal because of his contribution to sport as a former A-grade cricket player and President's Cup rugby league player. He is also under contract to play rugby league for North Sydney. He also holds an Australian boxing title. He later went on to specialise in sports medicine and was the first doctor for the Newcastle Knights.

His contribution to sport has been wide and varied and he is extensively involved in campaigns against drugs in sport. He competed in and came third in a body building competition in New South Wales against other competitors who were using drugs. As I said, my husband is actively campaigning against drugs. I was happy to see his contribution to sport acknowledged by the awarding of the Australian sports medal. Four years ago he took up athletics throwing events and competed for the first time in the New South Wales Masters Games. He won three gold medals in the three events in which he competed—shot-put, discus and javelin. His next competition was the Australian Masters Games where he won a gold medal in shot-put, discus, javelin, the weight pentathlon and the hammer throw.

He then competed in the 50-year-old age group in the Trans Tasman Games, where he won five gold medals and set new records. This was all in the space of a couple of years. At the World Games in Melbourne he won a bronze medal in the shot-put and the weight pentathlon, quite a gruelling series of five events. There are a total of 3,000 points to be won in the shot-put, discus javelin, hammer throw and weight. He was six points off winning the gold medal. Come 2009 I am sure that goal will be within his grasp. He has competed against

people from all over the world—former Olympians from Canada and India and successful and professional people who have continued their sports and generated sufficient income to be able to put money back into our economy. At the last Pan Pacific Masters Games my husband won four gold medals and two silver medals, and set further records. At the recent Trans Tasman Masters Games he took up the new event of bench pressing and won another gold medal and came close to setting a record. He also won gold medals in all the throwing events he entered.

We are looking forward to the World Masters Games in Sydney in 2009. The Games are most inspiring. I have seen 90-year-olds pole vaulting and older athletes coming together in a spirit of competitiveness. I wholeheartedly support the bill and the creation of the organising committee. I will enjoy seeing the World Masters Games come to Sydney in 2009.

**Reverend the Hon. Dr GORDON MOYES** [3.00 p.m.]: I congratulate the Hon. Robyn Parker's husband on his outstanding achievements at Masters Games. The objective of the bill is to set up the Sydney 2009 World Masters Games Organising Committee as a statutory authority to plan and deliver the Sydney 2009 World Masters Games in accordance with the obligations imposed and rights conferred under the host city contract. The bill also provides for the committee's dissolution and the repeal of the subsequent Act in 2010. The Christian Democratic Party commends the bill.

On 13 June 2004 the International Masters Games Association selected Sydney as the host city for the 2009 World Masters Games. Melbourne had the pleasure of hosting the games in 2002, at which approximately 24,886 athletes competed. It is estimated that the Games will bring about \$60 million in revenue to our State and cost about \$2 million a year. The Games are a multinational and multi-sports event for mature sports men and women. "Mature" means individuals aged 30 years and over, and the age requirement is the only qualification that must be met in order to enter the Games.

The World Masters Games takes place every four years and is open to all competitors—past champions, people who have never competed at championship level, and sports men and women generally. The Games are for people who see sport as an enjoyable path to fitness as well as an opportunity to use physical activity as a method to satisfy other individual and social needs. Some 16 core sports must be catered for, with the option of including 10 additional sports such as rugby, hockey or volleyball. The International Masters Games Association indicates that the Games will be financed through a combination of city and government support, sponsor revenues, licence fees, registration fees and gate revenues. It is incumbent upon the host city to be the financial guarantor and to cover any operating deficit. There will have to be a concerted effort to make sure that the Games are profitable. Thanks to the infrastructure set up for the 2000 Olympic Games, Sydney was able to qualify as a potential host city for the World Masters Games—pre-existing infrastructure is necessary for a city to qualify as a host city of the Games.

The bill constitutes the Sydney 2009 World Masters Games Organising Committee as a statutory corporation. The bill establishes the objectives, functions and governance of the committee. Committee functions will include organising the sports competition and a program of associated events, organising transport for participants and officials, liaising with the Treasury on Games expenditure, and co-ordinating games-related activities with State and Commonwealth agencies and private organisations. The committee will be subject to the direction and control of the Minister for Tourism and Sport and Recreation. However, the committee's day-to-day affairs will be controlled by a chief executive officer [CEO]. A committee will be appointed by the Minister to advise the Minister and the CEO on the achievement by the organising committee of its statutory objectives and the conduct of the Games.

The bill provides for the committee's dissolution on 30 June 2010 and for the transfer of its assets, rights and liabilities to the State. The Sydney 2009 World Masters Games Organising Committee Act will be repealed on 31 December 2010. The Christian Democratic Party commends the bill to the House and wishes the committee well.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [3.04 p.m.], in reply: Sydney had the best ever Olympic Games in 2000 and, with the passage of the Sydney 2009 World Masters Games Organising Committee Bill, we look forward to having the best ever World Masters Games in 2009. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

**PASSENGER TRANSPORT AMENDMENT (MAINTENANCE OF BUS SERVICES) BILL****Second Reading**

**The Hon. HENRY TSANG** (Parliamentary Secretary) [3.05 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.**

Twelve months ago, this house considered and passed legislation to clear the way for major reforms on bus service delivery in New South Wales.

At that time, just twelve months ago, every single commercial operator in this state held a virtually perpetual contract and had exclusive rights to operate services in its particular territory. Each of these operators was paid in an obscure lump sum through the School Student Transport Scheme and planned its services under the constraints of a rigid mathematical formula.

Not surprisingly, these arrangements saw patronage plummet by 18 per cent and triggered a financial viability crisis among metropolitan operators, which saw investment in new buses wound back and made industry workers concerned for their job security.

The NSW Government acted on this. The Government is shifting operators onto new contestable, performance-based contracts with transparent funding and improved service planning arrangements. It has set a framework for involving the community in regular service reviews and is requiring neighbouring operators to work together to form a real bus network. As a first step, the patchwork of 87 contract areas across Sydney has been consolidated in 15 regions, developing viable businesses that can provide quality services.

The 2005/06 budget shows that the Carr Government is doing its bit, effectively tripling the bus priority program. With new funding of \$90 million over 3 years, the focus will be on improving reliability and travel times on the identified strategic bus corridors across Sydney.

Passengers are benefiting from these reforms already. The Pensioner Excursion Ticket is now available right across Sydney, whether passengers are travelling on government operated or privately operated public transport services. Additionally, fares have been equalised so that passengers pay the same fare for the same distance, whether they're travelling on State Transit or private buses.

The focus of the Ministry of Transport has been to work with operators and the industry association to achieve a smooth transition into these new arrangements.

In Sydney, significant progress has been made, with 7 of 11 private operator regions now operating under new contracts. These regions include multi-nationals, large local businesses and medium and small family companies, and represent approximately 50 per cent of Sydney's private bus industry. This demonstrates that the contractual arrangements, funding model and negotiation parameters are acceptable to a range of commercial bus operators.

However, rolling out the new contracts across the state will not happen overnight. The Passenger Transport Act recognises this by providing a transition period for these new arrangements. In the meanwhile, the old style contracts will remain the basis for maintaining bus services on passenger routes and for schools.

The Government's ability to influence operator behaviour and to secure continuity of service under these old contracts services is limited. Enforcement of the contracts is hampered by minimal performance requirements and the lack of a graduated penalty regime. Applying the ultimate sanction of contract termination is extremely difficult in the absence of assets to maintain continuity of services.

Experience gained from this industry reform process over the last twelve months has highlighted concerns about the old style contracts and the ability to maintain services. This approach has worked to date but does not provide the certainty that people should be able to expect of essential transport services.

In moving to the new Sydney regions, some degree of operator consolidation was expected. It happened that four private operators (representing about 5 per cent of the market) have left the industry.

In three cases, a seamless transfer of services has been made possible under the ministry's "lead entity" arrangements with bus operators.

In the case of Harris Park Transport, State Transit was required to "step in" as an operator of last resort in January 2005 when Westbus was unable to meet both school and route service requirements.

This exposes a reliance on having operators who are willing to, and capable of, absorbing additional services in a short time period and within the bounds of commercial terms.

In another example, over the last 6 weeks the community at Lismore has expressed concerns about its local operator, Kirklands. On 28 April 2005, Kirklands made substantial changes to its school network services, affecting about 8,000 students. Kirklands

were able to plan and implement these changes without adequate community consultation or Ministry approval because of the inadequacies of the existing contracts.

Despite its own acknowledgement of inadequate management of the process, Kirklands failed to satisfactorily address the problems for 6 weeks. With the support of the local member, Thomas George, the Ministry of Transport demanded that Kirkland's re-introduce the old timetable and conduct a proper process of community consultation on proposed changes.

Kirklands eventually relented, but not without six weeks of community disruption and six weeks of drivers having to bear the brunt of these changes.

This action came from one of the largest regional operators in NSW. Kirklands is part of the Buslines Group, which also serves Dubbo, Tamworth, Orange and the Southern Highlands.

In light of the Kirklands matter, the industry association is proposing interim planning guidelines to apply until all the new contracts are negotiated.

While this is a good first step, it doesn't address the fact that control of assets is the key to maintaining these services. It needs to be remembered that these assets have been largely funded by taxpayers through school student travel payments and contracts that gave these operators exclusive rights to operate bus services.

Under the old contracts, incumbent operators control depots, fleet and drivers and have the ability to walk from the existing bus contracts on only 60 days notice, taking these assets with them.

Rural and regional NSW is more exposed than metropolitan areas to the actions of individual operators in a reform environment. This is because the rollout of new contracts across the state has been staggered and it is more challenging to make alternative fleet arrangements. In this environment, changes are needed to provide certainty for bus services in rural and regional areas.

It should also be noted that the agreed transition arrangements with the industry provide existing operators with the first right to negotiate new contracts. If commercial terms are not agreed, a tender process will follow. This Bill will provide the security that services will continue during a potential tender process and until the holder of the new contract is ready to operate.

The Passenger Transport Amendment (Maintenance of Bus Services) Bill proposes significant powers, but they are powers in proportion to the core role of buses in the State's public transport system. Stronger powers—the ability to terminate the old-style contracts—have already been provided to the Director-General of Transport. However, they do not provide a way of maintaining bus services.

The Ministry of Transport now has a track record in responsibly using the powers Parliament gave it last year and engaging operators in bus reform through the negotiation process.

The proposed step-in powers would also be used responsibly—they would only be exercised as a last resort to maintain passenger services.

The provisions of the Bill have been consciously placed in the savings and transitional provisions of the Passenger Transport Act. This means that they are temporary and are clearly aimed at ensuring service continuity during the transition to new arrangements.

As a result, the Bill does not apply to operators who have entered into the new contracts as part of the bus reform process. Nor does it apply to services delivered under the State's 1,800 non-commercial contracts, which are typically held by smaller bus operators. As a further safeguard, the step-in cannot be continued for a period longer than 12 months.

The key change introduced by the Bill is the creation of a provision authorising the Director-General or the Director-General's nominee to step-in and operate the bus services. This provision is modelled on the "step-in" clause in the new metropolitan bus contract, which has already been signed by a range of operators in Sydney.

Under the Bill, when an existing old-style commercial bus service contract—or an interim contract that replaces a commercial contract—expires or is terminated, the step-in party may use the former service provider's buses, depots and other assets in order to maintain delivery of the bus services.

The step-in may be triggered by a notice published in the Gazette and this notice will spell out the arrangements that will apply under the step-in.

Under the Bill, compensation will be paid to the former service provider for the use of assets as set out in the step-in notice. The Bill provides that, in determining appropriate compensation, the Director-General must consider the terms and conditions of the existing contract and the commercial arrangements that the former service provider had entered into to deliver those services.

Under these arrangements, the step-in party may also make use of the services of the former service provider's employees and arrange for those employees to be paid for their services. The Bill makes it clear that the entitlements of those workers are not adversely affected by the operation of the step-in. This is about protecting services and the jobs tied to those services.

The step-in arrangements also allow for payments to be made to suppliers of goods and services used in connection with the delivery of the services under the step-in arrangement, including lessors and landlords.

To ensure the step-in power is enforceable, the Bill makes it an offence to fail to comply with an obligation under a step-in arrangement without a reasonable excuse, or to do anything that intentionally frustrates the operation of the step-in. It also creates some legal protections for the operation of the step-in arrangements.

The Bill also extends the legal protections of the Passenger Transport Act to cover the implementation and operation of the step-in power. The "privative" clause which already covers the contract termination powers is proposed to be extended to these powers which maintain services. This is to ensure Parliament's intention is clear and avoid arguments over legal technicalities.

The Bill also makes it clear that claims for loss or damages (if any) arising out of the operation of the step-in are not payable by the Crown.

This Bill is about maintaining an essential community service. It is targeted, its scope is limited and it has a built-in expiry. Once all of the old-style bus contracts have been replaced, this power will no longer apply.

These provisions are essential to provide certainty for people who rely on bus services until we are at a point where the bus industry is operating under performance-based contracts.

I commend the Bill to the house.

**The Hon. GREG PEARCE** [3.06 p.m.]: The Passenger Transport Amendment (Maintenance of Bus Services) Amendment Bill is one of the most appalling pieces of legislation I have seen in my relatively short time in this place. Not only is the Carr Government contemptuous of the community but its arrogance has no bounds. The Government's actions are characterised by thuggery and bullying and it shows no concern whatever for people's legal rights. The bill delivers nothing less than confiscation without compensation. The Minister for Transport, John Watkins, who has carriage of the bill, has made his mark as the Minister responsible for cleaning up Costa's chaos. While John Watkins was able to dampen things down initially in the police ministry and now in the transport portfolio, this bill reveals that he is utterly inexperienced and lacks any understanding or knowledge of the business community and community requirements in general.

The bill, which was forced through the lower House on 8 June, appears to be not much more than an opportunistic attack on private bus operators, using the excuse of Kirklands' timetable changes and the Westbus administration. The Government provided no proper briefing to the Opposition when the bill was introduced on 8 June but simply used its numbers to force the bill through all stages in the lower House. I believe the shadow Minister saw the bill for the first time when the Government introduced it. The Government claims that it needs additional powers to stop bus operators discontinuing bus services. But in this bill the Government is using a sledgehammer to crack a peanut. It is completely over-the-top legislation that reflects the Government's arrogance. The Government does not even bother to try any more: when it is backed into a corner, it reaches for the most appalling and draconian legislation and away it goes.

The object of the bill is to amend the Passenger Transport Act to enable the implementation of "step-in arrangements". These step-in arrangements amount to the confiscation of the business. The Government claims it needs this power in order to maintain regular bus services before or after the termination or on or before the expiry of the current commercial bus service contracts.

Those contracts were in force before the so-called reform of bus contracts in 2004. The bill as it is drafted gives extraordinary powers to the Minister and, in particular, to the director general of the department to direct and to take over the operations of private bus companies. The same people, inexperienced Minister Watkins and Director General Lee, have had an agenda in the past 12 months to bludgeon private operators into accepting a dramatic increase in union power within private bus companies. This bill asks the community to simply trust the Carr Government not to abuse its power. However, the Government has shown an absolute propensity to abuse its power at the expense of the both the community and, in this case, the private operators involved. We all know that the Legislative Review Committee is a very tame committee but in relation to this legislation it found more issues of concern than I have seen in relation to any other bill.

I draw the attention of honourable members to some of those concerns. In relation to the lack of a right to compensation, the committee noted that the bill precludes any claims for compensation for the implementation of step-in arrangements, thereby trespassing on the personal rights of bus service operators. The committee noted that the arrangements can include the termination of a contract and the taking of assets for up to 12 months. The committee noted that the arrangements can, at the discretion of the director general, include certain payments to the existing service providers or third parties. Given the failure to comply with a requirement of other step-in arrangements, which is an offence, the denial of compensation rights is particularly significant.

In relation to step-in arrangements and how they will be implemented, the committee noted concern that the director general is given extensive powers with respect to the implementation and operation of step-in arrangements under the amendments to the Act. The committee also noted that the bill does not specify the criteria to which the director general is to have reference in exercising the powers, which is particularly

significant. The Government's excuse for bringing in this draconian legislation is that it wants to be able to deal with problems such as those identified with lack of service and difficulties where a bus operator has either gone into administration or makes other changes which impact on its service, but it does not limit the step-in powers to those issues and conditions.

The committee noted the significant public interest in maintaining continuity of public transport services. The committee commented that the proposed bill excludes from judicial review any decisions of the director general in relation to step-in arrangements. This amazing legislation would have done Joseph Stalin proud and it is appalling that we are looking at it in the New South Wales Parliament. It is a mark of a tired Government that has no ideas but displays an arrogance that knows no bounds. The director general's power to implement step-in arrangements is undertaken without any parliamentary scrutiny. On all of those counts this legislation is both appalling and unnecessary, and represents a quite extraordinary episode of thuggery by this Minister.

The implications of stepping in and effectively confiscating a business has not been considered by the Government. It has ignored the bus company's insurance arrangements, concerns about the safe operation of buses and concerns about what will happen with the financing of those companies. This legislation was rammed through the Legislative Assembly and we should be ashamed if it is passed in its present form. I understand that the Government will move amendments to the bill, but they are not yet available. They should have been available before debate concluded. It was bad enough for the Government to introduce this bill in the Legislative Assembly without any warning. Members will be given a bunch of amendments halfway through the debate, with no opportunity to consider them.

**The Hon. Catherine Cusack:** What a disgrace!

**The Hon. GREG PEARCE:** It is an absolute disgrace. The Hon. John Tingle has just handed them to me. I assume that because the Hon. John Tingle is in possession of the amendments he has been through them, which the Opposition has not had the opportunity to do.

**Reverend the Hon. Fred Nile:** Could they be photocopied for other members?

**The Hon. GREG PEARCE:** Reverend the Hon. Fred Nile has indicated that they should be photocopied, but it is a matter for the Government to indicate to the Clerk that it proposes to move some amendments and then to have them circulated. But the Government's arrogance and contempt for the community is such that we are expected to deal with six pages with 24 amendments, according to the amendments handed to me by the Hon. John Tingle. We will have to wait and see whether the Government intends to introduce them or whether it has been conning everybody along. I wonder whether the inexperienced Minister has actually been nobbled again by his department because, as I understand it, some amendments were going to be moved that would in part introduce due process into what is proposed under the bill.

We are seeing an ongoing battle between inexperienced Minister Watkins and the bureaucracy. I understand Minister Watkins promised the industry that there would be amendments, but clearly John Lee, the director general, has stepped in and there is a dispute as to who is in charge. The director general clearly wants to retain these draconian powers. Where do we go with a Minister who clearly has no control over his department but is prepared to string along the industry and the crossbenchers? The Minister has obviously indicated to the crossbenchers that he is going to introduce these amendments.

**Reverend the Hon. Fred Nile:** No, not all the crossbenchers. It was a Tingle amendment originally, I think.

**The Hon. GREG PEARCE:** Is it? The Minister has been given this outrageous legislation by his director-general, which confers outrageous and unusual powers on the director general. Apparently, the Minister told the industry that he would be limiting the powers and introducing safeguards, but clearly the bureaucrats have shown who is in charge. Clearly John Lee, a great Australian Labor Party member, has told John Watkins who is in charge, so the amendments promised by the Minister are not available. This is an example of the extraordinary arrogance and incompetence of the Minister, John Watkins, a favourite of the Premier, who in the past has been saved the embarrassment of long-term scrutiny because the Premier shifted him as quickly as he could from one ministry to another. This has thwarted proper scrutiny of John Watkins' administrations and ensured that the result of that scrutiny has not been readily available to the community.

I indicated some concern that the Legislation Review Committee has about some of the power that the bill gives to the director general and the Minister. The Government has not made out a case for these draconian and thuggish powers, particularly as the Government has supposedly embarked on a process to reform the bus industry—a process that may well turn out to be of some use. But what is the position regarding the biggest bus operator in New South Wales, the State Transit Authority? I understand that while the Minister and the director general have been thumping private bus operators, they have done nothing to deal with the mess created in the State Transit Authority. Who created that mess? None other than the director general, John Lee.

**The Hon. Michael Gallacher:** He used to be at Westbus.

**The Hon. GREG PEARCE:** He has fingers in pies all over the place. Today he has his finger in the pie yet again. The Minister will be embarrassed by this, because the Minister misled those who represent the bus industry. I have been told that the Bus and Coach Association has done a fantastic job to try to inject some sensible and reasonable safeguards into this legislation, which the Government says it must have. I understand that Bus and Coach Association representatives have been to see the Minister and that the Minister promised them there would be some amendments to the legislation. It is incredibly embarrassing that the Government does not yet have those amendments. Clearly it is in confusion and has no idea what it is doing. That is par for the course with this Government, which has the entire infrastructure of New South Wales in a shambles.

I return to the State Transit Authority. The Government and the authority have not been able to conclude an agreement relating to the authority's buses. No-one has been told the real reason for that, even though the State Transit Authority is in a terrible mess. One example of that mess is demonstrated by the poor performance of the authority. I understand that one issue identified by the Auditor-General a little while ago is the age of the authority's buses. The Government is supposed to ensure that the average age of buses does not exceed 12 years. That average has slipped, yet the Government has not been prepared to be transparent and provide, even to the Auditor-General, information that would have allowed the Auditor-General to work out the average age of its buses.

