

LEGISLATIVE COUNCIL

Wednesday 8 September 2010

The President (The Hon. Amanda Ruth Fazio) took the chair at 11.00 a.m.

The President read the Prayers.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The President tabled, pursuant to the Independent Commission Against Corruption Act 1988, a report entitled "Investigation into Undisclosed Conflicts of Interest of a University of Sydney Employee," dated September 2010, received and authorised to be made public this day.

Ordered to be printed on motion by the Hon. Tony Kelly.

DEATH OF PRIVATE GREG SHER

Motion by the Hon. Lynda Voltz agreed to:

1. That this House notes the tragic loss of Private Greg Sher, a member of the 1st Commando Regiment, who was killed whilst part of the Special Operations Task Group in Afghanistan.
2. That this House extends its condolences to Private Sher's family, friends and comrades.

THE CHOICES OF LIFE PROGRAM

Motion by Reverend the Hon. Fred Nile agreed to:

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution the following documents, created since January 2009, in the possession, custody or control of the Minister for Education and Training or the Department of Education and Training:

- (a) all documents relating to the approval for The Choices of Life Incorporated program entitled, "The Wonder of Life (Before Birth)", in New South Wales primary schools,
- (b) all documents relating to the cancellation of the approval, and
- (c) all documents relating to the assessment of the program.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 135 outside the Order of Precedence objected to as being taken as formal business.

MITCHELL LIBRARY

Motion by the Hon. Lynda Voltz agreed to:

That this House notes that:

- (a) 9 September 2010 is the centenary of the opening of the Mitchell Library,
- (b) the library is currently celebrating with a 100-day exhibition of its most precious and interesting artefacts,

- (c) the Mitchell Library contains some of New South Wales' most significant documents, including the original endeavour journal of Sir Joseph Banks, William Bligh's Bounty Log, World War I diaries from Gallipoli and the Western Front, and nine of the 11 extant journals of the First Fleeters, and
- (d) recognises the legacy of David Scott Mitchell who, during the 19th Century, amassed the most significant collection of Australiana and books on Antarctica and the Pacific, which he bequeathed to the library alongside a £70,000 grant to assist in the construction of a wing to house the collection.

JESSICA WATSON VOYAGE COMPLETION

Motion by the Hon. Lynda Voltz agreed to:

That this House:

- (a) congratulates Jessica Watson on her safe return to Australian waters after being at sea since October last year when she departed Sydney,
- (b) notes the effort and sacrifice involved in circumnavigating the globe alone, and
- (c) wishes her all the best in the final stage of her journey back to Sydney and looks forward to her sailing through Sydney Heads in the next couple of weeks.

AUSTRALIAN WOMEN'S CRICKET TEAM

Motion by the Hon. Lynda Voltz agreed to:

That this House congratulates the Australian Women's Cricket Team, the Southern Stars, led by Captain Jodie Fields and Vice Captain Alex Blackwell, on their outstanding win to be crowned World Champions at the International Cricket Council World Twenty20 Championships in the West Indies.

WOMEN'S ASIAN CUP MEDIA COVERAGE

Motion by the Hon. Lynda Voltz agreed to:

1. That this House condemns the Sydney Morning Herald for its appalling coverage, both in print media and online, of the Matilda's win in the 2010 AFC Women's Asian Cup.
2. That this House notes that:
 - (a) on a day when the Matilda's should have received major coverage and when Samantha Stosur beat Justine Henin to proceed to the semi-finals of the French Open, the only two items on the online sports page consisted of "Nothing But Paint: Football WAG Sarah Brandner shows her true colours" and "French Open Fashion: Venus Williams not the only player making a fashion statement", and
 - (b) this is indicative of the continual poor performance by the media in regards to its representation of women in sport, which can hardly be attributed to a lack of good stories.

DEATH OF SAPPERS DARREN SMITH AND JACOB MOERLAND

Motion by the Hon. Lynda Voltz agreed to:

That this House:

- (a) extends condolences to the families of army combat engineers Sappers Darren Smith and Jacob Moerland from the Brisbane-based 2nd Combat Engineer Regiment, who were killed in action whilst patrolling the Mirabad Valley, in Oruzgan Province, Afghanistan, on behalf of the Australian people,
- (b) pays tribute to their bravery and courage whilst in Afghanistan, and
- (c) extends condolences to the soldier's comrades of the 2nd Combat Engineer Regiment.