I have just been handed the Government amendments, hot off the press! While I am speaking to the bill, perhaps I should read these six pages of 24 lengthy amendments and give them the scrutiny the people of New South Wales are entitled to expect we would give them—and would, if the Government were fair dinkum in running this State. The fact that State Transit Authority buses have now reached an average age of at least 12.9 years is a disgrace; and it presents a risk to everyone in New South Wales. But we cannot expect anything better from this Government, which just cannot discharge any of its obligations. It has been wasting money at the rate of billions of dollars a year, instead of investing that money, as it should have, in the infrastructure of this State, including its buses.

I will be interested to hear what the hapless Parliamentary Secretary, who has been left holding the bag on this matter, has to say when in Committee we consider the Government's amendments to its bill. If those amendments reflect the hard work the Bus and Coach Association has done to try to make this legislation sensible, the Opposition will not oppose them. However, we will have questions to determine whether the amendments justify the step-in power, and particularly whether these step-in powers are appropriate or unjustified. I suspect that the major issue is the triggering of the exercise of those powers, and whether that triggering mechanism will be limited to reflecting the Minister's claimed reason for the power, that is, the potential for maladministration by a bus operator or serious disruption to the community. Or will the triggering be at the whim of a very dangerous director general and a very inexperienced Minister?

**The Hon. MICHAEL GALLACHER** (Leader of the Opposition) [3.27 p.m.]: In this debate on the Passenger Transport Amendment (Maintenance of Bus Services) Bill I am pleased to follow my colleague the Hon. Greg Pearce, who made an excellent contribution. In the latter part of his contribution the Hon. Greg Pearce illustrated an incredible set of circumstances associated with this bill. It is important that honourable members realise that when considering the bill. Of course, the Government will say that this legislation is urgent, that it cannot be held up, and that these arrangements must be put in place. It will say that the bill cannot be delayed until the resumption of the House in September. That may or may not be the case.

**The Hon. Henry Tsang:** It is the case.

**The Hon. MICHAEL GALLACHER:** I thank the Parliamentary Secretary for that. The bill is based on two sets of circumstances involving two separate bus companies, one operating in the metropolitan area and one operating on the North Coast of New South Wales. I will not name the companies; all of that is on the

public record. I have amendments in my hand that are hot from the photocopier because these clowns opposite cannot get the legislation right on such an extremely important matter. These are not Coalition amendments. They are not crossbench amendments: They come from the Government; they are Government amendments to the Government's legislation. That beggars the question: What in heaven's name is going on in the Department of Transport, a Ministry within the Government? Who is running the show?

**The Hon. Henry Tsang:** We are consultative, that's why.

**The Hon. MICHAEL GALLACHER:** They are consulting! In 2005 the Australian Labor Party Government in New South Wales is breaking new ground. Its arm is up its back. The Hon. Henry Tsang leads with his chin when he talks about consultation, because the legislation has nothing to do with consultation. The legislation and its forebear are all about the Government taking away the rights and independence of those who have invested their livelihoods in the business. So much for consultation! Before the Hon. Henry Tsang leads with his chin he should remember the recent history of the Government threatening private bus operators to sign up or risk losing their business and all their assets. The legislation takes that to a new level. The Government recognises that it has a problem of its own making and neglect, particularly with bus companies in Western Sydney.

I reiterate the point made by the Hon. Greg Pearce: that the Director General of Transport—who has an intimate understanding of Westbus, and its ability to fulfil its contract and meet its responsibilities—is the architect behind the legislation. It is evident that the Minister for Transport has been provided with flawed legislation that is over the top. Fortunately, on this occasion, he has heard sense from the operators. I have this from the mum and dad operators who look after our communities outside of the mess called the State Transit Authority [STA], who keep our State moving with other modes of transport. Obviously, having identified problems with the legislation, they have approached the Minister, and at the eleventh hour the Government is trying to rectify a mess of its own creation. However, these amendments do not in any way remove the Opposition's concerns about the step-in provision.

It is extremely important that we consider the legislation practically. The Government will always try to put a positive spin on it by suggesting that the legislation will avoid the situation of a company pulling out at the last moment and being unable to maintain its services, as occurred recently on the North Coast. However, people at the sharp end of the industry have told me that that is not quite the case. By its sheer overkill, by overcoming the two instances that were its genesis, the bill will enable a union to hold to ransom the owner of a small private bus operation in New South Wales. If employers in a unionised work force refuse to make changes in the workplace requested by the unions, the unions could indulge in some subterranean-type activity to ensure that the owner of the bus company is unable to provide services. As soon as that happens the director general will step in, like a white knight riding in on his steed, to take control of the employer's business, assets, and livelihood, and purport to run the show.

The legislation raises a series of questions that the Government has not answered. Given the contribution of the Hon. Henry Tsang and his interjections, I suspect that no further light will be shed on the legislation to clarify any uncertainties. The moment a principal is the subject of the step-in provision as spelled out in the legislation, who becomes the employer? Is it the principal, even though he no longer has control? Or does the State Government become the employer if it maintains control because it cannot find anyone else in the private sector who is prepared to take over? Who is responsible for workers compensation? Who is responsible for workers' entitlements? The Government has not told us what would happen in such a situation. What happens if the owner of a private bus company decided the business was no longer viable and decided to withdraw from the business? What if that person cannot sell the business? Does the Government take control, even though this person or organisation may want to get out of the industry altogether?

These reasonable questions of business and trade affect all employers in New South Wales. The legislation will take away flexibility, independence, and choice for small business owners and employers. It is an ugly precedent. How much longer will the Parliament sit back and witness the Government's incremental and slow stripping of the independence and rights of employers to run their businesses in the way they see fit? Ultimately their inability to run their businesses economically will detrimentally affect them and their employees. Many small business operators will do anything they can to keep their businesses afloat, but there comes a time in every business when it may no longer be viable. Where do the rights of employees come into it? Under this legislation they are overridden by a Government that is about control and locking everything down. As I have said, and as I will continue to say, we are talking about family businesses, mum and dad operators throughout the State. If we did not have them the STA would not be able to pick up the slack. The similarity is in the word "slack", because competition between private operators and the STA under this director general is complete chalk and cheese.



The Minister must be cautious and cast his eye over any legislation that comes under the control of the director general and comes to the Minister for signature. I suspect that is what he had to do when he received significant correspondence from the industry about this legislation. Yet again it seems the Minister has been sold a pup. The Hon. Henry Tsang said the legislation was the subject of extensive consultation, but at the eleventh hour the Government distributes amendments. They were given to only some members of the Legislative Council last night. Why is it that the rest of us were not given the amendments until literally minutes ago? As a matter of fact, debate on this legislation was already under way. If this is an example of the standard of the Government's consultation that is alleged to be working, it is an absolute disgrace. The point made by the Hon. Greg Pearce is quite right and deserves to be highlighted. This Government portrays private operators as some type of bogymen who are ripping millions off the unsuspecting public.

**The Hon. Henry Tsang:** Ask the honourable member for Lismore.

**The Hon. MICHAEL GALLACHER:** I again thank the Hon. Henry Tsang for his interjection. He should examine the level of satisfaction and performance delivered by the State Transit Authority. The Government's own area of responsibility is a basket case. The Government cannot get its own house in order, yet it is more than happy to throw stones at private enterprise operators who are fighting off the banks, battling with costly workers compensation, unfair dismissal legislation, and everything that impacts upon businesses in New South Wales.

I acknowledge the Hon. Ian West's support for my comments. At the end of the day, the Government is a joke. I congratulate the private transport industry on its success, which has been very encouraging. During the administration of the former Minister for Transport Services, industry representatives may as well have spoken to a brick wall as speak to him, but now the transport operators have managed to get around the bureaucrats and they seem to have got their message across to the current Minister.

It is pretty obvious that this amending bill has been prepared with input from people who know what they are talking about—unlike the public servants who are running the show in the State Government, those who play with bits of paper and have probably never travelled on a bus in their lives, let alone run a bus company. This amending bill is a fairly clear indication that the Government is trying to fix up the mess it has created. The Opposition will continue to apply pressure to the Government to force it to admit it got this wrong.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [3.41 p.m.]: Some years ago I undertook a study tour with the Australian Council for Political Leaders. During a visit to Las Vegas, I was shown something that the civic leaders were very proud of: the contract between the city and its private bus operators. The civic leaders did not want Las Vegas to become a car-dependent city. A comprehensive transport system was needed, particularly to reliably transport employees to the casinos at all hours, because the casinos there operate 24 hours a day. Many casino employees are not wealthy and I dare say that a disproportionate number of them have gambling problems. Nevertheless, they had to get to work.

The city had a contract with a private bus operator that stipulated the maximum age for its buses and required their replacement in accordance with a certain schedule and their maintenance in accordance with the manufacturer's specification. At the end of the contract period, the bus operators were able to re-tender for the contract. The incumbent bus operator did not have to meet start-up costs. Effectively, if bus operators walked out, taking all the buses and the depot with them, the city would be faced with a very expensive outlay, and it would be very difficult for competitors to re-establish a service. That gave the incumbents an advantage in contract negotiations and enabled them to push up the price. This arrangement was the civic leaders' answer to the problems of providing competition in a veritable monopoly and providing an integrated privately owned service for the city of Las Vegas. I spoke to the Minister about this when I returned from the tour.

It is interesting to hear the Opposition fluffing its feathers with righteous indignation about how badly the Carr Government is performing in this area, because the contracts were negotiated prior to the Carr Government taking office. They were open-ended contracts that would have operated indefinitely. It is simply a fact of life that the private bus services operating in areas of Western Sydney were of a poor standard, and when the problems associated with the school transport subsidy came to light, it was obvious that private bus transport had a number of problems.

The Opposition may fluff its feathers about what a mess everything is in, but it was the Coalition government that left a hell of a mess. If the Coalition proposes to run the State's passenger transport services as a private-public partnership, which seems to be what the Opposition is advocating, one can only be worried that once again the Coalition will write many contracts uncritically.

Negotiation of matters involving public interest must be undertaken by someone who is willing to fight for the preservation of public interest. That is a simple fact of political life. However, sometimes I think that some people on both sides of the Chamber are inclined to the view that the provision of services is a matter of cutting a deal with the big end of town, not a matter of standing up for the general public of New South Wales against vested interests. I point out to those members that a government fundamentally derives legitimacy from its role as the organised agent of the will of the people.

It must be conceded that some debacles have occurred among bus operators. Kings got into trouble for having phantom buses and eventually was bankrupted. When Kirklands changed its routes in Lismore under the existing contract, nothing much could be done about it. The industry required some type of regulation, and that is why the Passenger Transport Amendment (Bus Reform) Act was introduced in 2004. Today's bill amends the Passenger Transport Act 1990 to enable the implementation of step-in arrangements to maintain regular bus services before or after the termination, or on or before the expiry, of commercial bus service contracts. The bill provides that the director-general may publish arrangements in the *Government Gazette* to authorise or provide bus services contracts. Such arrangements will enable a person to act in the place of the bus service provider for up to 12 months as if the contract were in force, and to take possession of land and use the assets necessary to provide the bus services.

New provisions provide for the offence of failing to comply without reasonable excuse with an obligation imposed under step-in arrangements that are in force to enter into an agreement, transaction or other arrangement or to take other action with the intention of, or with intentions that include, preventing the use of staff or a bus, premises, or other assets under a step-in arrangement in force. The maximum penalty is 100 penalty units, which is \$11,000. Legal protections are provided to parties in relation to the operation of clause 39A. These arrangements are not to be regarded as a breach of contract or a breach of confidence or otherwise as a civil wrong; a breach of any contractual provision prohibiting, restricting or regulating the provision of bus services; giving rise to any remedy by a party to an instrument, or as causing or permitting the termination any instrument; or an event of default under any contract or other instrument. These arrangements may be implemented on or before the expiration of an existing bus contract and/or service contract by an existing service provider.

The bill extends the ambit of clause 33 (3) so that the holder of any interim commercial bus service contract has no right or expectation of renewal of the contract on its expiry. Clause 34 excludes from review any decisions of the director-general that have been made in respect of an existing commercial bus service contract or existing non-commercial bus service contract. The bill provides that the review of provisions of the Act does not apply to provisions to implement arrangements under clause 39A. The bill extends the existing protections provided by clause 36 against legal challenge to the exercise of the functions of the director-general relating to the implementation of arrangements pursuant to the bill. The existing prohibition on compensation by the Crown under clause 37 is extended to loss or damage arising from a range of things done or omitted to be done under or in connection with the arrangements.

This legislation is pretty draconian and it has certainly caused some anxiety. I have received representations from bus operators who run small companies. One, who wishes to remain anonymous because of anxiety about the potentially draconian consequences of the extraordinary powers of the director-general, wrote to me and said:

The Government through the amendment bill, introduced legislation giving the Director General of Transport extraordinary and unfettered powers. The Director General can now if he so chooses cancel a contract at any time. The government through the amendment bill also has denied an operator the right of legal review upon cancellation of a contract. These changes significantly undermine the integrity of the contract, and investments, as operators are reluctant to invest in new equipment given that the operator's contract can be cancelled at any time and the operator is left with the burden of significant debt without access to an independent legal review and therefore without access to compensation. A new school bus alone is worth in the order of \$300,000. In nearly all cases operators are also left with the debt of similar amounts paid for the rights to each individual bus route contract as well as plant and equipment. The new arrangement basically puts the operators in the situation where they are forced to wear the cost of the incompetence of the government and the Ministry of transport for its failure and inability to plan five to seven years ahead now able to change, amend or cancel contracts in the midst of a contract term potentially five minutes after a contract is issued if they please, instead of as the contracts expire. The introduction of legislation preventing an operator from seeking legal review is a denial of natural justice and it remains to be seen if the legislation is in breach of constitutional laws or at least federal laws ...

Once again the contracts provided to operators must be binding. Operators cannot operate with a five-minute contract. The government talks about sustainability yet the changes they have made to the contracts seriously undermine the integrity and sustainability of the bus industry across the state.

I have received representations from Darryl Mellish of the Bus and Coach Association. I only received a copy of the amendments that were negotiated between the association and the Government when this debate commenced. A briefing note from the association indicates that it is happy with five out of the six issues that were dealt with. Its remaining concern is the trigger for the step-in provision, which needs to be of considerable magnitude. An email that was sent last night by the association to the Minister states:

The Bus and Coach Association is still concerned with the events that can trigger the powers for "step in", which in the new contracts can only be exercised upon a termination event. Your amendments to the Bill have further broadened the criteria, as they allow the Director General to exercise the power for everyday occurrences such as service disruption (e.g. strikes) or service interruption (e.g. heavy congestion/late running) or are simply not meeting community standards. These circumstances are not duplicated in the metropolitan contracts.

The Bus and Coach Association could not support such a broad exercise of power. It contradicts the contract system.

There is still some concern about the step-in provisions. The proposed amendments seem to give reason for the uncertainty expressed in the representations I have received from the bus company. Previously I advised that North and Western Coaches, which provides services to my home area of Hunters Hill, was sold for \$14.1 million. I commented at the time that I thought that was too high a price. The Auditor-General's report of 2000 commented that the State Transit Authority [STA] acquired North and Western Coaches on 12 December 1999, and Riverside Bus and Coach Services on 28 February 2000. North and Western Coaches was acquired for \$14.1 million, and that purchase consideration comprised net tangible assets of \$7.8 million and intangible assets, route rights, of \$6.3 million.

Included in the assets were 90 buses valued at \$9.9 million on a going concern basis. Subsequently the authority sold 28 of the older buses, which were not configured to STA standards, for \$784,000 and incurred a loss on disposal of \$826,000. A wholly owned subsidiary of the authority acquired the units in Riverside Bus and Coach Services and shares in the trustee company on 28 February 2000 for \$4.8 million, comprising net tangible assets of \$2.2 million and intangible assets, route rights, of \$2.6 million. The authority is planning to sell the property in the unit trust, which is valued at \$1.3 million. It has been suggested that too much was paid for North and Western Coaches, and obviously if the buses were sold at a loss that would be relevant. Earlier this year the largest private bus operator, Westbus, went into receivership.

I have said many times in this Chamber that the Democrats would prefer that the Government invest more in heavy rail. I issued a press release calling on the Minister for Transport to seriously consider purchasing Westbus, as it went into voluntary administration. That purchase may have provided an opportunity to improve public transport bus services in Western Sydney and to maintain jobs for the 800 Westbus employees. The Government has paid a fortune to Westbus via the School Student Transport Scheme [SSTS] but the company has still gone belly-up. I confess I am not quite sure why that is. There is no point the Government paying subsidies when users get fairly poor service. This is an opportunity for the Minister for Transport to make his mark. Minister Watkins should put a proposal to Cabinet on the basis that Sydney needs integrated transport systems.

In February 2002 the Public Accounts Committee released a report on the School Student Transport Scheme. The report recommended a complete overhaul of the administration of the scheme by the Department of Transport. The report showed that in 2001-02, 664,100 students received subsidised transport at a cost of \$416 million. The committee found that the department had not sufficiently monitored the SSTS and that basic information was unavailable or unreliable, leading to misconceptions on key causes of costs. The report illustrated a significant difference between the numbers of students subsidised for travel compared to the number of students who actually use the SSTS. The chairman of the Public Accounts Committee stated:

Payments are based on bus pass usage rates of 77% for metropolitan areas and 79% for non-metropolitan areas. However, there is evidence indicating usage could be as low as 50% meaning bus companies are receiving tens of millions of dollars for phantom riders.

This was a clear example of sloppy Government administration of the SSTS and a motivating cause for reform. However, I am concerned that smaller operators are entering into a period of uncertainty regarding contracts and the discretionary powers of the director-general. I ask the Parliamentary Secretary to give an assurance when he replies to this debate that such powers will not be used lightly and that the small operators and people who maintain a good service will not be in any danger. They should have some security of investment, income and tenure. The powers are necessary, and I understand from the Bus and Coach Association that apart from the step-in powers its members are reasonably happy with the amendments.

**The Hon. DAVID OLDFIELD** [3.57 p.m.]: I could say plenty about this bill but I am sure my concerns will be ably highlighted by others. I will, however, make a few comments. Sensible people would hope

that this bill will never have to be used. Although this might be considered as last resort legislation, some would understandably question the justification for its existence at all. I am told that the Government has been consultative with the Bus and Coach Association and that the association is thankful for the time and effort given to it by the Minister for Transport, John Watkins. I reasonably support the Government's overall approach, but I am concerned by the scope of what will trigger the Government moving in and taking control of privately run bus operations.

Let us hope this Labor Government appreciates the magnitude of the impact that will be felt should it ever use this bill for anything other than a scare tactic. Stepping in to take control of such private interests would have a traumatic effect not just on bus operators but on staff, equipment, infrastructure, workers' entitlements, timetables and, hence, the public they serve. Bus operators have millions of dollars invested in equipment and other related assets and have intricate financial arrangements. Many have hundreds of employees, who, in turn, have families. To arbitrarily take over such operations would surely, as I said previously, be a consideration of last resort. The trigger for the implementation of a step-in is too broad, does not have sufficient safeguards to limit inappropriate use, and is beyond the scope of the existing contract system.

It is possible that the director-general could unreasonably harass an operator for perceived breaches. I am concerned that the legislation could be abused for the purposes of short-term political gain. If the reasons for implementing a step in are operators going into administration or serious service disruptions, as distinct from community standards not being met, why not make those the specific triggers? Why does the Government wish to go further? After all, it should not be forgotten that the Government could terminate existing contracts now and, in doing so, force operators into administration.

This legislation gives unprecedented power to the director-general. While the need for immediate action in the public interest is recognised, trampling on the rights of individuals is not a matter that should be taken lightly or simply accepted without appropriate comment. This is the sort of legislation that we probably do not need. However, I note that the Bus and Coach Association is taking a co-operative position in relation to this Government's plans. Let us hope we do not see a future government misuse the significant powers that we are likely to agree to today.

**The Hon. CATHERINE CUSACK** [4.00 p.m.]: I have a real sense of déjà vu in this Chamber today. On 2 June 2004—or, to be more accurate, on 3 June, as it was 1.30 a.m.—the Passenger Transport Amendment (Bus Reform) Bill was rammed through this Chamber. We were told then by the Government, as we were again told today, "It is a great crisis; it is a great emergency. We need to get a big stick with which to beat bus operators over the head, otherwise we will lose services, and children and disadvantaged people will not be able to get around." The big crisis that was referred to previously was the collapse of Kings Bros in Port Macquarie.

This legislation has been nicknamed by the Government "the Lismore law", in reference to the recent fiasco on the North Coast relating to the Kirklands bus timetable for student travel. I advise honourable members that I am intimately acquainted with that issue, which has been discussed for more than a month. There has been considerable talk among all the families in the region about changes to bus timetables, which have generated unprecedented complaint and outcry. I will refer to that issue later. Members in this Chamber should acknowledge the fine work of Thomas George, the honourable member for Lismore, and the real effort he made to work with communities, the local council and Kirklands buses.