DEATH OF PRIVATE TIM APLIN, PRIVATE BEN CHUCK AND PRIVATE SCOTT PALMER

Motion by the Hon. Lynda Voltz agreed to:

That this House:

- (a) extends its condolences to the families of Private Tim Aplin, Private Ben Chuck and Private Scott Palmer, part of the Special Operations Task Group (SOTG) and drawn from the Sydney based 2nd Commando Regiment, who were tragically killed in a helicopter accident whilst on operation in Afghanistan,

- (b) notes that Private Aplin, Private Chuck and Private Palmer were on their third tour of duty in Afghanistan and served with distinction and courage, and
- (c) extends its sympathy and support to the soldiers who were also seriously injured in the accident, particularly those who still remain in a critical condition.

COMMONWEALTH GAMES TEAM

Motion by the Hon. Lynda Voltz agreed to:

1. That this House:
 - (a) congratulates Jeffrey Hunt on his selection in the Commonwealth Games Team to represent Australia in New Delhi in the Marathon, and
 - (b) notes that this is a remarkable achievement from someone who started athletics at the age of 16.
2. That this House:
 - (a) congratulates his fellow Randwick-Botany Harriers running and training partner Jeremy Roff, who will represent Australia at the Commonwealth Games in the 1500m event, and
 - (b) notes that Jeffrey Hunt has a special attachment to the Parliament of New South Wales through his mother Karen Hunt, who is a member of the hardworking Hansard staff.

NEW SOUTH WALES SWIFTS

Motion by the Hon. Lynda Voltz agreed to:

That this House:

- (a) congratulates the New South Wales Swifts, who created history by finishing the regular season undefeated, and
- (b) extends its best wishes to the team for semi final one against the Adelaide Thunderbirds this weekend.

DEATH OF PRIVATE NATHAN BREWES, TROOPER JASON BROWN, PRIVATE TOMAS DALE AND LANCE CORPORAL JARED MACKINNEY

Motion by the Hon. Lynda Voltz agreed to:

1. That this House extends its condolences to the families and friends of:
 - (a) Private Nathan Brewes of 6RAR who was killed by an improvised explosive device (IED) on 9 of July 2010,
 - (b) Trooper Jason Brown of the SAS who died from gunshot wounds on 14 August 2010,
 - (c) Private Tomas Dale of 6RAR who was killed by an IED on 20 August 2010, and
 - (d) Lance Corporal Jared Mackinney also of 6RAR who was killed during an engagement with insurgents on 24 August 2010.
2. That this House pays tribute to the soldiers' sacrifice and courage whilst in Afghanistan as part of the Australian Defence Forces.

YOUTH OLYMPICS

Motion by the Hon. Lynda Voltz agreed to:

That this House:

- (a) notes the 2010 Youth Olympics were recently held from Saturday 14 August 2010 to Thursday 26 August 2010,
- (b) acknowledges the outstanding efforts of the 100 strong Australian Team and in particular the 14 representatives from New South Wales including: Jessica Fox (canoe), Scott Smith (canoe), Tom McDermott (equestrian), Luke Noblett (hockey), Flynn Ogilvie (hockey), Jordan Willott (hockey), Emma McKeon (swimming), Kenneth To (swimming), Jenny Blundell (track and field), Nicholas Hough (track and field), Michelle Jenneke (track and field), Kurt Jenner (track and field), Elliott Lang (track and field) and Brandon Starc (track and field),
- (c) congratulates our New South Wales Institute of Sport athletes, coaches, and officials on their haul of four gold, seven silver and five bronze, and
- (d) acknowledges the significant financial contribution of the New South Wales Government in assisting our elite athletes and coaches to compete successfully on the world stage.

RAMADAN

Motion by the Hon. Lynda Voltz agreed to:

That this House:

- (a) notes that Ramadan, the Islamic month of fasting, began on Wednesday 11 August 2010 and ends on Friday 10 September 2010 and that during Ramadan, Muslims ask forgiveness for past sins, pray for guidance and help in refraining from everyday evils, and try to purify themselves through self-restraint and good deeds,
- (b) recognises that in New South Wales, in accordance with the legislated Principles of Multiculturalism, communities are free to profess, practise and maintain their own linguistic, religious, racial and ethnic heritage, and
- (c) acknowledges the significant contribution of the Muslim community to our cultural diversity.

GENERAL PURPOSE STANDING COMMITTEE NO. 1

Portfolios and Hearing Times

Motion by the Hon. Don Harwin agreed to:

That the resolution referring the Budget Estimates and related papers to the General Purpose Standing Committees for inquiry and report, adopted by this House on 24 November 2009, and as amended, be further amended by omitting:

"GPSC1 Ports and Waterways, Illawarra, Mineral and Forest Resources2.00 pm – 6.00 pm"

and inserting instead:

"GPSC1 Ports and Waterways, Illawarra..... 2.00 pm – 4.00 pm

GPSC1 Mineral and Forest Resources4.15 pm – 6.00 pm".