In desperation, Thomas called on the Minister to send the Director General of the Department of Transport to negotiate substantial changes to the new timetable organised by Kirklands. Kirklands responded to that meeting with the director-general. The upshot is a complete backflip by Kirklands. The old bus timetable has been restored and community consultation is being undertaken in order to reach a more acceptable solution. In a sense that whole process is a demonstration of the fact that this law is not needed. Kirklands buses is a longstanding and highly respected business in our region. This has not been its most memorable moment. As Peter Shepherd has said, it has not been the "finest moment" in Kirklands' history of service to our region.

However, we should not allow this episode to detract from the fact that Kirklands has provided reliable service to the North Coast. It provides commuter services in addition to student travel services. The North Coast is a complex area to service because of the hamlet-style development; there are villages and rural subdivisions all over the place. From a bus company's perspective it is an expensive and complex task to service this area. I believe that Kirklands is genuinely trying to meet the needs of its communities. It has been through a terrible glitch, but this legislation is not the reason for its backflip. That occurred because of the hard work of the local member, Thomas George, and the strong message that was sent to it by the community and the media. Kirklands responded to all of that.

When this legislation was introduced in the lower House the backflip had already taken place, and the Minister had nicknamed it "the Lismore law". We had no opportunity to examine the legislation. Armed with their experience of the introduction of the Passenger Transport Amendment (Bus Reform) Bill—when our colleagues in another place were put in a corner without any information—the Coalition decided to vote against this bill in the Legislative Assembly. Minister John Watkins attacked Thomas George in the local media for voting against what he called "the Lismore law". The correctness of the Opposition's position in another place has been vindicated today because we find that this bill requires a number of amendments, proving that the legislation that was introduced in the lower House was flawed.

Our instincts about this Government and its intentions in relation to this legislation were correct. John Watkins has egg all over his face, given that our colleagues in the other place, who took a certain position on the bill, have been completely vindicated and changes have had to be made to the bill today. The general consensus is that those changes will improve the bill. I support the comments of the Leader of the Opposition: we are not convinced this is an emergency. I can assure members, from personal experience, that bus transport in our region is no longer in crisis. The problems have been resolved and the community should give credit to Kirklands.

The Government wants to beat operators with a big stick, but we are concerned about the inequality of powers as between governments. The bill fundamentally changes the conditions of an existing contract. As I understand it, the step-in powers that the Government requires when it signs new contracts with operators will now be used. So anybody with any contract can now be held to ransom by the Government, which is wielding a big stick. As I said earlier, the Kirklands issue highlights the fact that this is not required. It is a shocking misnomer to describe this bill as the Lismore law; it will achieve the opposite of what has been resolved in Lismore.

I cannot resume my seat without stating that public transport in our region is an absolute fiasco. We have no light rail, and the Casino to Murwillumbah rail line has been closed for more than a year. There is still no sign of the public transport plan. We do not know what is happening to the rail corridors. The Government is now entering into a new phase of negotiating with bus operators. Our community is 100 per cent dependent on private buses, which receive no subsidies for concession holders and the like. The Government is about to enter into negotiations while wielding the biggest stick that any government has ever held over any bus operator in Australia. The Coalition maintains its suspicions about this legislation because of the way it has been sprung on us and because of the deceitful way in which it has been presented as the Lismore law.

There is no crisis that requires the bill to be rammed through this Chamber. As the Hon. Greg Pearce said, we are quite right to be suspicious about this legislation. I commend those in the industry who have been able to negotiate compromises with the Government to improve this bill. I am still not convinced of its necessity, but we are stuck with this Government and that is the approach it is taking. I reinforce my dissatisfaction with the whole approach to public transport in regional areas. This type of legislation is no solution to such problems, as it will not deliver one additional service to our citizens.

**The Hon. JOHN TINGLE** [4.08 p.m.]: I do not have a problem with the basis on which this bill is provided, but I have a problem with the adjustments that are being made to it. I note and endorse some of the comments made by the Hon. Greg Pearce and the Leader of the Opposition in this regard. There is no clarity in the bill or the amendments, and that issue must be cleared up. I believe it will be cleared up by the amendments that have been foreshadowed to the amendments. I cannot say that I was not a little surprised when 26 amendments to this bill turned up at my office late yesterday. I thought that the bill was pretty complete and that the Government intended to run with it as it was. However, I understand that, after negotiations with bus operators, it agreed that things needed to be cleaned or tidied up, and that is what is being done. I believe the amendments are a pretty honest attempt to address the problems in the original bill. I am concerned about Government amendment No. 9, which refers to the step-in powers when a service is interrupted or disrupted, or likely to be interrupted or disrupted.

I endorse the comments of the Leader of the Opposition, who said that the Government amendment does not specify what sort of disruption will trigger the step-in powers. A literal interpretation of the amendment suggests that a future transport Minister of ill will—I do not suggest for a moment that the present Minister for Transport bears anyone any ill will—could exercise the step-in powers if a bus company in his or her sights missed a scheduled service. The amendment is too loose, and I gather that Reverend the Hon. Fred Nile plans to amend the Government's amendment in Committee.

I feel very strongly about this bill because, as honourable members probably know, I live in Port Macquarie. Port Macquarie suffered one of the worst transport services hiccoughs that could occur in a country town when King Bros Bus Group collapsed overnight and legal action ensued. I live in an area that is populated mainly by elderly people, many of whom do not—and should not—drive. They depend on bus transport, particularly on pension day and so on. For a short time it seemed as though Port Macquarie—a growing area that extends over a large part of the mid North Coast—would not have a public transport service of any kind. That would have been absolutely disastrous for the town. Fortunately, arrangements were made with another bus company and the service has continued—in fact, I am happy to say that it has probably improved. But even that service could be subject to the step-in powers under the Government's amendment.

I will happily support the bill if the Government's amendment is amended in the manner proposed by Reverend the Hon. Fred Nile—he will explain that later in the debate. I also find it a little unsettling that a bill that is supposed to improve previous legislation is subject to such a large number of Government amendments shortly before its introduction and debate in this House. I think the bill represents an honest attempt on the part of the Government to do the right thing. I think also that the Government's amendments are a further attempt to try to resolve some of the difficulties that the bus operators have identified in the bill. However, I will be happier when the step-in powers are clarified in such a way as to make it clear that the powers cannot be exercised on a whim. The disruption or interruption to a bus service must be sufficient to justify the Director-General using the step-in powers and appointing another bus operator.

As the Hon. Catherine Cusack said, public transport is a matter of life and death in country regions. It is perhaps not so important in metropolitan areas, but many country towns can function only with the aid of public transport. We must ensure that existing services, which sometimes operate on a shoestring, continue to function in the event of some sort of failure. I support the bill.

**The Hon. JON JENKINS** [4.12 p.m.]: I agree with honourable members who said the Passenger Transport Amendment (Maintenance of Bus Services) Bill has progressed a little too quickly through Parliament. We were also forced to consider the original bus legislation—which was a huge bill—in only a few hours. We passed it with some trepidation on the basis that the then Minister for Transport, the Hon. Michael Costa, would sit down with the bus companies and negotiate proper outcomes. I am pleased to say that that appears to have occurred in a reasonable manner.

I do not agree with the Government's agenda of taking over services and seizing assets when agreement cannot be reached. There must be a better way of proceeding. I take issue with the Hon. John Tingle, who suggested that bus services in the city are not as vital as those in the regions. I agree that bus services are absolutely critical to the functioning of regional areas. But imagine the chaos in Sydney if a large bus company such as Westbus were to close overnight, stranding schoolchildren and struggling commuters. I think bus services are equally essential in metropolitan and regional New South Wales.

Much has been made of the Westbus problem and, to be brutally honest, I do not know a lot about it. But a valid point has been put to me on several occasions that if a receiver were appointed to liquidate the company's assets, the receiver's responsibility would be to Westbus creditors, not the travelling public. I believe the administrator has a higher duty to the millions of Sydney bus commuters who struggle to get to work and school each day. So there is justification for championing this legislation.

I am intimately familiar with the ongoing problem with bus services in Lismore, as I live nearby. I will not name the bus company concerned or bore honourable members with the details, but such events should never occur again. It is wrong to leave young children standing on the side of the road in remote regional areas, with no shops and houses. It is reprehensible that the bus company refused to remedy the situation. We must remember that the Government pays for many bus services through various subsidy schemes so it has a vested interest in those services, financially and through its responsibility to the community.

I agree with the Hon. John Tingle's comments about the trigger for the step-in powers. I have talked to the Government about this issue and had intended to move an amendment in Committee to clarify the situation. We must ensure that the Minister cannot seize control of bus services simply because he or she is having a bad hair day—to use a colloquial expression. It would be equally undesirable if the Minister used the step-in powers and that decision was later appealed in court—perhaps even in the Supreme Court. That would leave the bus company, commuters and the entire community concerned in limbo for the duration of the protracted legal process. I have pursued the matter and tried to reach some compromise between those two equally unpalatable extremes. Unfortunately, the industry does not appear to have its own version of the telephone industry ombudsman, who oversees and acts objectively in such cases. The Ombudsman would not be an appropriate arbiter in this case.

We finally arrived at the reasonably agreeable alternative of asking the Minister to guarantee that consultation would occur with local members of Parliament and so on. That guarantee and the amendment foreshadowed by Reverend the Hon. Fred Nile, who will seek to amend the Government's amendment in Committee, satisfies my concerns that the step-in powers will be exercised reasonably. The Minister must have a significant reason for taking such action. I cautiously offer my support for the bill.

**Ms LEE RHIANNON** [4.18 p.m.]: The Greens will not oppose the Passenger Transport Amendment (Maintenance of Bus Services) Bill. However, we are concerned that the Government is still trying to resolve the issue of bus contracts. At this stage—halfway through 2005—the Greens expected the Ministry of Transport to be wrapping up the final regional bus contracts and to have the metropolitan Sydney contracts firmly in place. Instead several Sydney contracts are still outstanding and regional bus contracts remain in a shemuzzle. The Minister for Transport justified the bill's introduction by using the example of Kirklands bus service in Lismore. The Greens sympathise with that community, which faced considerable uncertainty during the six weeks that its bus service was under a cloud. For the students and their families in Lismore who rely on Kirkland buses, the major disruption to their local bus service has had an enormous impact on their lives. A number of honourable members have said that this bill should not go through to ensure that the right thing is done by country people. That really has turned everything on its head because we know that bus services could well become more unreliable if we do not have a measure to ensure that they are maintained.

The Greens understand that the problem in Lismore stemmed from very little community involvement in the service changes made by Kirklands. They may be a private bus company but they are providing public transport services and should be more publicly accountable for their actions. Often bus services do not meet the needs of the community because the transport planners employed by private bus companies do not properly engage with the local commuters. And there are a very meagre number of transport planners working on bus planning in the Ministry of Transport. One cannot expect to shift transport planning from the private bus companies to the Government when the department has little capacity to do the planning.

An integral part of transport planning should be regional reference groups comprised of local councils, public transport stakeholders and local transport groups, who can provide input to the transport planners, whether they work for the bus companies or the Government. The Greens see this bill as a valuable opportunity for the Government to foster a culture of community consultation in the bus reform process. I foreshadow that in the Committee stage I will move amendments that require public consultation during the operation of step-in arrangements, when they arise. The amendments promote transparency and community consultation.

Honourable members may remember that when the Bus Reform Bill was debated in the House the Government agreed to various amendments proposed by the Greens relating to industrial relations standards, greenhouse gas emission targets and community consultation. The Government promised that commercial, non-sensitive information from contracts will appear on the web sites of the Minister for Transport or operators. The Minister also agreed to conduct more consultations when contracts were being negotiated and provide more public information about the contracts. I am interested to hear from the Minister in reply about what the Government is doing to implement the amendments as they related to community consultation.

The Greens support for this bill should not be taken to imply that we endorse the private bus system. Only a public bus service can provide the level of service that all residents of New South Wales deserve. Public services should not be based on making a profit because, given the geographical spread of population centres in New South Wales, some commuters or residents will miss out. The Greens remain committed to working with the Government to deliver greater community participation in the overall planning of public bus services. The Greens believe this legislation is a small but important step to help secure services for the bus travelling public in New South Wales. There is a long way to go, and hopefully contracts will be sped up so that residents and commuters can be confident that the bus will be there when they want to catch it.

**Reverend the Hon. FRED NILE** [4.24 p.m.]: The Christian Democratic Party supports the Passenger Transport Amendment (Maintenance of Bus Services) Bill, subject to an amendment that it will move. Problems with Westbus—currently in voluntary administration—were the catalyst for this bill as they showed the need for some machinery by which the Government could deal with other similar situations which may occur with the private bus companies. The legislation has become more comprehensive. It will use the principle of the step-in provision of the new model metropolitan bus system contracts and will allow the creation of a statutory variation to all existing commercial service contracts, or the equivalent interim contract which effectively inserts step-in provisions.

The main concerns of the Bus and Coach Association are the step-in provisions. Criticism has been made of the late arrival of the amendments, but we understand they were delayed because the Government was negotiating with the Bus and Coach Association up until the last minute to meet its concerns. Twenty-four amendments have been drafted as a result of those negotiations. The amendments are a plus for the Government: It has been flexible enough to prepare major amendments to its own legislation in a hurry. We know that this is officially the last day of sittings so there was no time to drag it out. The amendments should have been distributed as soon as they were drafted but a breakdown occurred in distribution to the Opposition and some crossbench members. Mr Darryl Mellish, Executive Director of the Bus and Coach Association, who is in the public gallery, spoke to me. He sent an email to the Minister and indicated the association's support for the amendments that will be moved in Committee. He stated:

The Bus and Coach Association is still concerned with the events that can trigger the powers for "step-in", which in the new contracts, can only be exercised upon a termination event. Your amendments to the bill have further broadened the criteria, as they allow the Director-General to exercise the power for every day occurrences such as service disruption (e.g. strikes) or service interruption (e.g. heavy congestion/late running)—

Those examples are not included in the Government's legislation—

or for simply not meeting community standards. These circumstances are not duplicated in the metropolitan contracts ...

Your stated reasons for needing step in powers for exiting contracts relate to operators going into Administration and or serious disruptions to the community. If this is the case why can't they be the triggers rather than virtually unlimited power?

I agree with Mr Mellish. In co-operation with Mr Mellish I drafted an amendment. Government amendment No. 9 amends page 4, schedule 1, after line 13 and uses the very vague words "is or likely to be interrupted or disrupted". My amendment adds "affected by a major disruption" and "or put into administration". I have had further discussions with the Government and the advisers and we have drafted an amendment which moves in the direction I want to go. I foreshadow that I will move an amendment to Government amendment No. 9

The major addition to the provision are the words "for a period longer than 24 hours". That ensures that the step-in power will not be exercised if, for instance, a bus breaks down, or a bus driver does not arrive, and so on. It will only be exercised where a major disruption occurs. I would regard any disruption to services for more than 24 hours as a major disruption. I give notice that I will move that amendment to Government amendment No. 9.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [4.30 p.m.], in reply: I thank all honourable members for their contributions to the bill. The Minister has asked me to read to the House this "thank you" card to Mr John Lee from Mr Greg and Pam Goulding and family:

Thank you for your support with the Kirklands Chaos. You have truly done a wonderful thing. You have given me faith that someone out there really does care about the little people, especially our children. Our entire community could not be happier. Thank you.

That was in a card from a local family thanking Mr John Lee for helping their community. I have taken this opportunity to place on record the thank-you card received by the Government following news that this legislation was being developed. I now turn to addressing comments made by a number of honourable members. First I will deal with concerns raised by Reverend the Hon. Fred Nile and reinforced by the Hon. John Tingle and other honourable members. I would like to clarify that the director-general can step in if there is a traffic jam or strike only. Under the bill, if there is a disruption to services, the director-general may serve a breach notice on the operator. If the breach is not remedied, the director-general may step in. The Government will agree to amendments to make it clear that the service failure must exceed 24 hours. This should address Bus and Coach Association issues relating to new contracts. I hope that allays concerns about the step-in power.

The bill demonstrates that this Parliament and this Legislative Council work best when government is prepared to work with industry and with Opposition, crossbench and other local members of Parliament. For instance, on the introduction of the bill in Parliament the industry association put forward some objectives aimed at clarifying the Government's policy intention and providing additional security for bus operators. The Government has agreed to make amendments to the bill that will achieve six of those eight objectives, while ensuring that the ability to guarantee service continuity is not compromised.

The key changes to the amendments are: first, to make it clear that there is a sunset on the use of these step-in provisions; two, to give an operator the opportunity to remedy a service breach before the step-in may be implemented, with the additional safeguard of the Minister's approval before the director-general may step in;



three, to allow the director-general to step into a contract still in force, as an alternative to termination, in order to remedy a breach; four, to require the director-general to step out of a contract that is still in force once a breach is remedied; five, to ensure that the step-in party is not protected from liability for fraud, wilful default or gross negligence, consistent with the step-in arrangements in the new contracts; six, to make it clear that the step-in arrangements must take into consideration arms-length commercial arrangements between the operator, their financiers and other suppliers of assets used in the step-in; and, seven, to give operators whose assets are being used as part of a step-in access to clause 39 of the savings and transitional provisions, which provides a mechanism for operators who wish to exit the industry to dispose of their assets in an orderly fashion. I hope the Opposition appreciates the need for these changes.

**The Hon. Greg Pearce:** It is a backdown!

**The Hon. HENRY TSANG:** It is not a backdown. It demonstrates the willingness of the Government and the Minister to negotiate and be prepared to accept appropriate amendments. I have mentioned that this is a good Government and that it briefs its members. The Government offered briefings to both the shadow spokesperson for transport and the honourable member for Lismore. The shadow spokesperson was unavailable, but the honourable member for Lismore accepted the offer. The Government did work with the local member. Perhaps Opposition members would like to ask their colleague in the Legislative Assembly, the honourable member for Lismore, whether those powers are required. Ask him. He is a good member.

**The Hon. Greg Pearce:** An excellent member.

**The Hon. HENRY TSANG:** Ask him about the hundreds of letters received about the changes to bus timetables made by Kirklands and how those changes affected 8,000 school students. Those are my comments on consultation. I turn now to comments made about legislative review. The Legislation Review Committee's report highlighted the need for strong powers to be used sparingly in order to balance the general interests of the communities and individuals. In the Government's view, the bill does strike an appropriate balance between the interests of the general community and the rights of bus operators, who, under their current contracts, can pretty much do whatever they want.

Further, while the bill does preclude Crown compensation for loss or damages arising from the step-in, compensation for use of assets during the step-in is covered in the step-in arrangements. Because these arrangements will vary on a case-by-case basis, depending on how each business is structured, the step-in arrangements require flexibility. Government amendments make it clear that the step-in arrangements must have regard to the terms and conditions of the relevant contracts.

A number of honourable members expressed concern about so-called excessive powers that the Minister, and in this case the director-general, have. I will deal with the comment that the trigger for stepping in is too broad. The Passenger Transport Amendment (Maintenance of Bus Services) Bill proposes significant powers. But those powers are in proportion to the core role of buses in the State's public transport system. This is especially the case given that old-style contracts do not contain mechanisms that allow the Government to guarantee to the community that adequate public transport services will be delivered. The bus industry's preferred approach is to limit step-in to where the operator has breached the term of an existing old-style contract. However, as the Kirklands situation demonstrated, this would have the effect of preventing the director-general from being able to fix the very problem that this legislation is aimed at fixing. The old-style contracts have few enforceable provisions.

Despite the lack of consultation on timetable changes, significant disruption to the Lismore community was not a technical breach of the contract with the Minister for Transport. When the Government agrees to industry requests to allow step-ins to a live contract as an alternative to termination, the Government makes it clear that the Minister for Transport must be able to require an operator to remedy a disruption to service, regardless of whether there was a technical breach of the contract. In introducing the bill the Government is balancing the legitimate needs of the community for adequate and appropriate services against the rights under the existing contract for operators to make unilateral service changes. I reiterate that the Government will use this power only as a last resort to protect the New South Wales community while the Ministry of Transport introduces new contracts with appropriate safeguards.

**The Hon. Greg Pearce:** So you undertake it is only as a last resort?

**The Hon. HENRY TSANG:** I shall clarify that in a moment. The honourable member must be patient. Earlier the Hon. Greg Pearce asked me why the STA had not signed the contract.

**The Hon. Greg Pearce:** Absolutely.

**The Hon. HENRY TSANG:** Let me give him the answer. He accused the Government of not getting its own bus company to sign off. He asked me why the State had not signed off. I will tell him, but he has to be patient.

**The Hon. Greg Pearce:** I will be patient.

**The Hon. HENRY TSANG:** One of the key drivers of the Government bus reform program was that operators representing 44 per cent of metropolitan Sydney's private buses were at high risk of failure. Operators representing a further 17 per cent of Sydney's private buses were at a medium-term risk of failure. The Government's concerns about the financial viability of the industry were realised when Westbus went into voluntary administration after failing to renegotiate a \$90 million loan with its major creditor and shareholder, the United Kingdom firm National Express. Therefore the Ministry of Transport's priority has been to focus on negotiating new contracts with the private bus sector to avoid financial collapses, rather than putting resources into State Transit, which has a secure financial position.

Another core objective of the Government bus reform program is delivering improved services to passengers. State Transit already operates an integrated service network across its four contract regions. In the private bus sector the Ministry of Transport has amalgamated a patchwork of smaller contracts into even larger contract regions. With new contracts signed the ministry is working with operators to develop network services that link key centres and take people where they want to go. Finally, once it became obvious that the 1 January 2005 target date for the commencement of new contracts was too ambitious the Government decided to delay commencement of the State Transit contracts until 1 July 2005 to better fit in with the budget cycle. With agreement reached with eight of the 11 private bus contract regions, those priorities have been justified.

With resources freed up I can advise the House that the Ministry of Transport and State Transit have reached agreement on both commercial and contractual terms. A contract start date of 1 July 2005 is planned. The Ministry of Transport now has a track record for the responsible use of the powers given to it last year by the Parliament and evidenced in its engaging operators in bus reform through the negotiating process. The Minister has asked me to reiterate that the powers delivered in the legislation will be used responsibly. He has asked me to assure the House that he will not allow the director-general to exercise those powers until he has consulted with the local member of Parliament, which is very important, and demonstrated to the Minister that it is the only way to ensure that bus services are maintained. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time.**

### **In Committee**

**Clauses 1 to 3 agreed to.**

**The Hon. HENRY TSANG** (Parliamentary Secretary) [4.47 p.m.], by leave: I move Government amendments Nos 1 to 8 in globo:

No. 1 Page 3, schedule 1 [2], line 20. Omit "clause 39A". Insert instead "clause 39B".

No. 2 Page 3, schedule 1 [3]. Insert after line 25:

- (4) To avoid doubt, the continuing provision of bus services by the former holder of an existing non-commercial or commercial bus service contract on or after expiry of the contract is not a renewal of the contract and does not confer any right or expectation of renewal of the contract.

No. 3 Page 3, schedule 1 [5], line 30. Omit "or 39A". Insert instead ", 39A or 39B".

No. 4 Page 3, schedule 1. Insert after line 30:

**[6] Schedule 3, clause 34 (3)**

Insert at the end of clause 34:

- (3) In this clause, *interim contract for the provision of regular bus services* includes a bus service contract for the provision of temporary services in place of a regular bus service discontinued because

of the expiry of the term, or the termination or variation, of an existing non-commercial bus service contract or an interim contract replacing any such contract.

[7] **Schedule 3, clause 36**

Insert "Minister or" before "Director-General" wherever occurring.

[8] **Schedule 3, clause 36 (1) (a)**

Insert "or an interim contract for the provision of regular bus services" after "contract".

No. 5 Page 3, schedule 1 [6], line 34. Insert "a service breach notice or" before "the implementation".

No. 6 Page 4, schedule 1 [7], line 4. Insert "the giving of a service breach notice or" before "the implementation".

No. 7 Page 4, schedule 1 [7], line 6. Insert "a service breach notice or" before "step-in".

No. 8 Page 4, schedule 1. Insert after line 11:

[10] **Schedule 3, clause 39**

Insert "or an interim contract" after "non-commercial bus service contract" in the definition of *existing service provider* in clause 39 (1).

[11] **Schedule 3, clause 39**

Insert in alphabetical order in clause 39 (1):

*interim contract* means a bus service contract for the provision of temporary services in place of a regular bus service discontinued because of the expiry of the term or termination or variation of an existing commercial bus service contract or an existing non-commercial bus service contract.

[12] **Schedule 3, clause 39 (7) and (8)**

Insert after clause 39 (6):

(7) An application may be made under this clause if the contract held by the existing service provider is terminated or expires, but may not be made later than 60 days after the termination or expiration of the contract.

(8) An application may be made under this clause even if step-in arrangements are implemented under this Part in relation to the regular bus services provided by the existing service provider.

After further consultation with the industry association the Government agreed to amend the bill to meet the six agreed objectives, to which I referred in reply.

**The Hon. GREG PEARCE** [4.47 p.m.]: The Opposition will not oppose the amendments. The way in which the bill was introduced and the way it is now being amended indicate that the Government has not made out a case for the legislation. It is completely unnecessary. It appears to be nothing more than the Minister attempting to give himself a giant stick to hold over bus companies. There is no justification for the draconian powers introduced in the bill. I am pleased that the Parliamentary Secretary, on behalf of the Minister, has made it plain and given a number of undertakings to the House, particularly that the powers would be used only very much as a last resort. He confirmed that they are sunset provisions.

**Amendments agreed to.**

**The Hon. HENRY TSANG** (Parliamentary Secretary) [4.49 p.m.]: I move Government amendment No. 9:

No. 9 Page 4, schedule 1. Insert after line 13:

**39A Service breaches**

(1) The Director-General may, by notice in writing given to an existing service provider (in this Part called a *service breach notice*), require the existing service provider to take the action specified in the notice within the period specified in the notice.

(2) The Director-General may give a service breach notice if:

(a) the Director-General is of the opinion that a regular bus service provided under the existing bus service contract of the existing service provider:

- (i) is, or is likely to be, interrupted or disrupted, or
  - (ii) is not being, or is likely not to be, provided to a reasonable standard to meet community needs, or
- (b) in such other circumstances as may be provided by the regulations.
- (3) The notice may require the action to be taken immediately if the Director-General is of the opinion that it is necessary to do so having regard to the urgency of the circumstances.
- (4) If the existing service provider fails to comply with a service breach notice within the period specified in the notice, the Director-General may apply to the Minister for approval to take one or both of the following actions:
  - (a) terminate the existing bus service contract on the ground of failure to comply with the notice,
  - (b) implement step-in arrangements under clause 39B (3).
- (5) The Minister may approve or refuse the application.
- (6) If the Minister approves the application, the Director-General may take the action approved by the Minister. Termination of a contract is to be by notice in writing given to the existing service provider.
- (7) The Director-General may give more than one service breach notice under this clause in relation to the same contract.
- (8) Nothing in this clause limits any other action that may be taken by the Director-General or any other person in relation to an existing bus service contract, including any other power to terminate the contract concerned or to exercise any function under clause 39B (2) on the expiry or termination of the contract.

**Reverend the Hon. FRED NILE** [4.49 p.m.]: I move Christian Democratic Party amendment No. 1:

No. 1 In Government Amendment No. 9, omit proposed section 39A (2). Insert instead:

- (2) The Director-General may give a service breach notice if:
  - (a) the Director-General is of the opinion that a regular bus service contract of the existing service provider is, or is likely to be, for a period longer than 24 hours:
    - (i) interrupted, disrupted or not delivered, or
    - (ii) not provided to a reasonable standard to meet community needs, or
  - (b) in such other circumstances as may be provided by the regulations.

This amendment arises out of discussions with the Bus and Coach Association. It is not ideal, but in the short time available to us to find agreement, the addition of the words "for a period longer than 24 hours" makes clear that what is contemplated is not simply an interruption caused by a bus breaking down or even a strike.

**The Hon. Henry Tsang:** The Government accepts the amendment and thanks Reverend the Hon. Fred Nile and other crossbenchers for it.

**Reverend the Hon. FRED NILE:** I note the Parliamentary Secretary's assurances that have been given on behalf of the Government. He spelled out that the step-in arrangements cannot be triggered by a strike or the breaking down of a bus, and that the arrangements will be used only as a last resort. That is very important, as is the requirement for local members of Parliament whose electorates are included in the bus operator's region to be consulted. I thank the Government for accepting my amendment to its amendment.

**The Hon. GREG PEARCE** [4.50 p.m.]: As the Government has accepted this amendment, I will make just a couple of points. First, at least the introduction of the provision for service breaches brings back some element of fairness and due process. I know that bus owners, bus users, and commuters will rely on the Government to adhere to its undertakings in relation to whether these powers will be used. The Opposition would not expect them to be used at all. The Opposition is not convinced that the amendment improves the situation. Twenty-four hours may or may not be longer than the service breach notice period, but given that the bus operators will at least have an opportunity to rectify any default, the Opposition will not oppose the amendment.

**The Hon. JON JENKINS** [4.51 p.m.]: I will be very brief. Reverend the Hon. Fred Nile and I have been discussing this amendment for some considerable time. Like Reverend the Hon. Fred Nile, I do not believe

it is ideal. The amendment I foreshadowed was intended to achieve a similar outcome, to put a case of reasonableness. I understand the difficulties associated with interpreting reasonableness. I will not move my amendment and will, instead, support the amendment moved by Reverend the Hon. Fred Nile.

**Christian Democratic Party amendment agreed to.**

**Government amendment as amended agreed to.**

**The Hon. HENRY TSANG** (Parliamentary Secretary) [4.52 p.m.], by leave: I move Government amendments Nos 10 to 23 in globo:

No. 10 Page 4, schedule 1 [10], lines 19 and 20. Omit "implement step-in arrangements in accordance with this clause". Insert instead "take action under subclause (1)".

No. 11 Page 4, schedule 1 [10], line 24. Insert "(other than under this Part)" after "Director-General".

No. 12 Page 4, schedule 1 [10], line 27. Omit "provider." Insert instead:

, or

(d) in such other circumstances as may be prescribed by the regulations.

No. 13 Page 4, schedule 1 [10]. Insert before line 28:

- (3) The Director-General may, with the approval of the Minister under clause 39A, also take action under subclause (1) if an existing service provider fails to comply with a service breach notice, whether or not the existing bus service contract concerned has been terminated or has expired.

No. 14 Page 4, schedule 1 [10]. Insert after line 30:

- (4) Step-in arrangements implemented under subclause (2) may not take effect before the expiry or termination of the contract concerned.

No. 15 Page 5, schedule 1 [10], lines 36–38. Omit all words on those lines.

No. 16 Page 6, schedule 1 [10], lines 7 and 8. Omit all words on those lines. Insert instead:

commercial arrangements or security transactions of the existing service provider or other persons, being arrangements or transactions entered into at arms-length, relating to assets affected by the proposed step-in arrangements or the provision of the regular bus services.

No. 17 Page 6, schedule 1 [10]. Insert after line 17:

Note. This clause is a transitional clause and does not apply to contracts entered into under Division 3 of Part 3 (as substituted by the *Passenger Transport Amendment (Bus Reform) Act 2004*) and so will only affect commercial bus service contracts in force before that Division was inserted and certain interim contracts entered into pending new contracts coming into force. When these existing and interim contracts cease to be in force, this clause will cease to have operation.

No. 18 Page 6, schedule 1 [10]. Insert before line 18:

**39BA Additional provisions relating to step-in arrangements after service breach notices**

- (1) This clause applies to step-in arrangements implemented under clause 39B (3) after a failure to comply with a service breach notice, and so applies in addition to clause 39B.
- (2) The terms and conditions of the step-in arrangement may, if the existing bus service contract is in force, make provision for or with respect to the operation of the contract, including obligations, rights and liabilities under the contract, and exclusion from liability under the contract, during the period that the step-in arrangements are in force.
- (3) A provision of a step-in arrangement of a kind specified in subclause (2) has effect in relation to the bus service contract during the period that the step-in arrangements are in force despite any provision of the contract or any other law.
- (4) A step-in arrangement that affects an existing bus service contract that is in force does not affect the term of the contract.
- (5) A step-in arrangement that results from a failure to comply with a service breach notice has effect for the period specified in the notice under clause 39B or until the Director-General revokes the notice, by notice published in the Gazette, on the ground that the service breach notice has been complied with or on for any other reason, whichever occurs first.
- (6) The Director-General may take action under this clause to revoke a notice on the Director-General's own initiative or on the application of an existing service provider.

No. 19 Page 6, schedule 1 [10], line 21. Omit "clause 39A". Insert instead "clause 39B".

No. 20 Page 6, schedule 1 [10], line 26. Omit "in force".

No. 21 Page 6, schedule 1 [10], line 27. Omit "clause 39A". Insert instead "clause 39B".

No. 22 Page 6, schedule 1 [10]. Insert after line 28:

**39C Liability of step-in parties, existing service providers and other parties under step-in arrangements**

- (1) In determining step-in arrangements, the Director-General must specify terms and conditions relating to the liability or protection from liability (including indemnities or releases to be given) of the existing service provider and the step-in party in connection with acts or omissions done or omitted for the purposes of implementing step-in arrangements.
- (2) Any such terms and conditions are to be determined having regard to the following principles (subject to any necessary exceptions determined in a particular case by the Minister):
  - (a) the step-in party should be protected from liability to the existing service provider or any other person for acts done or omitted in good faith for the purposes of implementing step-in arrangements,
  - (b) the step-in party should be protected from liability for acts or omissions of the existing service provider done or omitted before the implementation of the step-in arrangements,
  - (c) the existing service provider should be protected from liability for acts done or omitted by the step-in party or any other person for the purposes of implementing step-in arrangements,
  - (d) a person dealing with the step-in party in the course of implementing step-in arrangements should be protected from liability for acts or omissions done in good faith at the lawful request or requirement of the step-in party.
- (3) Without limiting subclause (1), the step-in arrangements may, for the purposes of this clause, specify terms and conditions containing one or more of the following requirements:
  - (a) a requirement that indemnities or releases be given to or by or on behalf of the step-in party or the existing service provider in connection with the step-in arrangements,
  - (b) a requirement that indemnities or releases be given to or by or on behalf of the step-in party or the existing service provider in connection with obligations, rights and liabilities under the workers compensation Acts and other legislation or laws relating to employer or occupier liability or liability in relation to environmental obligations,
  - (c) a requirement that warranties or agreements be given or entered into by or on behalf of the step-in party or the existing service provider in relation to specified obligations, rights and liabilities.
- (4) A term or condition of a step-in arrangement of a kind referred to in this clause, and any thing done in accordance with any such term or condition, has effect despite any other provision of this Act or the regulations or any other law.
- (5) Nothing in this clause permits a term or condition of a step-in arrangement that has the effect of:
  - (a) removing from an existing service provider the obligation to have and maintain in force an insurance policy, or to be a self-insurer, under the workers compensation Acts in respect of any of its staff whose services are made use of under step-in arrangements, or
  - (b) removing any liability of an existing service provider in respect of injury to any such staff under those Acts or that exists independently of those Acts.
- (6) The Director-General may prepare model terms and conditions for the purposes of this clause and is to consult with industry representatives of bus service providers in relation to any such model terms and conditions.
- (7) In this clause:

*workers compensation Acts* means the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998* and any instruments made under those Acts.

**39D New contractual arrangements to end step-in arrangements**

- (1) The Director-General must, after implementing step-in arrangements on the expiry or termination of an existing bus service contract, use his or her best endeavours to enter into a new service contract with a person under the provisions of Division 3 of Part 3 to provide a regular bus service for the region or route or operation (or part of the region or route) for which the existing service provider was providing a regular bus service under the existing bus service contract.

- (2) The Director-General must revoke the notice under clause 39B on or before the new service contract takes effect.

No. 23 Page 6, schedule 1 [10], line 30. Omit "clause 39A". Insert instead "clause 39A or 39B or a service breach notice".

No. 24 Page 7, schedule 1 [10], line 3. Omit "clause 39A". Insert instead "clause 39A or 39B or a service breach notice".

**The Hon. GREG PEARCE** [4.52 p.m.]: The Opposition will not oppose these amendments, which are a justified backdown by an inexperienced Minister. The fact that they were not presented until the debate was under way emphasises that this incompetent Minister is trying to hide behind secrecy and the absence of transparency to cover up his incompetence. I might add that although the bill is only five pages long, there are six pages of amendments. That represents an embarrassing backdown for the Minister. The Opposition does not accept that this bill was ever necessary at all.

A number of amendments deal with conditions under which new contracts will be entered into if there were a step-in arrangement. This process again highlights that no thought or proper consultation has been considered in the context of what will happen if the director-general or the Minister decides to use these powers to facilitate the ongoing banking and financial arrangements of a bus operator, or what would happen in relation to insurance coverage for buses and commuters, not to mention safety arrangements. The situation is completely unsatisfactory, but in the absence of any other option the Opposition will not oppose the amendments.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [4.55 p.m.]: The amendments are the result of successful negotiations undertaken between the Government and representatives of the industry, the crossbenchers, and members of Parliament whose electorates have been affected. The Opposition spokesperson was not prepared to attend briefing meetings. If the spokesman does not have the time to talk to the Government, that is the Opposition's problem. The Government has no problem with the industry because we are prepared to compromise.

**Reverend the Hon. FRED NILE** [4.55 p.m.]: The Christian Democratic Party supports the amendments. In contrast to the remarks made by the Hon. Greg Pearce, I thank the Minister for meeting with the Bus and Coach Association's representatives and for negotiating to devise these amendments. The Minister could have adopted a stiff-necked approach and refused to accept amendments, and if he had done so he would not have left himself open to criticism by the Opposition. I think the Minister should be congratulated on being prepared to negotiate. Discussions were held with the Bus and Coach Association's representatives as recently as Tuesday, and the legislation is before the Parliament today, Thursday. In that short period, discussions were held and amendments were finalised for presentation to the Committee.

#### **Amendments agreed to.**

**Ms LEE RHIANNON** [4.56 p.m.]: I move Greens Amendment No. 1:

No. 1 Page 7, schedule 1 [10]. Insert after line 10:

#### **39D Public consultation during operation of step-in arrangements**

- (1) As soon as reasonably practicable after implementing step-in arrangements, the Director-General is to establish a community reference group.
- (2) The community reference group is to comprise persons nominated by the Director-General, being persons who the Director-General considers:
  - (a) have a knowledge of, or interest in, the bus services to which the step-in arrangements relate, or
  - (b) live in the area serviced by those bus services, or
  - (c) have some expertise in the provision of bus services generally.
- (3) The community reference group is to conduct public consultation and is to:
  - (a) assess the frequency, reliability and relevance of the bus services to which the step-in arrangements relate, and
  - (b) assess the long term viability of those bus services, and
  - (c) consider alternative bus service arrangements, and
 is to report to the Director-General on these matters.

- (4) In determining the terms of a new bus service contract that relates to a region or route (or part of a region or route) for which bus services are being provided under step-in arrangements, the Director-General is to take account of any relevant report provided under subclause (3).

This is an interesting debate, particularly in light of the mishmash of comments across the Chamber. The Greens believe that our small amendment will add some value to the bill. The Government has promised the Greens that the new system will deliver more and better services, and better planning, and our amendment would effect one way of facilitating that outcome. The Government has an opportunity to develop a culture of community consultation in the bus sector—something the Greens believe is long overdue. The Greens amendment will serve to increase the capacity of transport planners to seek advice from the community about services.

The Greens welcomed the Government's commitment to consult with local communities when the Passenger Transport Amendment (Bus Reform) Bill was passed last year. However, to date the proposal for community consultation has barely seen the light of day. For that reason I have moved this amendment on behalf of the Greens to try to improve the existing system, which has enormous scope to become more consultative and therefore more equitable. The amendment is only a small step, but it is a good one. I commend it to the Committee.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [4.57 p.m.]: The Government supports the amendment, noting that it is consistent with the new direction being taken to involve the community in the planning and delivery of bus services.

**Amendment agreed to.**

**Schedule 1 as amended agreed to.**

**Title agreed to.**

**Bill reported from Committee with amendments and report adopted.**

### **Third Reading**

**The Hon. HENRY TSANG** (Parliamentary Secretary) [5.00 p.m.]: I move:

That this bill be now read a third time.

**The House divided.**

### **Ayes, 24**

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

### **Noes, 9**

Mr Clarke  
Mr Gallacher  
Miss Gardiner  
Mr Gay  
Mrs Pavey  
Mr Pearce  
Mr Ryan  
*Tellers,*  
Mr Colless  
Mr Harwin



**Pairs**

Mr Catanzariti  
Mr Della Bosca  
Ms Fazio  
Ms Robertson

Ms Cusack  
Mrs Forsythe  
Mr Lynn  
Ms Parker

**Question resolved in the affirmative.**

**Motion agreed to.**

**Bill read a third time.**

**SECURITY INDUSTRY 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) [5.08 p.m.]: I move:

That this bill be now read a second time.

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

**Leave granted.**

The Government is pleased to introduce the *Security Industry Amendment Bill 2005*.

The Government's achievements in cleaning up the security industry are impressive, however, we need to continue our program of reforms to ensure a professional, high quality industry.

The Bill represents the third wave of reforms to the security industry, and will ensure that the NSW security industry is the most tightly regulated in Australia.

This Bill is based on the Report of the statutory *Review of the Security Industry Act 1997* and the *Security Industry Regulation 1998*, which was tabled in Parliament on 20 October 2004.

The Report made 30 recommendations for further improvements to the Security Industry including:

Expanding the licensing categories within the existing licence classes to better reflect the type of activities being undertaken by licence holders, and ensuring that guards performing specialist services have the appropriate training and qualifications.

Under the current system, the classifications cover a very large range of activities, which do not recognise that different skills are required to be properly trained to carry out each individual activity.

Under the new arrangements, every security industry employee will be required to undertake a basic level of training. But for those security activities that present a higher risk to the community, and require security personnel to possess higher levels of competence (such as armed guarding, guarding with dogs, or body guarding), additional, more specific training will be required.

By expanding the licence categories, we can also more appropriately link criminal and other exclusions to the different licence categories. This will have the effect of enforcing higher standards on those members of the industry who are performing more specialised security work, such as armed guarding.

We will also introduce a provisional licensing system. New entrants to the industry will be required to undertake a pre-licensing course, which has been developed by TAFE and approved by the Commissioner of Police. This course will provide new entrants with the critical foundation knowledge necessary to obtain a provisional licence and subsequently a job in the industry.

The provisional licensing scheme will also ensure that a new entrant to the industry has supervised on-the-job training from an appropriately qualified security employee, so he or she can learn the practical skills required to carry out their duties effectively. This on-the-job training will be assessed in the workplace, before a new entrant can be deemed eligible to apply for a full licence.

When the Commissioner relies on Police intelligence to refuse a licence application, the Bill will also protect that intelligence from being released to unsuccessful applicants if they appeal to the Administrative Decisions Tribunal.

This provision is not designed to circumvent the appeals process, or hinder the ADT or the Courts in the exercise of their review functions. These bodies will still have the same opportunity to consider and weigh the probative value of the intelligence the Commissioner relied on to make his decision.

However, the Bill will prevent the release of intelligence directly to the person to whom the intelligence relates. This will protect the safety of Police informants, and prevent the disclosure of Police information holdings and the details of Police methodology.

The Bill will ensure that applicants renewing their licences have been performing security work for a significant term of their existing licence, or have been offered future contracts within the security industry.

And at the time of re-licensing, applicants will need to demonstrate ongoing competence in the industry.

This will prevent a person from obtaining a licence, for purposes other than employment, for example, in order to access firearms.

The Bill will introduce an additional ground for refusal of a licence in circumstances where the applicant was the subject of a prescribed civil penalty imposed in the last five years.

This provision recognises that the Court system provides for a wide range of punishments following a finding of guilt that do not impose a conviction. These may nevertheless impact on a person's suitability to hold a licence. For example, a breach pursuant to the *Industrial Relations Act 1996*.

Some security licence holders are permitted to hold and store firearms in residential premises. The Bill will prevent them from storing those firearms in the place of residence of a person who has been convicted of any offence that would exclude them from holding a licence.

This provision will help keep firearms out of the hands of criminals.

Harsh penalties will apply for breach of this condition—up to \$22,000 for corporations or \$11,000 or six months gaol or both for individuals.

The Bill will extend the Commissioner's power to investigate applications and applicants including close associates of an applicant for a master licence.

Section 5 of the Act provides a definition of "close associate", which addresses the issue of people who may exert control or influence over a licence holder.

This provision will enable the Commissioner to investigate not only an applicant for a licence but also his or her close associates. The Commissioner may refuse to grant that licence where one or more of the applicant's close associates would be prevented from holding a security licence has they applied for one. This may be because of their criminal history or other disqualifying criteria.

The Bill will require all sub-contracts to be approved by clients and all companies involved in the contracts.

Subcontracting is a real issue for the security industry. It has lead to a number of dangerous practices including the use of unlicensed security guards, and poor training and assessment practices. This occurs because of pressure on Registered Training Organisations to process a high number of guards quickly so they can obtain conditional licences, and meet the supply needs of the industry.

This provision will allow greater scrutiny of any sub-contracting arrangements, ensure greater accountability and transparency. It will also greatly reduce the reliance on unlicensed guards in order to meet the terms of the sub-contract in the industry.

This reform will ensure that the client is aware of how services are being provided, and that providers are clearly aware of their contractual responsibilities.

I am pleased to announce that the Bill will give formal legislative recognition of the Security Industry Council as an advisory body to the Minister.

The Security Industry Council was established in 1999 to provide:

- "Coordinated advocacy to the Government of New South Wales on behalf of the security industry"; and
- "The community of New South Wales [with] a competent and credible industry providing professional security services".

The Security Industry Council has been responsible for putting in place mechanisms that have enabled a sense of cohesion between the many diverse sectors of the industry.

It has also:

- Devised a strategic plan for the industry in 2001 designed to address areas of deficiency within the industry and to rid the industry of undesirable elements;
- Developed an internal program for compliance inspections of all master licensees;
- Prepared a revised Code of Practice for the Security Industry; and
- Developed a plan for professionalising the industry and removing those undesirable elements.

In order to give the Council a more formal standing and clarify its role as the premier security industry advisory body, both police and industry submissions to the Review recommended that the Council's role be formalised in the legislation.

To achieve this, the Security Industry Council will be equipped with the appropriate expertise and skills to improve the security industry, including representatives from providers, users, government and consumers.

It will be charged with:

- Monitoring and advising on the regulation of the industry;
- Establishing and promoting industry standards;
- Conducting industry research into industry statistics and trends;
- Making recommendations of licence fees and charges;
- Monitoring performance and obligations of Approved Industry Associations;
- Reviewing legislation and making recommendations; and
- Arranging independent audits of Approved Industry Associations.

The Bill will significantly increase penalties for breaches of the Act and Regulation to bring them into line with community expectations.

The Government has introduced a stringent licensing regime to ensure that persons carrying on security activities are appropriately trained and qualified.

There are significant risks from people who were previously disqualified or ineligible for a licence operating shonky security businesses or conducting security activities. Consumers and the industry itself needs to be protected against unlicensed, untrained and undesirable people from operating as if they were legitimate security operators.

There is no room in NSW for Dodgy Brothers Security, who strap some saucapans to their car and call it an armoured vehicle.

These changes will send a clear message that breaches of the Act will not be tolerated. If you are carrying on unauthorised security activities, you will risk a maximum penalty of \$110,000 for corporations or \$55,000 for individuals or two years gaol or both.

Across the board, the penalties for offences under the Act have been significantly ramped up to reflect the great risk to the public that breaches may involve.

The Government introduced the Security Industry Act 1997, which commenced on 1 July 1998, to improve standards in the security industry and provide greater safety for the public, and security guards.

The Act introduced a new licensing and appeal system, largely based on an Industrial Relations Commission Inquiry into the cash-in-transit sector of the industry.

Its objective is to ensure proper accountability and integrity in the security industry. This was achieved through the introduction of stringent licensing criteria, which had the effect of excluding inappropriate persons from employment in the security industry.

Additional measures aimed at continuing and fine-tuning the reform process were introduced in late 2002. These have been successful in decreasing the risk of criminal activity within the security industry, and increasing enforcement of current licensing requirements.

The Government also tightened up controls over firearms to limit the opportunity for the security industry to be a soft target for criminals seeking access to firearms. In excess of 1000 firearms have been removed from the industry as a result of these changes.

The Government's program of security industry reforms has seen a significant change in the culture of the industry.

This Bill will ensure that the security industry continues to strive for improvement, professionalism and offer appropriate protections to the people of NSW.

The changes will also ensure that people currently working in the industry have the skills they need to properly and safely engage in the security activities they have been licensed to undertake.

I commend the Bill to the House.

**The Hon. MICHAEL GALLACHER** (Leader of the Opposition) [5.09 p.m.]: I am pleased to contribute to the debate on the Security Industry Amendment Bill on behalf of the Opposition. The Opposition will not vote against the bill, but I will outline a number of concerns about the bill's impact on the security industry. The Australian Security Industry Association has held discussions with crossbench and Opposition members in recent days to outline its concerns about the bill. This is another case of the Government failing to adequately consult with the affected industry before introducing a bill.

In October last year the Minister tabled in this Chamber an outline of proposed reforms. However, an exposure draft bill was not distributed to the security industry until 26 May. The industry had just one week to comment on its content. Minister Scully made minimal changes to the bill, even after the Australian Security Industry Association Ltd [ASIAL] and the security industry raised concerns about some aspects of it. ASIAL supports many, if not most, of the provisions in the bill, but it is still concerned about several changes to it, including the changes to the provisional licensing system.

New licence holders undertaking class one activities, for example security guards, bodyguards and bouncers, will need to receive direct supervision from another licence holder for twelve months. ASIAL has requested us to remove the reference to direct supervision and to retain the current arrangements. ASIAL argues that direct supervision will mean that, for twelve months, provisional licence holders will need to have one-on-one contact with a full licence holder. ASIAL argues that the changes to provisional licences seem to have resulted from the idea that training alone cannot equip people with the skills to undertake their duties competently in the workplace and that public safety would therefore be compromised.

In response, the security industry argues that if people are not competent to be security guards before they start work, they really should not be there in the first place. In short, the security industry is saying, "What will 12 months of puppy walking achieve that good training cannot?" The industry also argues that the imposition of 12-month provisional licensing schemes fails to acknowledge that the security industry relies heavily on employees working outside normal business hours, which this scheme does not support. The requirement that provisional licence holders be given direct supervision will impact heavily on businesses, particularly given the implied meaning of one-on-one contact with a supervisor. The industry also believes that the outcome will result in fewer new staff.

The Howard Government's economic management of this country has resulted in a dramatic drop in unemployment, leading to fewer people wanting to become security guards even before these new restrictions apply. I refer to the impact of the cut in the number of apprentices and trainees, who, under the Apprenticeship and Trainee Act 2001, cannot work shift work or overtime, a fundamental requirement of industry due to the nature of the service provided. Employers would not be able to fund such a program. That will result in a disincentive for current businesses to expand and new businesses to come into the industry, dramatically increased wages, and a reduction in the level of services provided by the industry, leaving clients without security and placing greater reliance on police.

Proposed solutions being put forward by the industry include the removal of provisional licensing altogether or, at the very least, the removal of the reference in proposed section 29A to direct supervision, and the retention of existing arrangements. The industry is concerned also about firearms in homes. Provisions in the bill prevent licence holders who are permitted to store firearms in their homes from doing so if another resident has been convicted of an offence that would exclude him or her from holding a licence. The Coalition remains committed to ensuring that firearms do not fall into the hands of criminals and those who are not entitled to be in possession of them. We support measures that enhance the security of firearms.

I place on the record the belief of ASIAL that there must be diligence in storing firearms in residential premises. The industry has indicated that licence holders who are able to store their firearms at their place of residence have already undergone a rigorous police check, and that any changes should be managed by NSW Police and not covered in the Act. ASIAL indicated to crossbench and Opposition members that it believes that the provision will result in a major logistical problem. An undue burden of responsibility will be placed on employers—a burden beyond their control and legal capacity. It will also result in a potential loss of master licences.

A master licence holder runs the risk of losing his licence and his livelihood if a firearm is discovered on prohibited premises as a consequence of a relative or associate of his employee—who may have a prior criminal history; whether or not he or she has been convicted—staying there. That would most certainly be without the knowledge of the employer and possibly unknown even to the licensed operative. This provision is also unenforceable. The onus of responsibility is placed on a security licensee to interrogate and deduce certain information from anyone who resides at, even temporarily, or visits the household. The bill requires all subcontracts to be approved by clients in advance.

The ASIAL acknowledges that these changes appear to be aimed at ensuring that clients know and approve of the subcontracting of services by the principal contractor and that they may reduce cost-cutting and the avoidance of paying employee entitlements. However, it believes that these changes will have the consequence of inhibiting the provision of services and quality where subcontractors are in scarce supply, for example, in regional parts of New South Wales; and that where a surge in demand occurs, usually outside business hours, it would not be possible to secure commercial or residential client consent.

This will leave clients without security coverage and it will place greater pressure on policing resources. If a client is unable to sign off in advance, for instance, at sporting or entertainment events where additional last minute manpower is needed, or for a mobile response to an alarm, the option would be referred to

police. ASIAL argues that any dispute over subcontracting can be dealt with under common law or included initially in contracts. The industry has put forward several possible solutions, including removing the wording in proposed section 38A (2) and substituting the following:

The principal must ensure that in the contract for service between the principal and the client, the client be advised in writing that bona fide subcontractors may be used to provide any security activity.

A similar consequential amendment should be made to proposed section 38A (3). The industry will establish a standard subcontracting document for use by clients and master licence holders. Further, the industry will develop a contracting code of practice that will cover behaviour and compliance. The bill incorporates in legislation the Security Industry Council as an advisory body to the Minister. However, its formation is optional. The Government has a history of making consultation and co-operation optional. We saw that in the bill that was debated immediately prior to this bill.

The Security Industry Council has not met since October last year. There is little point in having an advisory body that does not meet regularly. It was not called on to consider this legislation before it was presented to Parliament. The bill requires the commissioner to refuse an application if the applicant has, within 10 years before the application, been removed or dismissed from the police force in New South Wales or any other jurisdiction, on the grounds of the applicant's integrity as a police officer. The commissioner may also refuse an application if, within 10 years of the application, the applicant was removed from NSW Police on grounds other than his or her integrity as a police officer.

We have seen in recent times, and we continue to see, officers removed from the service for matters other than their integrity. It could well be that they have neglected their duty. It might not necessarily be for misconduct as such; an inadvertent oversight might result in an officer, for whatever reason, being removed from the service. No question is raised about a person's integrity; a determination is made relating to his or her removal, on whatever grounds, from the police service.

The bill addresses the cataloguing of security firm firearms. Yesterday Government spin doctors spun hard the news that police had completed the cataloguing of firearms held by security firms. That involved test-firing 2,228 guns held by 208 security firms. Markings on bullets and cartridge cases were logged on the Integrated Ballistics Identification System [IBIS], which has now been in operation for about five years.

The Government chose to introduce the legislation yesterday and to announce that it had just completed this project. If I remember correctly, yesterday the Minister said this technology would make criminals think twice before firing a gun stolen from a security firm or security guard. In reality, an offender who fires a gun that he knows is stolen would not care less whether it is traced back to where he stole it. He would be more concerned about whether the police knew who he was. When it came to the crunch, he would not be concerned that the police would find out where the gun was stolen from. Criminals performing these sorts of crimes could not care less about the police being able to identify where a gun was stolen from. The villains will continue to use guns. Silly comments such as that reveal how out of touch the Minister is. It is a shame the Government has made no concerted effort to crack down on gun crime and step up its offensive to stop guns being stolen from security guards. It continues to happen, week in, week out, but this Government is all about spin and appearing to take action while doing nothing.

On 18 April two guns were stolen at Belfield. There was a second incident on 31 May, when security guards at a Crows Nest bank had their guns stolen during an early morning raid. The Carr Government spin-doctored the Crows Nest raid perfectly. Only agitation by the Opposition and the media prompted police media staff to reveal that the two security guards robbed in Crows Nest had been relieved of their pistols. There was no comment for about eight hours, despite media probes and Opposition calls for the Government to enlighten us. The Government talks about transparency with regard to serious crimes but that is a joke. As I indicated at the commencement of my address, the Opposition will not oppose the legislation. However, we would like to see further consultation with the industry and ask the Government to accept and act upon industry concerns. That has not happened to date with this bill or in many other areas of the Government's reform agenda. I will not hold my breath.

**Reverend the Hon. Dr GORDON MOYES** [5.21 p.m.]: I lead for the Christian Democratic Party in debate on the Security Industry Amendment Bill, the purpose of which is to make myriad amendments to the Security Industry Act 1997 in order to tighten regulation of the security industry. I commend the bill but urge the Government to consider whether some of its provisions will be workable in practice. As with most legislation, there is a statutory period of review every five years or so to ensure that the legislation is keeping in

line with its policy objectives and reflecting best practice. This bill is based on the ministerial report of a statutory review of the Security Industry Act 1997 and the Security Industry Regulation 1998. The report was tabled in Parliament on 20 October 2004 and made about 30 recommendations for security industry reform, most of which have been adopted in this bill.

According to the Australian Security Industry Association Ltd [ASIAL] the Minister undertook to consult with the industry further through the Security Industry Council after the statutory report was tabled. The Security Industry Council is the body responsible for providing advice to the Minister on issues that concern the security industry. However, this consultation did not take place. I understand that the Security Industry Council has not met with the Minister in recent times. It last met with the Minister in October 2004, when the statutory review report was tabled. The ASIAL has informed crossbenchers that the exposure draft of the bill was received on 26 May 2005. Comment on the bill was then invited but it was required to be submitted by 2 June 2005.

The consultation period lasted barely a week, which offered very little opportunity to the industry to make a considered contribution. In effect, ASIAL—the body that represents around 85 per cent of the security industry around Australia—had only one week in which to make any submissions with respect to the draft bill. This is not appropriate and it is not responsible government. Entities that are affected by legislation should be given sufficient time in which to consider the issues that affect them and to seek legal advice as necessary. They should be given time to consider draft legislation and to make informed submissions to the Government about their concerns with respect to that legislation. There is no way that any of that could occur in just seven days.

ASIAL has expressed some deep concerns about the bill. Membership spans small and medium-size operations and large corporate entities. I will not repeat all the ASIAL's concerns in this place as they were adequately covered by the Opposition in the Legislative Assembly. Opposition members in the other place indicated that they were unable to give proper and considered thought to ASIAL's concerns because they were not given sufficient time to address the bill. ASIAL responded:

... industry is astonished that this amendment bill is being rushed through without the opportunity for full discussion and debate with stakeholders, and seriously questions the haste.

The Christian Democratic Party concurs with ASIAL's concerns in relation to the manner in which this bill has been hastily rushed through Parliament. However, the Christian Democratic Party is in favour of legislation that tidies up this industry. Individuals employed to carry out security work—particularly those who carry firearms—are, in a sense, *de facto* police officers. They carry great responsibility on their shoulders. They are the vanguards of averting, responding to and mitigating danger.

Therefore, it is important that legislative measures are in place to ensure that this industry is regulated appropriately. Importantly, legislation should cater appropriately for the niche that it intends to regulate. ASIAL has highlighted concerns that the bill has some provisions that are "ill conceived, unworkable, impractical and unenforceable". If that is true, Parliament should not pass the bill. We should not be considering a bill that is ill conceived, unworkable, impractical and unenforceable. I urge the Government to monitor closely the outworking of any impractical or unenforceable provisions in this bill if and when it is passed.

The bill introduces a number of commendable provisions, most of which are unopposed by the ASIAL and are certainly not opposed by the Christian Democratic Party. The bill expands the licensing categories within the existing licence classes to reflect better the types of activities undertaken by the security industry and to ensure that guards who perform specialist services have the appropriate training and qualifications. By identifying the specific activities undertaken within the security industry and providing suitable licences to reflect those activities, individual clients will know the exact scope of responsibility that is afforded to the security agents whom they employ. Security agents will also be aware of the extent of their role. This is a commendable move on the part of the Government.

The bill introduces a provisional licensing system to ensure that all new entrants to the industry—that is, apprentices or trainees who carry on security activities in the course of their apprenticeship—are trained appropriately. Provisional licensing will apply only in relation to security activities that are covered by class 1 licences. Class 1 licences have been itemised as class P1A, P1B and so on, with each category representing a different scope of responsibility. The notion is that individuals entering the industry will have direct supervision and that, when their training is complete, they will be in a position to be considered for certain jobs. However, ASIAL has claimed that the provisional system will be unworkable. For example, the need for those in training to have direct supervision will shackle operators of all sizes unnecessarily, but it will particularly affect small

and medium businesses. Having supervisors present at all times will double the number of security guards. It may be quite impractical to supervise people on a one-on-one basis, especially in a competitive business when the bottom line counts. If the trainee is working outside normal business hours significant penalty rates must be paid, and one-on-one supervision may be impractical in those circumstances. I ask the Government to consider ASIAL's concerns closely.

The other controversial provision—I believe it is a sound objective but it may be unworkable in practice—is proposed section 23B. This proposed section contains a special condition that requires that firearms are not to be stored at residential premises that are also the residence of someone who has been found guilty of an offence that would disqualify them from holding a licence. Further, master licensees employing people as armed security guards must not cause or permit any firearm in the master licensee's possession to be stored at any prohibited premises—for example, at the principal or temporary place of residence of a person found guilty of a criminal offence. But this section raises many issues, such as visits by friends and relatives of the principal licensee and the like. For example, ASIAL pointed out that a master licence holder might run the risk of losing his licence should a firearm be discovered on premises that are prohibited because an associate of his employee who may have a criminal history—regardless of whether a conviction was recorded—is staying there. The ASIAL suggested:

... this would most certainly be without the knowledge of the employer and possibly even unknown to the licensed operative.

Importantly, the bill requires all subcontracts to be approved by clients and all companies involved in the contracts. Whether this will be viable remains to be seen. For example, it may not always be possible to secure client consent when security reinforcement is engaged outside business hours. It is envisaged that police may have to step in if the scenario arises. This poses some impracticality. The bill also provides formal legislative recognition of the Security Industry Council as an advisory body to the Minister. My understanding is that the council rarely meets and is rarely given advice—most importantly, to increase penalties for breaches of the security legislation to bring them into line with community expectations. Despite all of those difficulties, and the rush and hurry with this legislation, the Christian Democratic Party will support the Security Industry Amendment Bill because it has important objectives.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [5.30 p.m.]: The Australian Democrats recognise that regulation is required in the security industry. We are somewhat concerned about the increased use of security people generally—which could be an index of the need to protect people. Is the gulf between the rich and the poor increasing? Is lawlessness on the increase, presumably because, with the advent of plastic cards, less cash is being carried around? Is it because of terrorism? Security employees carry guns in circumstances where previously no guns were necessary.

I remember as a student my flatmate being involved in some skylarking as part of commemoration day to celebrate the founding of our university. As a stunt he and other students went to a bank at Wynyard and staged a mock hold-up. A getaway utility car roared up with a screech of brakes after a "shoot out" on the footpath at Wynyard station. The students raced out of the bank "shooting" and leapt in the car. The police had been tipped off and did not get upset or do anything radical. Passers-by were suitably shocked, and the students had a good time. In those days it was all good, clean fun—and part of the innocence of the age. If one were to try such a stunt today, one would probably be shot at by a passer-by or by a security guard who thought they were doing some good. Even for film shoots of bank robberies, streets have to be blocked off.

There has been a breakdown; the paradigm has shifted. Security guards can now be found on duty in casualty departments—and that was never the case when I first worked in them. It is important that police become involved in the regulation of the security industry. To some extent, we are social engineers, and as such we might wonder about the increased need in our society for security. What factors would make it unnecessary? But be that as it may, a report has recommended regulation and that is what is happening. The ASIAL is very concerned about what it says is a "huge amount of bureaucracy". It has strongly advocated to the crossbench optimal regulation as opposed to maximal regulation.

It is difficult for someone who does not work in the industry to know which of the regulations and stipulations are necessary. The ASIAL is concerned about the requirement that provisionally licensed security officers must work in pairs for a period of a year, given that some companies may not have sufficient paired-work available. Certainly people should be trained and their behaviour checked before they are licensed. I remember one Saturday night driving past the Merchant Court Hotel when it was being built, at the corner of George and Market streets, and seeing a security guard standing on the footpath with a gun in his holster and a beer in his hand. I remember wondering what would happen if someone else who had had a few drinks bumped

into that guard at that time. It is important that people in the industry are given appropriate training and that they behave themselves because they are in a very vulnerable position. Often they work alone, and this can lead to boredom and lack of attention after lengthy periods. They could be targeted by people who are alert, well motivated, well armed and presumably more numerous.

The industry does require some degree of regulation and, obviously, any conflict involving guns can put the public at immense risk. This is a good case for regulation. ASIAL believes this bill is too prescriptive. It is very difficult for me to adjudicate on the matter without more research. Obviously, we want to keep criminal elements out of this industry. The security industry does not pay particularly well, and its employees require a relatively low level of training. It is attractive to people who might not have another job, and they could include people who have just been released from gaol. Of course, that is a problem in itself. I do not oppose the bill. I am concerned about industry claims that it has not been consulted and that the Security Industry Council has not met since November. I hope the bill will achieve its objectives.

**The Hon. JOHN HATZISTERGOS** (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [5.37 p.m.], in reply: I thank honourable members for their contributions to this debate. The bill reinforces earlier reforms introduced by this Government to ensure that the security industry in New South Wales is a professional, high-quality industry. By introducing additional licence categories, the bill will ensure that employees in the security industry have specialist training for the type of activities being undertaken. Under the current system, the classifications within the licence categories cover a very large range of activities. At present, the Act does not recognise that different skills are required to be properly trained to carry out the various kinds of security activities.

For each licence class and category, a minimum level of training will be required. It is expected that for a great many security employees, no further training will be required to enable them to work in the industry. But for those security activities that present a higher risk to the community and require security personnel to possess higher levels of competence and specialised training will be required. These include armed guarding, guarding with dogs or bodyguarding. This reform will ensure that every security employee is equipped with the appropriate level of training and competence to perform the work he or she is undertaking. This is a very positive step for the industry. It will ensure that the training, criminal exclusion, and supervision requirements for the different licence categories are commensurate with the risk to the public that that activity entails. It will make licensing fairer and lessen the impact of a one-size-fits-all system.

Some honourable members have raised concerns on behalf of Mr Terry Murphy from the Australian Security Industry Association Limited [ASIAL] about aspects of the operation of the Security Industry Amendment Bill. In particular the level of consultation with industry, subcontracting requirements, the provisional licensing scheme, and prohibitions on the storage of firearms on "prohibited premises". As honourable members will be aware, this bill is based on the recommendations of a statutory review of the Security Industry Act 1997 and the Security Industry Regulation 1998. The Ministry for Police, which conducted the review on the then Minister's behalf, called for submissions from interested parties on the operation of the security industry legislation. Letters were sent to key stakeholders, including all members of the Security Industry Council, inviting comments.

Submissions were received from a range of stakeholders including the Security Industry Council and ASIAL, and, where appropriate, those comments were incorporated into the review. A copy of the report of the review of the Security Industry Act 1997 and the Security Industry Regulation 1998 was tabled in Parliament on 20 October 2004. At the same time, an electronic copy of the report was provided to all Security Industry Council members.

The review made 30 recommendations for further improvements to the security industry. At the time the report was tabled, the then Minister for Police stated that "those [30] recommendations would be built upon to bring about the next raft of reforms to the industry". No comments on the review of its recommendations were received from any Security Industry Council members, until a consultation meeting was requested by Mr Terry Murphy of ASIAL in late March 2005. In early April 2005, the Parliamentary Secretary to the Minister for Police, the Hon Tony Stewart MP, held a consultation meeting with members of the Security Industry Council to assist in the finalisation of the draft bill.

Council members were again advised that the bill would implement the recommendations of the report. At that meeting, council members were invited to provide written comment on the report of the review. Where possible, those comments and suggested amendments received from the council that could appropriately be



incorporated into the terms of the draft bill were adopted. For example, both the National Electrical and Communications Association, and the Master Locksmiths Association of Australasia Ltd [MLAA] argued that the fitness for work recommendation would replicate existing requirements under the Occupational Health and Safety Act. Accordingly, the draft bill was amended to require only that master licence holders have a fitness for work policy that includes references to drug and alcohol matters. Master licence holders would no longer be penalised under the Security Industry Act for not ensuring that employees were medically fit for work.

In addition, the MLAA recommended that the bill provide discretion to the commissioner to exempt persons from the requirement to be licensed to train. This would allow additional training opportunities for New South Wales licensed locksmiths through the Annual Locksmiths Conference and Exhibition. This was a sensible suggestion. As a result of the MLAA's submission, the draft bill was modified and now authorises the commissioner, upon application, to exempt persons engaged in training for class 2 licences from the requirement to have a licence. The MLAA also requested that the bill exclude locksmiths from the sub-contracting requirements on the basis that the restricted security keying system used by locksmiths necessarily involves a subcontracting relationship. Again, this was a helpful and practical piece of advice. The bill now provides an exemption for persons performing work in connection with a restricted security keying system.

These changes and others were incorporated into the bill, which was not finalised and approved by the Legislative Committee of Cabinet until 23 May 2005. On 25 May 2005 the finalised bill was provided electronically to members of the Security Industry Council for further comment on the proposed reforms. Three submissions were received, and where appropriate, still further changes were made to the bill. ASIAL did not submit any comments on the terms of the draft bill. The MLAA submitted that the sale or cutting of non-restricted keys should be included as "basic household items". This would exempt them from the operation of the legislation. The bill was amended to allow for basic household items to be defined in regulations, which will be developed in consultation with industry. The same approach will be adopted with regard to what will constitute "direct supervision" for the different provisional licence categories, which was an issue raised by the Institute of Security Executives.

There has been no attempt to sneak through security industry legislation. The report of the review, on which the bill is based, has been available to Security Industry Council members since October 2004. In addition, while concerns have been expressed that a formal meeting of the Security Industry Council has not been held in 2005, this is due to the fact that the bill, once enacted, will formalise the council's role in the legislation as the Minister's principal advisory body on the security industry. Once reconstituted, it is expected that the council will embark on a schedule of regular meetings.

The bill will also provide for increased scrutiny over subcontracting within the industry. This will ensure that clients of security services are aware of how the services are being provided and who exactly is providing them. At the consultation meeting chaired by the Parliamentary Secretary for the Minister for Police, the Hon. Tony Stewart MP, the Security Industry Council representatives, including Mr Murphy from the ASIAL, welcomed the report's recommendation to tighten up requirements relating to subcontracting. They commented that they viewed it as a positive and beneficial reform.

Despite this support, it is noted that Mr Murphy has now raised concerns that the requirements relating to subcontracting are unworkable because he claims that they will prevent the provision of services in areas where subcontractors are in scarce supply, that a surge in demand is likely to occur outside of business hours when it will not be possible to secure client consent, and that the requirements will have enforcement implications because if client approval is unable to be obtained in advance the only option will be to refer the matter to the police to respond.

The requirement that subcontracting arrangements be approved by the original client, and all subsequent parties, is an important feature of the bill. It is designed to stamp out unsafe and unsatisfactory practices that have stemmed in part from the lack of transparency in subcontracting arrangements. These practices include: the use of unlicensed security guards; poor training and assessment practices, where demand has put pressure on registered training organisations to process a high number of guards quickly so they can obtain conditional licences; and exploitation of employees in the security industry who are forced to work for less than the award wages.

A contractor should not offer to a client services that the contractor is unable to provide. While it is recognised that demand may exceed supply on some occasions, good commercial practice requires that the client be made aware of the changes to the original contract. If I engage a firm to guard my factory because of

its skilled and highly trained work force, unless I approve otherwise, I am entitled to expect that that is who will turn up—not the owner's unlicensed third cousin freshly released from Long Bay. This provision will allow greater scrutiny of any subcontracting arrangements, and ensure greater accountability and transparency. In addition, while it is recognised that the security industry in New South Wales has been called on to provide more and more resources to meet community needs, it must be understood that security guards are not police. The principal function of a security guard is to observe and report. While they have responsibilities to respond to alarms and to secure premises and property, if it appears that a crime has been committed the police should be called to respond.

The introduction of a provisional licensing system will ensure that new entrants to the industry have both the theoretical knowledge and the appropriate level of on-the-job training and supervision. This will be achieved by requiring that new entrants undergo pre-licensing criminal records checks and undertake a pre-licensing course. This course has been developed by TAFE and approved by the Commissioner of Police. These training courses will be provided only by registered training organisations that have been approved by the Vocational Education and Training Accreditation Board. The course will provide new entrants with the critical foundation knowledge necessary to obtain a provisional licence and subsequently a job in the industry.

Once this course has been completed, and a provisional licence issued, new entrants to the industry will be provided with on-the-job training/supervision under the guidance of an appropriately qualified security licensee. This will ensure that new entrants master the practical skills they will require to carry out their duties effectively and safely. Prior to being eligible for a full licence, a new entrant's on-the-job performance will be assessed in the workplace. This will be via a range of methods including face-to-face assessment from qualified registered training organisations and documentary evidence provided by provisional licence holders and employers.

However, Mr Murphy has expressed some concerns about the operation of the provisional licensing scheme. In particular he claims that it will: reduce the pool of new industry entrants; eliminate apprenticeships and trainees; act as a disincentive for current businesses to expand and new businesses to come into the industry, particular given the requirement for "direct supervision"; dramatically increase wages and flow-on costs; and reduce the level of services provided by the industry. These concerns were initially raised in relation to the proposed prohibition on a provisional class 1F (Armed Guarding) licence. Following consultation with cash-in-transit [CIT] providers, the bill was revised to allow for the issue of a provisional class 1F (Armed Guarding) licence to allow a new entrant to engage in the cash-in-transit sector of the industry, subject to certain training and competency requirements.

As to the provisional licensing scheme more generally, the new system recognises that, regardless of any theoretical training undertaken, a new entrant cannot have the necessary practical skills from day one. Even Judy Hopwood in the other place recognised that the job poses many challenges and it was extremely important to ensure that those who undertake these responsibilities are experienced. On-the-job training under the supervision of a qualified licensee for a specified period will ensure that new entrants to the security industry are appropriately trained to carry out the activities that they are licensed to perform. It is also critical that industry employers accept responsibility for this important task. They must ensure that provisional licensees are adequately supervised, provided with opportunity to work in areas relevant to their licence class, and can demonstrate their knowledge and skills to qualified assessors.

The level of supervision required for provisional licensees will vary depending on the category of activity being undertaken. What constitutes direct supervision will be defined in the regulations following consultation with industry. It is not likely that they will all entail one-to-one supervision. But it is clear that a higher level of supervision will be required for provisional licensees engaged in higher risk activities such as venue control at licensed premises. Responsible security providers are already providing an adequate level of supervision to all their employees, particularly new starters. This requirement should not affect those businesses that are serious about the quality, skill level and safety of their employees, but only those who have shirked this responsibility in the past. The provisional licensing scheme will provide greater protection to employees, and lead to a more highly trained sector.

The bill also introduces a requirement that firearms must not be stored at prohibited premises. Prohibited premises are those premises that are regularly used as the principal or temporary place of residence by a person who has been found guilty of a relevant offence. A relevant offence is a criminal offence that would disqualify that person from holding a licence under the Security Industry Amendment Bill 2005. This means that a person must not keep firearms stored at their home, if that residence is also the principal residence of another

person who has a criminal offence relating to the possession or use of a firearm or prohibited weapon. Mr Murphy raised his concerns that an undue burden was placed on the employer that was beyond their control in that the master licence holder risked his livelihood if a firearm authorised to be stored at the residential premises of an employee was discovered to be a prohibited premises; and the onus of responsibility was placed on the security licensee to determine the criminal history of any person who resides or visits the premises where a firearm is stored.

Obviously it would be impossible for the licence holder to scrutinise the criminal histories of casual visitors to the premises where the firearm is stored, for example, in the case of a tradesman who comes to the house to fix the plumbing. But under the proposed provision a person would not be permitted to keep a firearm at home if a spouse, partner, or flatmate who had a relevant conviction also lived there. If a security guard is mad enough to want to share a house with Neddy Smith—should he ever be released from gaol—we are not about to let him keep his gun at home. In the event that a firearm is discovered on prohibited premises, the operator's security licence would be automatically suspended. However, before any action is taken against the master licence holder, the master licence holder will have the opportunity to provide reasons why the master licence should not be revoked.

Under section 29 (1) of the Security Industry Act 1997 a decision to revoke a licence may be reviewed upon application by the Administrative Decisions Tribunal. Concerns also have been raised in relation to the increase in penalties for breaches of the Act. The bill makes it clear that breaches of the Act will not be treated lightly. The penalties, particularly for carrying on a security activity without a licence, have been significantly increased to reflect both the expectations of government and the community. This Government makes no apology for having the highest standards in the Commonwealth with respect to the security industry, or for continuing to strive for improvements. The enactment of the Security Industry Amendment Bill 2005 will play a very valuable role in raising the standard of the security industry in New South Wales even higher. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## **NATIONAL PARKS AND WILDLIFE (FURTHER ADJUSTMENT OF AREAS) BILL**

### **Second Reading**

**The Hon. ERIC ROOZENDAAL** (Parliamentary Secretary) [5.55 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 allow for the upgrade of a major regional road link on the south coast, and the development of tourist facilities in the Wollongong area. To achieve these necessary projects, the revocation of small areas of land is required from two national parks and one State conservation area.

The Department of Environment and Conservation has worked with the proponents of the proposals contained in this bill to ensure the best possible conservation outcomes are achieved. These proposals will deliver a significant public benefit, while at the same time protect and enhance the national parks reserve system.

#### **Revocation of Land Policy**

Lands reserved under the National Parks and Wildlife Act may not be revoked except by an Act of Parliament. The situations in which the need for a revocation may arise include boundary errors, boundary encroachments and development proposals that are of public value but are not permissible on land reserved under the National Parks and Wildlife Act.

The proposals contained in this bill fall into the latter category. A thorough assessment of these proposals was undertaken, and it has been determined that they represent the best practical option available to the proponent and the Department of Environment and Conservation.

By way of background, in 2001, the then National Parks and Wildlife Service undertook a review of its revocation procedures to improve administrative and consultative processes. The Revocation of Lands Policy was subsequently developed and adopted in 2002.

The Policy stipulates that where revocation is considered necessary to correct a boundary encroachment or to provide for a development proposal, the advice of the relevant National Parks and Wildlife Regional Advisory Committee and Advisory Council must be sought.

The Revocation of Lands Policy also requires that compensation be sought for all revocations that are necessary to remove a boundary encroachment or for a development proposal that is otherwise not permissible in the national park system. Compensation will generally be in the form of the transfer of land to the Minister for the Environment for subsequent reservation under the National Parks and Wildlife Act. I will elaborate on the details of the compensation packages shortly.

Let me outline the proposals:

#### **Morton and Jerrawangala National Parks**

The Roads and Traffic Authority is the proponent for the upgrade of 54 kilometres of Main Road 92 from Nowra to Nerriga. This upgrade will improve the safety and reliability of the road link between Canberra and Nowra, and will substantially reduce travel time between these cities.

Stage one of the upgrade works will require the revocation of less than one and a half hectares of Jerrawangala National Park, at the junction of Turpentine Road and Main Road 92. This work will provide a safer road intersection.

In addition, less than 22 hectares will be revoked from Morton National Park to enable the realignment of the road and the relocation of approximately 15km of Telstra optical fibre cable. Currently, this cable is located within or adjacent to Morton National Park on either side of Sassafras.

As part of the compensation package, the Roads and Traffic Authority has settled on the purchase of a property of some 24 hectares at Sassafras. This property will be added to Morton National Park. The compensatory land contains moist eucalyptus forest with habitat for numerous threatened species. In addition to its conservation value, the compensatory land will also enhance park and wilderness management and improve public access to Morton National Park.

Further, suitable areas of the existing road reserve will be rehabilitated and also added to the national park system on completion of the road upgrade, subject to the concurrence of the Department of Environment and Conservation.

#### **Consultation**

While the National Parks and Wildlife Advisory Council and South Coast Region Advisory Committee do not support the upgrade of Main Road 92, members were involved in developing the compensation and mitigation package. The Committee considers this package to be largely satisfactory and has raised a number of issues, including speed limits.

The Department of the Environment has already negotiated with the RTA to reduce the speed limit from 100 kilometres per hour to 80 kilometres per hour over most of the road, and 70 and 60 kilometres per hour in specific locations. As well, DEC has asked the RTA to source light coloured aggregate to make wildlife more visible on the road at night. DEC will take expert advice from the RTA on detailed designs to reduce potential impacts on wildlife.

#### **Illawarra Escarpment State Conservation Area**

##### **Bulli Tops**

Turning to that part of the Bill affecting the Illawarra Escarpment State Conservation Area.

Wollongong City Council is proposing revocations from the Illawarra Escarpment State Conservation Area to allow the development of the Gateway tourist project at Bulli Tops, and to permit the upgrade of water treatment infrastructure at Sublime Point which will service the Gateway facility.

The Gateway project is a proposed tourist information facility to service tourists traveling from Sydney into the Wollongong area. The proposed revocation is located along the southern boundary of the existing Horizon's Cafe on the plateau between the Princes Highway and the cliff. For the project to remain feasible, Council requires less than half a hectare of disturbed land to be revoked from the Illawarra Escarpment State Conservation Area to avoid an RTA road reserve.

Wollongong City Council has completed an assessment of the conservation values of the proposed revocation site, and has confirmed that there are no threatened species, or any other significant conservation features present on the site.

##### **Sublime Point**

Currently, Council operates sewage and water treatments plants at Sublime Point, that are located within the State Conservation Area. Council intends to upgrade the water treatment plant to service the needs of the new Gateway proposal.

After careful consideration, the Department of Environment and Conservation recommends that the existing and proposed infrastructure be revoked from the Illawarra Escarpment State Conservation Area. This assessment is based on the fact that such uses are inappropriate for a conservation reserve, and given the operational difficulties for the Department and Council in maintaining, upgrading and operating the plant.

The area recommended for revocation comprises:

- the water tank compound with an additional four metre wide buffer around the compound and a five metre wide corridor connecting the compound to the picnic area, total about 1500m<sup>2</sup>; and

- the sewage effluent tank compound with an additional four metre wide buffer around the compound and four metre wide corridor connecting the picnic area, total about 400m2.

As compensation for the revocation proposals, Wollongong City Council has agreed to transfer to the Minister for the Environment, for addition to the Illawarra Escarpment State Conservation Area, two parcels of land at Sublime Point of just over one hectare.

In addition to the compensatory land, Wollongong City Council has resolved to transfer about 92 hectares of Council-owned land to the Minister for the Environment for addition to the Illawarra Escarpment State Conservation Area.

This transfer is in recognition of the high conservation values of the land and to indicate Wollongong Council's very strong commitment to the conservation of core Illawarra Escarpment lands.

These additional lands will add a number of high value rainforest communities into the reserve system, and will strengthen the integrity of what is a fragmented reserve. By any measure, this is an absolutely clear and comprehensive net gain for nature conservation in the Illawarra region.

#### **Consultation**

The National Parks and Wildlife Advisory Council and Sydney South Region Advisory Committee have been briefed and are supportive of the proposed revocations. DEC has also consulted with Wollongong City Council to ensure the construction of the Gateway proposal has no impact on the surrounding State Conservation Area.

#### **Conclusion**

The proposals contained in this Bill represent a rational and logical answer for delivering projects of critical public importance, while at the same time protecting and enhancing the State's protected areas system. These proposals have been prepared consistent with the requirements of the Department of Environment and Conservation revocation of land policy.

I commend the Bill to the House.

**Mr IAN COHEN** [5.55 p.m.]: The National Parks and Wildlife (Further Adjustment of Areas) Bill makes boundary changes to certain national parks. The purpose of these boundary changes is to allow the upgrade of a road link between Canberra and the South Coast, and for the development of tourist facilities in the Wollongong area. As a general principle, the Greens do not support the revocation of areas of national park except under extreme circumstances. As I said earlier in the year in debate on the bill relating to adjustment of areas, the danger is that if revocations are seen as commonplace occurrences landholders and agencies will see that land can be traded in return for any part of a national park that they wish to exploit for their own purposes. These kinds of bills are a worrying trend. Even though revocation is prohibited under section 37 of the National Parks and Wildlife Act without an Act of Parliament, the Government seems to use exception of revocation by an Act of Parliament almost as a rule. This is the second adjustment of areas bill this session.

The Greens have some specific concerns about the proposed revocations of certain areas of national park under the bill. The bill proposes revocations for what the Greens consider to be inappropriate purposes. Revocations proposed under the bill will revoke part of the Morton and Jerrawangala national parks for the purposes of upgrading Main Road 92 in the area and revoke parts of the Illawarra Escarpment State Conservation Area to facilitate the development of a tourist project and to permit the upgrade of a water treatment infrastructure. Proposed revocation in Morton and Jerrawangala national parks will result in the degradation of wilderness areas. The proposed alienation of national park land for infrastructure easements would facilitate degradation of the surrounding park through habitat fragmentation, pest species infestation, penetration of road vehicles and major soil erosion during development.

The proposed revocation of national parks for the building of Main Road 92 will also have implications for wildlife in the area. For example, the proposal does not provide for adequate wildlife underpasses or overpasses, which is most likely to result in a greater number of animals being killed by road users travelling at faster speeds through these remote bush areas. This, in turn, could create a serious risk of motor vehicle accidents caused by collisions with wombats and grey kangaroos. While I understand that speed limits were revised after concerns were raised and will now be 80 kilometres per hour instead of 100 kilometres per hour, it is a speed that is dangerous to wildlife. Although the proposed revocation process offers a compensatory land parcel, the lands offered are not sufficient to compensate for the damage as well as loss of land from the Morton National Park, in particular damage to Budawang and Ettrema wilderness areas.

I have been advised by the Environment Liaison Office Group that Lot 2 DP 755958, County of St Vincent, Parish of St George, comprising 16 hectares, has been for sale and was advertised with Beaches and Bush Real Estate Proprietary Limited for \$109,000 with no building permit. These freehold lands, which are within the formally identified wilderness, should be purchased with RTA funds in partial compensation for the

damage caused by road development. Further, it is the view of the Environment Liaison Office Group that the proposed revocation is not justified because the proposed project is flawed. Apart from compromising ecological values in the area, the group has advised me that the proposed upgrade of Main Road 92 is likely to run over budget, cater for insufficient traffic volumes to justify the investment, delay other transport infrastructure investment opportunities that would yield a better return on investment and facilitate inappropriate land speculation in surrounding areas. An example of the economic concerns is that the road will involve vehicles travelling over a wooden bridge over the Mongarlowe River. If B-doubles use this road, as is foreseen, the bridge will disintegrate in no time. The cost of building a new bridge has not been factored into the costings of the project.

The Greens also take issue with the consultation process associated with this revocation. While I understand that the South Coast Regional Advisory Committee and the National Parks and Wildlife Advisory Council were involved in the process, they do not support upgrading of Main Road 92. The consultation process sounds quite hollow when the committees that should be consulted take a position against the development, but it goes ahead anyway. Furthermore, the environmental impact statement has not been approved yet. This development pre-empted the approval, which does not instil a great deal of confidence in the process. As the honourable member for The Hills, Michael Richardson, said, "It is a really putting the cart before the horse to revoke the land before the EIS is actually signed off."

The proposed revocation requires land in the Illawarra Escarpment State Conservation Area to be removed for the construction of the Gateway tourism development. I understand that the land that is to be revoked, which is approximately half a hectare, is disturbed land. According to an assessment made by the Wollongong City Council, it does not contain threatened species or other significant conservation features. I would like to know the type of assessment that was undertaken and whether it was a formal assessment, such as an EIS. In any case, the Greens oppose the revocation as a matter of principle. It is inappropriate to revoke such land for the purpose of tourism development. The National Parks and Wildlife Service Revocation of Land Policy 2002 states on page 5:

In exceptional circumstances and when suitable alternative sites are available outside of NPWS land, the Minister (only) may direct the NPWS to examine the potential revocation of the area. Circumstances where this may be required may include major Government infrastructure initiatives.

I question whether this development falls under the category of major government infrastructure initiatives. I also ask the Minister whether alternative sites were considered that did not require the revocation of parkland.

In conclusion, I make the point that this bill was introduced into the lower House on Tuesday and was passed through all stages. This is another example of the Government rushing through legislation that deals with an environmental issue without giving others adequate time to consider amendments and without giving environmental groups adequate time in which to examine maps that are related to the revocations. This is an unacceptable way of dealing with legislation. The Greens do not support the bill.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [6.02 p.m.]: The bill proposes the revocation of parcels of land from two national parks and a State conservation area. As lands reserved under the National Parks and Wildlife Act can be revoked only by an Act of Parliament, members of this Parliament have to deal with the merits of this proposal. The Roads and Traffic Authority [RTA] proposes to upgrade 54 kilometres of Main Road 92 from Nowra to Nerriga to improve the safety and reliability of the road link between Canberra and Nowra and to reduce travel time between these cities. The Minister stated in his second reading speech:

Stage one of the upgrade works will require the revocation of less than 1½ hectares of Jerrawangala National Park, at the junction of Turpentine Road and Main Road 92. This work will provide a safer road intersection. In addition, less than 22 hectares will be revoked from Morton National Park to enable the realignment of the road and the relocation of approximately 15 kilometres of Telstra optical fibre cable. Currently this cable is located within or adjacent to Morton National Park, on either side of Sassafras.

The details of the compensation packages are as follows. The RTA has settled on the purchase of a property of some 24 hectares at Sassafras. This property will be added to the Morton National Park. The compensatory land contains moist eucalyptus forest with habitat for numerous threatened species. In addition to its conservation value, the compensatory land will also enhance park and wilderness management and improve public access to Morton National Park. Further, suitable areas of the existing road reserve will be rehabilitated and added to the national park system on completion of the road upgrade, subject to the concurrence of the Department of Environment and Conservation [DEC].

While the National Parks and Wildlife Advisory Council and South Coast Region Advisory Committee do not support the upgrade of Main Road 92, the DEC has already negotiated with the RTA to reduce the speed

limit from 100 kilometres per hour to 80 kilometres per hour over most of the road, and to 70 and 60 kilometres per hour in specific locations. As well, the DEC has asked the RTA to source light-coloured aggregate to make wildlife more visible on the road at night. The DEC will take expert advice from the RTA on detailed designs to reduce potential impacts on wildlife. The environmental liaison officer who liaises between environmental groups and members of Parliament opposes the revocation of parts of the Morton and Jerrawangala national parks for upgrading the road. The proposed alienation of national park land for the easements would facilitate degradation of the surrounding park through habitat fragmentation, pest species infestation, soil erosion during development and penetration by off-road vehicles.

The Director of the Colong Foundation for Wilderness, Mr Keith Muir, who is a highly respected and very sensible conservationist and who is definitely not one of the extreme greens that the Hon. Rick Colless keeps bleating on about, has advised the Department of Environment and Conservation, the RTA and the Department of Planning, Infrastructure and Natural Resources that Lot 2 DP755958, County of St Vincent, Parish of St George, comprising 16 hectares, has been for sale and was advertised with Beaches and Bush Real Estate Pty Ltd for \$109,000 with no building permit. These freehold lands, which are within the formally identified wilderness, should be purchased with RTA funds in partial compensation for the damage to road development.

The proposed revocation for Main Road 92 does not provide adequate wildlife underpasses or overpasses, increasing the risk of motor vehicles hitting grey kangaroos and wombats, which I am sure all members know will severely damage a car and be fatal for the animals and sometimes the drivers of the vehicles, and this matter should be addressed. The Karuah bypass is an excellent example of using underpasses and overpasses for native animals as it has very extensive network of overpasses spanning the highway for the affected koala population. If we can do it for dual carriage highways, why can we not do it for Main Road 92?

The second part of this bill affects the Illawarra Escarpment State Conservation Area. Wollongong City Council is proposing revocations from the Illawarra Escarpment State Conservation Area to allow the development of the Gateway tourist project at Bulli Tops and to permit the upgrade of water treatment infrastructure at Sublime Point, which will service the Gateway facility. The council requires less than half a hectare of disturbed land to be revoked from the Illawarra Escarpment State Conservation Area to avoid an RTA road reserve. The council has completed an assessment of the conservation values of the proposed revocation site and has found no threatened species or other significant conservation features present on the site. If the Government is willing to purchase the land specified by the Colong Foundation, that would be worthwhile. In the light of the absence of overpasses and underpasses on Main Road 92, I think the bill errs on the side of supporting the RTA's interests instead of conservation interests.

**The Hon. DON HARWIN** [6.06 p.m.]: During my 6½ years as a member of this House, there have been many days when I wondered whether we would ever see the project that is the subject of this legislation brought to fruition and debated in this Parliament. This bill revokes a corridor through the Morton National Park to permit the construction of Main Road 92. It has my enthusiastic support. The Opposition will support the bill. The people of the Shoalhaven will also be delighted that it is finally happening. Main Road 92 connects Nowra and Braidwood. It was originally built by convicts in 1841 as a transport corridor for the transportation of export wool from the Southern Tablelands to the port of Huskisson on Jervis Bay. The road was known as The Wool Road, and parts of the old road still bear that name in the St Georges Basin and Sanctuary Point areas.

The use of the road petered out after construction of the Hume Highway, and beautiful Jervis Bay ceased to be a working port. When it is completed, Main Road 92 will be a viable alternative route for Canberra travellers and trucks moving in the direction of the coast. This is important to the people of the Shoalhaven for two reasons: first, it will make the northern and central parts of the Shoalhaven an even more attractive tourism option for residents of the Australian Capital Territory in particular and others in the south-west of the State. Second, it will enhance Nowra's competitive advantage as a place in which to invest. Currently that is more important than ever, given the closure of two very large manufacturing operations in Nowra, Gates Rubber and Dairy Farmers.

At present, trucks leaving Nowra and accessing the Hume Highway have to follow Moss Vale Road and travel through Kangaroo Valley. This road winds over Cambewarra Mountain through the valley and then winds up at Barrengarry Mountain before proceeding to the Illawarra Highway, which is just east of Burrawang, and thence through Moss Vale and Sutton Forest to the highway. This road is dangerous for trucks and a real disincentive to businesses looking to relocate to Nowra.

By contrast, Main Road 92 will be the most gentle crossing of the Great Dividing Range between Wollongong and the Victorian border. Its easy gradient will be in stark contrast to the dangerous bends of Moss Vale Road, where accidents between trucks and passenger vehicles have been all too frequent. Main Road 92 is critical also for the residents of Palerang shire, particularly those in Nerriga and Braidwood. The benefits will certainly be there for those towns in future. Upgrading Main Road 92 has been talked about for so long that it has been regarded by some as almost a pipedream. Today it is important to place on record the thanks of the people of the Shoalhaven and other areas to the two people most responsible for kick-starting this project: Joanna Gash and John Sharp—the current and former Coalition Federal members for Gilmore.

In March 1988, at the instigation of Joanna Gash, Prime Minister John Howard came to Nowra and declared Main Road 92 as a "Road of National Importance". It is also worth noting that the declaration was co-signed by the Federal roads Minister, John Sharp, who had advocated the project during his tenure in Gilmore while the Coalition was in Opposition. After promising support for the 1999 State election, the former member for South Coast, Wayne Smith, and the former Minister for Roads, Carl Scully, reneged and refused to honour their promise of funding for Main Road 92—an act of incredible cynicism. In effect, they delayed the project for almost two years, during which time I had the greatest pleasure in hammering the Carr Government in the Shoalhaven for their betrayal.

Finally, in January 2001, the Government changed its mind, some three years after the Commonwealth's initial commitment, and agreed in principle to contribute to the cost of construction. Even so, only now, some 4½ years later, do we see an allocation of any substance in the budget papers for the 2005-06 financial year. From January 2001 it took almost two years for the Government to study the route that the road should follow and in December 2002 an environmental impact statement was released. It came as a disappointment, and it certainly did Wayne Smith, the former member for South Coast, no favours. One only has to look at the political incompetence of successive roads Ministers in relation to this project to see why Government members are wrong in blaming their loss of the South Coast seat in the 2003 election on the personal attributes and work of Wayne Smith.

The Roads and Traffic Authority's preferred route in the environmental impact statement was somewhat disappointing. In effect, the route is the substance of the bill's Morton National Park revocations. Most of stage one of Main Road 92 between Hames Road and Nerriga is fairly simple to build. About 2.5 kilometres out of the whole 54 kilometre route is difficult, and that is around the area commonly known as Bulee Mountain. The road currently narrows to one lane and has very tight curves and is quite steep. That section is one of the oldest sections of road in New South Wales, dating back to 1856. The RTA's preferred route follows that existing road corridor at Bulee Mountain. It will be quite steep and cars and trucks will have to slow down to 60 kilometres an hour. The travelling time of cars along that section of road is four minutes for cars. The route affects 30 threatened species plants, and there are only two opportunities for wildlife underpasses to allow animals to travel underneath the road.

An alternative route, just to the north, would have been far less steep and shorter in distance. It would have left the historic 1856 road unaffected, whereas parts of it will be destroyed by the preferred route. The alternative route would have affected fewer threatened plant species and has more opportunities for animal underpasses, six in fact. The only objection to the alternative route was that the amount of national park revoked would have been increased. In February 2003 the honourable member for South Coast, Shelley Hancock, and I, developed a public awareness campaign to make sure that the Shoalhaven residents made submissions to the RTA. We distributed a brochure and Shelley featured heavily on radio station 2ST. As a result, hundreds of residents wrote to Shelley seeking a high standard road that is an easy drive for tourists and capable of safely handling the heavy trucks that we want to get out of Kangaroo Valley and onto Main Road 92.

Shelley Hancock made a detailed submission to the RTA and I believe she was successful in securing three key changes to the preferred route, as outlined in the Preferred Activity Report issued by the RTA in August 2004, which affects, of course, the revocation we are talking about. While the preferred route remains intact, there are now significant changes at Bulee Mountain with overtaking lanes eastbound and westbound. This will make the road more efficient. Likewise, local concerns have been listened to about changes at the Turpentine Road intersection and at Sassafra.

I turn now to the comments made by Mr. Ian Cohen. He said that as a matter of principle he was opposed to revocations. He outlined a number of very limited circumstances in which he thought that they were appropriate. I suggest that his comments were a little misguided, and certainly do not demonstrate an understanding of the difficulty we have in upgrading roads on the South Coast, particularly the Princes Highway



and certainly this road corridor. Reverend the Hon. Fred Nile, who lives on the South Coast, would be aware that along large sections of the Princes Highway between Nowra and Bega the national park comes up to the edge of the highway. It is certainly the case with the Main Road 92 corridor; national park is declared right to the edge of the road corridor.

The idea that revocations should be opposed in principle is, I suggest, partly unsustainable. No single major traffic route on the South Coast would be upgraded unless we have legislation such as the one we are discussing this afternoon—another further adjustment of areas bill involving a revocation. It is inevitable that we will have to deal with similar bills from time to time. Instead of taking an inflexible ideological view leading to opposition, as the Greens have indicated, I suggest that the Greens have a realistic approach to national parks that encompass major traffic routes such as the Princes Highway and Main Road 92. The Hon. Ian Cohen talked about inadequate wildlife underpasses.

As I have extensively outlined to the House, more than two years ago the member for South Coast and I pointed out that that is exactly what would happen if the RTA's preferred route was adopted and if we followed the existing Main Road 92. With a revocation of only a small extra amount of Morton National Park, a route would have provided three times as many wildlife underpasses as currently allocated by the bill. Ironically the Hon. Ian Cohen talked about the project running over budget. Earlier I said that this became a road of national importance in 1998. The State Government first said it would sign on in 1999 and then reneged. In 2001 the Government said it was on again. Five years ago the State Government said that it would proceed with the upgrade of Main Road 92 but yet only now, in June 2005, are we seeing an adjustment to the national park boundary.

The Hon. Ian Cohen also said that the environmental impact statement had not yet been finalised, seven years after this road was declared a road of national importance. If he is worried about cost blow-outs he should look at some of these processes and the performance of successive Ministers in relation to this project. I am proud of the role that Shelley Hancock and I played at the State level to support Joanna Gash's commitment to this road, which led to this bill and to this national park revocation. Shoalhaven council's role must also be acknowledged. As a councillor for 14 years and as deputy mayor, Shelley Hancock has consistently been a strong supporter.

Mention must also be made of the council's economic development manager, Greg Pullen, whose diligence has ensured that our two most recent mayors, Max Atkins and Greg Watson, have been well equipped to take up the fight effectively on behalf of Shoalhaven residents. They have done that. Shoalhaven council's \$14 million contribution to the project has already been spent. It was great to watch the commencement of the project and to see the bulldozers push off in October 2001 for the first section of the upgrade between HMAS *Albatross* and Hames Road, which Shoalhaven council's share has funded.

As I said, the 2005-06 budget allocates \$15 million for this project. That puts into stark perspective the criticism of the Hon. Ian Cohen in this debate about the lack of consultation on this bill. He said there has been no consultation with various groups, but the preferred route has been known since December 2002, almost 2½ years ago. And money has been allocated in this year's budget for this project. That makes a bit of a joke of his claim about no consultation. I note that we are still waiting for a number of final approvals for various State agencies and Ministers. As with so many of this Government's infrastructure projects, I will believe it when I see it, particularly given the six years of delays we have already experienced. The passage of the bill does, however, make it somewhat more of a reality. The other aspect of the bill that is important to Illawarra tourism also has the support of the Opposition.

I note the comments of the honourable member for South Coast about the cost of the project. State Government delays will almost inevitably result in a more costly road than the initial estimates, and the Government will have to find the extra funds. I conclude by welcoming the bill and urging the Government to get on with the job of completing Main Road 92.

**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) [6.22 p.m.], in reply: I thank honourable members for their contributions and commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## SPECIAL ADJOURNMENT

### Motion by the Hon. Tony Kelly agreed to:

That this House at its rising today do adjourn until Tuesday 13 September 2005 at 2.30 p.m.

## ADJOURNMENT

**The Hon. TONY KELLY** (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister for Lands, and Minister Assisting the Minister for Natural Resources) [6.24 p.m.]: I move:

That this House do now adjourn.

## MEDICAL RESEARCH FUNDING

**The Hon. DAVID OLDFIELD** [6.24 p.m.]: Recently I met with a number of high-profile international medical specialists whose innovations are both exciting and inspiring. Biomechanics, neurology and hyperbaric medicine have, for a long time, been areas of great interest to me. I was fortunate to be introduced to some of leaders in those fields, and I will expand on those matters at another time. Tonight I will concentrate on medical matters that are closer to home. On 7 June I attended a function hosted by the Australian Society for Medical Research [ASMR]. This was the second time I enjoyed receiving and accepting an invitation from the ASMR. Whilst I acknowledge the organisation's choice of venue and the good company at the table at which I was seated, it is most important to recognise the important work and many successes of the ASMR.

There is a question mark over the level of funding made available for medical research in Australia. I have certainly adopted the message that the benefits derived from medical research work in Australia are felt every day. As an example I note in particular the following. Australia is ranked as the sixth largest biotechnology centre in the world behind the United States of America, Canada, Germany, the United Kingdom and France. It is understood that financial investment in health and medical research returns a fivefold benefit to our economy. Australia has been responsible for many of the world's most important discoveries. Australian researchers established the link between folate intake and spina bifida, proved the link between sudden infant death syndrome and a baby's sleeping position, and proved a causal bacterial link with gastritis and stomach ulcers.

Our innovators invented the first bionic ear and discovered that lithium compounds could relieve the symptoms of bipolar disease. As things stand, the prevalence and cost of disease in Australia are predicted to grow dramatically as our population ages. In 2001-02 dollar terms the cost of health and aged care in 40 years time is estimated to rise fivefold. These issues are recognised by the Commonwealth Government's report "Australia's Demographic Challenges", which was released by the Federal Treasurer in February 2005. The report highlighted the need to place a top priority on improving older people's capacity to remain active in the work force through better education and health. It is in all our interests to keep people healthier for longer, and active medical research leads the way in keeping people fit, on their feet, and productive, rather than constantly accessing the health system and hence being a burden.

I have seen evidence of the outcomes of the political strategies put in place in the United States of America 25 years ago. Vibrant biotechnology and pharmaceutical industries have resulted in a tenfold increase in patents, and the United States of America has benefited from a fourfold increase in corporate research funding. We are good at discovery, but too many Australian breakthroughs leave our shores. We are losing out on the economic returns of intellectual property generated by health research and development. We should be learning from the United States experience and appropriately increasing our investment in medical research. Our researchers recognise that further investment would benefit Australians by, particularly, targeting issues important to Australians, such as ageing, obesity, diabetes, heart failure, bird flu, and bioterrorism.

In April 2005 the European Commission announced it would double its research budget to Euro70 billion over seven years so as to bolster growth and competitiveness, and to catch up with American and Japanese spending on innovation, hence transforming the European Union into a knowledge-based economy. Many international corporations are choosing countries such as Singapore and Ireland over Australia for their research and development bases, due to attractive incentives and tax arrangements. Industry experts believe biotechnology will be the next big driver of the global economy.

Australia needs to keep at the forefront by continuing staged growth in health and medical funding. We need to create an environment to attract private investment and to appropriately protect intellectual property. Unfortunately, there are perhaps very few votes attached to addressing medical research funding, but Australian expertise must be preserved and encouraged. We can do that by helping our researchers to get on with the indispensable job of research, and that can only be achieved through increasing levels of funding.

#### COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE "CHILDREN AT WORK" REPORT

**The Hon. JAN BURNSWOODS** [6.29 p.m.]: Tonight I congratulate the New South Wales Commissioner for Children and Young People on the report entitled "Children at Work", which I think all honourable members received a copy of this week. I refer in particular to the work of the commission in my capacity as deputy chair of the parliamentary oversight committee on the commission, which has been in existence for some years. The commission has been in existence since 1999. As honourable members know, child protection and the screening of those who work with children constitute a major part of the commission's work. But the commission plays other important roles that are probably not recognised as readily, one of which is research. In that role it has produced a substantial, 180-page report entitled "Children at Work".

This is probably the most detailed and thoughtful report on this subject I have seen. I have been interested in this area for many years and I followed with considerable interest the work done, particularly by the Carr Government, in certain areas. For instance, a few years ago the then Attorney General, Jeff Shaw, and the then Minister for Community Services, Faye Lo Po', commissioned an investigation into some aspects of children's work. I am sure that all honourable members are aware of recent studies on the employment of children as outworkers in the clothing industry. I congratulate the women behind the Fair Wear campaign on their work in that area. There has also been considerable discussion about children employed in areas such as the cleaning industry.

"Children at Work" details comprehensively which children work, where they work, what they do, and what their experience is, both good and bad. I think some of the statistics and comments will surprise most people who read the report. The study involved a large sample, 11,000 children from years 7 to 10 who attend a variety of New South Wales schools. It revealed that just over 56 per cent of the children surveyed had worked in the previous 12 months. I think that is an enormous percentage. As the report points out, if it was applied to the general population it would equate to about a quarter of a million children between the ages of 12 and 16.

The report also contains breakdowns of which children are working, some of which are surprising—at least at first glance. For instance, children in the least disadvantaged areas are more than twice as likely to work as children in the most disadvantaged areas. One might expect the opposite to apply. The reason seems to be linked mostly to the unequal distribution of work opportunities, and contradicts to some extent the notion that children are working solely from economic necessity. That information raises a number of issues.

Another area where findings do not support common preconceptions about children is in relation to different cultural and ethnic groups. These findings do not support preconceived ideas about children from certain cultural groups working under exploitative conditions in family businesses. In fact, children from culturally and linguistically diverse backgrounds are only half as likely to work as those from Anglo Australian backgrounds. The report also contains details about children from Aboriginal and other backgrounds.

All this information can be found in tables at the back of the report and in graphs and tables in individual chapters. The work that children perform will probably not surprise people—although perhaps the emphasis on certain areas probably would. The five most common areas of employment are babysitting, food and drink sales, leaflet and newspaper delivery, cleaning, and general farm work. Not surprisingly, there are clear gender divisions in these areas that broadly reflect trends in adult employment. [*Time expired.*]

#### NORTH-WESTERN SYDNEY POWERLINES INSTALLATION

**The Hon. DAVID CLARKE** [6.34 p.m.]: One thing would have been very apparent to anybody who has visited the Rouse Hill and Vineyard area of Western Sydney in recent months. They would be aware that there are a lot of very angry people out there. And they have good reason to be angry, because their community is soon to be saddled with a big dose of visual pollution. Their community is about to be vandalised—by the State Government no less. Their community is about to be scarred and defaced by a mass of high-voltage powerlines and a veritable forest of ugly 25 metre high poles along which the high-voltage powerlines will be strung.

This saga has been festering for some time, and it all stems from the pigheaded insistence by Integral Energy and the State Government on upgrading the Vineyard to Rouse Hill powerline by way of aboveground powerlines rather than with an underground line, as one would expect in the twenty-first century. The Rouse Hill-Vineyard area is populated mainly by families with young children. It is a community where people take pride in their homes and gardens. Residents were content that their children were being raised in pleasant environmental surrounds.

Everything seemed fine until Integral Energy came along with its health-threatening aboveground powerlines, which are eyesores. The original plan was to construct a multitude of ugly lattice-type steel towers 40 metre high, the height of 14-storey buildings, and that is when the community saw red. The community obtained expert advice that property values in the area would plunge. Residents had deep concerns about health and safety issues, especially the suggested link between overhead powerlines and leukaemia rates in children. Residents could see that when the State Government had finished with them their pleasant community would take on the appearance of one of those hideous Stalinist-built Siberian cities, where the only thing that stands out is an ugly panorama of steel towers and powerlines—the sorts of drab towns that Soviet trains passed through as they shipped their prisoner cargo to the Siberian Gulags.

But the locals decided to do something about it. First, they lobbied their local State member of Parliament, John Aquilina—but a fat lot of good that did. They then decided to form themselves into a residents action group, the Anti-Transmission Tower Action Group [ATTAG], and they found a champion in the newly elected Liberal Federal member for Greenway, Louise Markus, who took up their cause. After a campaign of lobbying, organising and plain hard work, ATTAG succeeded in shaming Integral Energy to back down partially.

Integral Energy ditched the planned 40-metre steel towers and announced that 25 metre high poles would be installed instead. A drop in height from 14 storeys to 10 storeys is certainly better than nothing—but not by much. However, the locals will not be coaxed into silence by this puny change. They are insisting that the powerlines be placed underground, as they are in other communities. The Government's feeble response is that it will cost more money to relocate the powerlines underground. It is hardly discovering America in making that statement. We were not born yesterday: of course we know it will cost more money. But if cost were the only factor we would settle for dirt roads instead of roads that are sealed, kerbed and guttered, and for septic tanks instead of sewerage lines.

The New South Wales Leader of the Opposition, John Brogden, has given an ironclad guarantee that when the Coalition comes to government in less than two years it will ensure that the powerlines are buried underground so that the landscape is not defaced, property values do not fall, and the health of locals does not suffer. The Rouse Hill and Vineyard community, through its grassroots body ATTAG, is to be congratulated on its David versus Goliath fight in standing up for its rights.

I pay tribute to the tireless efforts of Louise Markus, who has taken up the residents' cause so energetically—even though the State member of Parliament, John Aquilina, should be resolving the matter. I congratulate the Leader of the Opposition, John Brogden, who has been unequivocal in his commitment to put the powerlines underground. The State Government has broken endless promises—including its promise "signed in blood" to halve hospital waiting lists—but Rouse Hill residents can be assured that when John Brogden becomes Premier in less than two years this is one of the first promises he will deliver.

#### **RESIGNATION OF DEPUTY PRIME MINISTER THE HONOURABLE JOHN ANDERSON**

**The Hon. MELINDA PAVEY** [6.38 p.m.]: It is with mixed emotions that I acknowledge the wonderful contribution to this country by the Deputy Prime Minister, John Anderson. He stands proudly alongside other magnificent Federal leaders that the National Party has produced, from Sir Earle Page, Black Jack McEwen, Doug Anthony, and Ian Sinclair to Tim Fischer. Much has been said today in reflecting on John Anderson's contribution to public life. The sentiment was summed up best by Labor's Daryl Melham, who said it is not often that nice guys get to the top in politics—but John Anderson is one of them.

One of the highlights of my political career in this Chamber has been to support the Government's legislation on the Australian Rail Track Corporation. I acknowledge the work by John Anderson and Michael Costa that gave the Federal Government the Australian rail track, so we can get some commonsense policies and efficiencies within the Australian rail track network. John Anderson and Michael Costa achieved that. New South Wales was the last State to get on board but commonsense prevailed as soon as Michael Costa took over the portfolio. I contributed in a very small way, and I appreciated the significance of speaking in the debate.

John Anderson contributed significantly to water reform and getting a fair deal and reward for country residents right across Australia, particularly those in the Namoi Valley who gave away part of their water licensed. That would not have happened but for John Anderson. Indeed, many things would not have happened but for John Anderson. Last weekend at The Nationals conference, John Anderson's speech was one of the finest, if not the finest, political speech I have ever heard. It inspired the more than 200 delegates there. It was a magnificent contribution. What struck me was John Anderson's bewilderment; he is driven by policy and good outcomes, not politics. Today he said that he was not the best political operator but that he admired that in people around him.

What disturbed John Anderson most during the past few weeks was the decision of the Government—Bob Carr and Bob Debus—on Brigalow. He realises more than Bob Carr and Bob Debus how that decision will impact on local communities, villages and towns such as Gunnedah, and on the workers that the lattel Left centre of the Australian Labor Party have forgotten. He was absolutely bewildered by such a bad policy decision. In 2002, some four months before the State election, the Premier and the Government had made their decision on Brigalow—we confirmed this through the Government document that was leaked to the Deputy Leader of the Opposition this week.

John Anderson could not believe that a Premier could get away with saying there would be no job losses in the Brigalow, and then passing legislation, to its greatest shame, this week that will have an enormous impact on Gunnedah, Gwabegar and countless other communities. John Anderson knows that it is bad policy because in 1788, which is the benchmark that honourable members referred to, that land was open grassland and savannah land with a few trees. It is now a man-made forest. John Anderson was bewildered by those politics, because he knew it was not good environmental science or environmental management; it was an outcome about politics and green preferences. We have much to be thank John Anderson for, including the light he has shone on The Nationals. We will forever hold him very high, and history will record him as standing higher than the accolades he received during his time. [*Time expired.*]

### INTERNATIONAL CLEANERS

**The Hon. IAN WEST** [6.43 p.m.]: Just over a week ago, on Wednesday 15 June, cleaners throughout Australia united with their colleagues overseas for the International Cleaners Day of Action, otherwise known as International Justice Day. International Justice Day has been observed for 15 years since June 1990, when Los Angeles cleaners held a demonstration in support of better conditions but were physically attacked by police.

Last Wednesday worldwide, cleaners and their unions celebrated in nearly 30 cities in a dozen countries on five continents, including the United States of America, Canada, the United Kingdom, Germany, France, the Netherlands, Sweden, Denmark, Argentina, South Africa, and Australia. I congratulate the cleaner's union, the Liquor Hospitality and Miscellaneous Workers Union, on its continued efforts to highlight the hard work and challenges faced by those who keep our parliaments, schools, office towers, and shopping malls clean, hygienic and functioning.

For cleaners throughout Australia, this year's celebrations highlighted the treatment of cleaners in the House of Commons, Westminster; Quad services and Anglican Retirement Homes in Canberra; Victorian schools; and Coles and Woolworths supermarkets. Every day, often in the early hours, Australian cleaners numbering more than 90,000 toil away. They often get little recognition for their work, either by decent pay and conditions or by acknowledgment and appreciation. But, worse than that, they continue to face an appalling standard of corporate behaviour. Many companies and organisations rely on workers being paid as little as \$10 cash in hand—no tax—per hour by subcontractors. Often these cleaners are women from non-English speaking backgrounds, many are recent migrants and do not have the literacy or industrial skills to understand how inferior their conditions are within Australia's legal framework.

Australian companies and organisations are directly benefiting from this immoral and often illegal behaviour. One of the most hypocritical things about the likes of Woolworths and Coles is that they attempt to shift the blame for poor treatment of cleaners onto subcontract companies and deny any wrongdoing—just as Coles and Woolworths have attempted to deny a chain of responsibility in long-haul trucking.

Many dodgy subcontractors continue to break the law by paying cash-in-hand wages well under the award rate and not providing a safe workplace or paying other legal entitlements. When honourable members talk about the effect of the predatory pricing of large multinational companies and their unfair advantage in rural, regional and suburban areas, and the effect on small businesses and regional operators, they would or should understand that part of the advantage enjoyed by companies like Coles and Woolworths comes through their subcontracting arrangements, including cleaning.

Cleaners are simply asking to be paid according to collectively negotiated and enforced award rates and conditions, including superannuation; for job security and entitlements, including a change of contract; for the right to join a union and bargain collectively; for better guidelines on subcontracting, including clients taking responsibility for ensuring that cleaning contractors comply with all laws and regulations; and for compliance with health and safety laws and proper support in the event of injury, including return to work programs and access to independent legal advice provided by the union.

Australian cleaners support their colleagues overseas. As a proud life member of the cleaners union I am pledged to seek to ensure that cleaners here and overseas are given the support and recognition they deserve. That is why this July-August, as part of my Commonwealth Parliamentary Association tour, I will meet a delegation of cleaners engaged in the United Kingdom Houses of Parliament.

I will present a letter and petition in support of cleaners in Westminster signed by the vast majority or all members of the New South Wales Parliament. The petition will simply ask that workers in the House of Commons be treated with decency and respect and be put on a par with cleaners and housekeepers employed by the House of Lords. In this way, we can demonstrate very simply that we are prepared to play our part to ensure we are not absolving ourselves from the responsibilities we owe to the people who are, in the main unseen, invisible and unrecognised but who maintain our Parliament, schools, shops, office towers, and the like.

To ensure that cleaners receive an appropriate living wage, cleaning contractors here and overseas ought be part of a Code of Practice that has the active support and endorsement of companies who demonstrate their corporate social responsibility—including chain of responsibility provisions to cover contracting arrangements that are monitored and enforceable.

As part of my Commonwealth Parliamentary Association tour I will pursue relationships between workplace safety and road safety in legislation, policies, and prevention programs—with particular emphasis on the long distance trucking industry. In this respect I will meet with labour representatives, companies involved in road transport, government officials, and Parliamentarians in the United Kingdom and France. The implementation, enforcement and monitoring of chain of responsibility mechanisms will, I believe, be essential in helping to lift standards in the transport and cleaning sectors, among other industries.

In acknowledging International Justice Day and cleaners around the world, including New South Wales, and their employee organisations, I will continue to support them in any way I can to secure jobs that they know are important and are valued, and support them to maintain their jobs in the knowledge that they will receive a remuneration that allows them to function properly as members of society and live productive, social and economically secure lives.

## RELIGIOUS TOLERANCE

**The Hon. PETER BREEN** [6.48 p.m.]: Tonight I want to say something about religious tolerance. This week the Victorian Civil and Administrative Tribunal made a decision about penalty in the Catch the Fire Ministries case. The Ministry and Pastors Scott and Nalliah were ordered to apologise to the complainant, the Islamic Council of Victoria. Pastor Nalliah said on the steps of the court that he would rather go to gaol than apologise, so I expect the case is far from over.

In essence, the case is about what certain Christians believe Muslims believe and the right of those Christians to express their opinions. Pastor Nalliah believes he can say and do as he pleases in the promotion and defence of Christianity. Other Christians intervened in the case in support of the Islamic Council of Victoria. These included the United Church of Australia and the Catholic Church. The tribunal heard evidence from Father Patrick McInerney, who had studied Islam at the Pontifical Institute of Arabic and Islamic Studies. He holds a Masters in Theology from Yarra Theological Union and his major thesis was titled "Reconciling Differences between Religions."

Father McInerney gave evidence that pastors Nalliah and Scott misrepresented the teaching of the prophet Mohamed as recorded in the Qur'an and the Hadiths. There is no grand Muslim plot to overthrow western democracies and rape, torture and kill Christians in Australia when the time is right, despite what pastors Nalliah and Scott said. Judge Michael Higgins found that those statements were not made reasonably and in good faith or for any purpose in the public interest. His Honour also found that Father McInerney was a very impressive witness. Last night on the *7:30 Report*, I noticed that while Pastor Nalliah was denigrating the judge and portraying himself as a martyr on the steps of the court, Rabbi Jonathan Black from the Jewish

Community and Father John Dupuche from the Catholic Interfaith Committee defended the decision. While I do not agree with all aspects of the decision, particularly the wording of the proposed apology, I do believe justice has been done.

New South Wales does not have the religious tolerance laws that protect people from vilification based on their religious belief. When Neville Wran introduced the Anti-Discrimination Act into the Legislative Assembly of this Parliament in November 1976, he acknowledged the unfairness of allowing a person to be discriminated against on the basis of their religious conviction. The legislation passed the Assembly with the provision intact. Then Premier Wran was lobbied by Cardinal Gilroy and Archbishop Gough, and the Government removed the religious tolerance provision from the bill in this House.

The church princes did us no favours in New South Wales whether as Christians or Muslims. While minority religions have access to anti-discrimination laws in New South Wales by virtue of the ethno-religious origin definition of race, the two major religions, Christianity and Islam, must rely on the anti-discrimination boards in Victoria, Queensland and Tasmania to defend attacks against believers. When David Oldfield published his Muslim hate web site in New South Wales, it was left to the Victorian Anti-Discrimination Board to bring him to heel because the reach of the Internet extends to Victoria.

The reason Christians and Muslims fail to get a guernsey under New South Wales anti-discrimination laws on the ground of religious discrimination is that the ethno-religious origin definition of race applies only to those religious groups that identify with a particular country of origin. Both Christianity and Islam are world religions, which means if you are discriminated against in the New South Wales workplace on the basis that you belong to the Christian or Muslim faiths, then tough bananas. If you wish to vilify and incite hatred towards Christians or Muslims in New South Wales, then you do it with impunity, unless you happen to also publish the hate material in Queensland, Victoria or Tasmania.

Any suggestion that religious tolerance laws somehow intrude into the right to free speech is quite misleading. The idea that we are free to say what we like without being accountable for our words is simply wrong. I cannot walk into a crowded theatre and cry "fire" and not be responsible for my words. There are criminal laws about public mischief and perverting the course of justice. I cannot stand outside a Jewish Synagogue in the eastern suburbs of Sydney and hold up a sign that reads "All Jewish people should be placed in detention" without attracting the attention of the authorities including the Anti-Discrimination Board. If I were to hold up a sign outside the Lakemba Mosque that reads "All Muslims should be placed in detention", the New South Wales Anti-Discrimination Board would be powerless to take any action. Similarly, a person on the steps of St Mary's Cathedral with a sign that reads "All Catholics should be placed in detention" would be of no interest to the New South Wales Anti-Discrimination Board.

The fact is New South Wales anti-discrimination laws are themselves quite discriminatory. They do not apply equally to all citizens and religious tolerance laws operate only for the benefit of those religions whose followers can be identified with a particular country of origin. Earlier this week Premier Carr spoke in the other place about attempts in the United Kingdom to introduce laws preventing the incitement of religious hatred. He said, "It has been suggested that the right to offend is far more important than any right not to be offended." Well, that depends on whether or not the person offended belongs to a religious minority. There are many circumstances in which people can be vilified on the basis of their religion. Those circumstances will often extend to people who belong to world religions such as Christianity and Islam. I can subscribe to a world religion as a citizen of New South Wales and still be part of a religious minority, but I will not have the benefit of anti-discrimination laws. Premier Carr is continuing the injustice that began when former Premier Wran removed religious conviction as a ground for prohibiting discrimination under the Anti Discrimination Act.

### WORLD POPULATION DAY

**The Hon. ROBYN PARKER** [6.53 p.m.]: As a member of the Parliamentary Group for Population and Development, I would like to bring to the attention of the House that 11 July is World Population Day and the day's theme is "Equality Empowers". On this one day in the year we should be reflecting on what is happening to populations in developing countries, and more particularly in our region. The Parliamentary Group on Population and Development was formed in 1995 to support and promote the program of action that was adopted by acclamation, including by Australia, after the International Conference on Population and Development held in Cairo in 1994. The aim of the program of action is to raise the quality of life for all people through appropriate population and development policies and programs aimed at eradicating poverty and achieving sustained economic growth in the context of sustainable development. [*Extension of time agreed to.*]

The program of action affirms that advancing gender equality and equity, the empowerment of women, the elimination of all forms of violence against women, and ensuring women's ability to control their own fertility are ends in themselves and that they are cornerstones of development. The theme of World Population Day this year is central to our group's advocacy, particularly in the context of equality for women. Equality for women, in broad terms, calls for the same access to services and opportunities that most men have had for so long. When women are empowered in this way there is a positive flow-on to their families and their communities and, as a consequence, the burden of poverty and the harmful effects on the environment are alleviated.

Australia has supported a program in South-East Asia that addresses, for example, environment and reproductive health concerns through the provision of smokeless stoves. We have had many other opportunities to support people in our region, such as in East Timor, because sadly the global statistics are that 65 million, or 54 per cent, of the estimated 121 million children in the world currently out of school are girls, and 600 million women are illiterate compared to 320 million men. So we have a long way to go to empower women and provide good economic opportunities that will provide women with the right to live and a right to live without fear of violence, to ensure that there are not high rates of death in pregnancy and child birth, and that the accelerating rate of HIV/AIDS is halted.

There are many other health and education opportunities that we can provide to women in other countries. World Population Day and the Parliamentary Group for Population and Development are part of that process. On 11 July I encourage all honourable members to recognise that and think how fortunate we are in Australia and how much more we can do to address the root causes of worldwide poverty and inequality.

**Motion agreed to.**

**The House adjourned at 6.58 p.m. until Tuesday 13 September 2005 at 2.30 p.m.**

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