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 262 outside the Order of Precedence objected to as being taken as formal business.

STANDING COMMITTEE ON SOCIAL ISSUES

Extension of Reporting Date

Motion by the Hon. Ian West agreed to:

That the reporting date for the Standing Committee on Social Issues inquiry into services provided or funded by the Department of Ageing, Disability and Home Care, be extended until Thursday 11 November 2010.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 266 outside the Order of Precedence objected to as being taken as formal business.

AUDITOR-GENERAL'S REPORT

The Clerk announced the receipt, pursuant to the Public Finance and Audit Act 1983, of a performance audit report of the Auditor-General entitled "Home Detention: Corrective Services NSW", dated September 2010, received and authorised to be printed this day.

PETITIONS

Coogee Bay Hotel Site

Petition opposing any redevelopment of the site bounded by Coogee Bay Road and Arden and Vicar Streets under part 3A of the Environmental Planning and Assessment Act 1979, received from the **Hon. Don Harwin**.

Unborn Child Protection

Petition requesting that the House uphold the sanctity of human life, defend the fundamental right of children to be born and reject all attempts to initiate legislation that emulates the Victorian Abortion Law Reform Act 2008, and encourage ways and means of promoting to the people of New South Wales that every baby deserves to be protected and nurtured from conception, received from **Reverend the Hon. Fred Nile**.

Adoption Laws

Petition requesting that the Parliament reject any proposed legislation or amendments to adoption laws that would take away the fundamental human right of adopted children to be raised by both a mother and a father, received from **Reverend the Hon. Dr Gordon Moyes**.

ADOPTION AMENDMENT (SAME SEX COUPLES) BILL 2010 (NO. 2)

Second Reading

Debate resumed from 7 September 2010.

The Hon. DON HARWIN [11.14 a.m.]: I am pleased to offer my support for the Adoption Amendment (Same Sex Couples) Bill 2010 (No. 2). This bill was introduced by the member for Sydney in the other place. I place on record the contribution of the mover in this House, the Hon. Penny Sharpe, whom I have been working with to ensure that this bill passes. I had planned to give a more lengthy contribution but as I am unwell today, I will just stick to the key principles of the bill and its provisions.

I pay tribute to the Standing Committee on Law and Justice, which has informed public debate with a well-researched and argued report, which is a great credit to this House and its work. The report has helped clarify a number of issues for me. Fundamentally it shows why our current statutory arrangements are a barrier to realising the best interests of the child. I note that all State and Federal laws concerning assisted reproductive technology, foster care and family law contain definitions of de facto relationships that include same-sex de facto couples. The Adoption Act is the outlier. This is a bill in which, unfortunately, the symbolic aspect of the changes proposed has been allowed to completely overshadow its actual purpose and practical application, and that purpose is to act in the interests of the child.

I am supporting this bill because voting against it is to deny to a large number of children the benefit of having an adoptive parent. These are the children of, mostly, gay foster parents, gay step-parents and legal guardians. According to the 2007 census, 1,533 children are living in same-sex families in New South Wales, many of whom are in this situation. These children do not have all the legal rights and protections of having two parents. This is wrong. Our focus should be on the best interests of the child. All children have the right to have their relationship with their parent protected by law.

The legal recognition of an adoptive parent benefits the child in a number of ways. First, it empowers the adoptive parent to consent to medical treatment and interact with child care and schools on behalf of the child. Secondly, it provides the child with certainty around custody and key issues, including child support in the event of separation. Thirdly, it gives the child automatic rights to inherit property and superannuation without costly and lengthy litigation. Fourthly, it ensures the child has rights to the workers compensation of an adoptive parent who dies or is seriously injured at work. This is not an exhaustive list of the benefits that could be obtained for these children under various State and Federal legislation if this bill is passed, but it certainly makes the point about why passing this bill is in the interests of children.

The current arrangements applying to adoption by step-parents will apply to gay and lesbian step-parents. The child must be at least five years of age and the step-parent must have lived with the child and

their birth or adoptive parent for at least two years. The consent of the birth parent is required and the Supreme Court will still need to be satisfied it is in the best interests of the child. I am particularly concerned about the position with respect to children placed with foster carers. Some 16,000 children in New South Wales cannot, for whatever reason, live with their birth family. They need love and understanding to help change their lives for the better, and foster care can make a real difference for them.

It strikes me as cruel to allow same-sex couples to provide long-term care for children but then deny them the right to formalise this relationship through adoption. This is an option available to individuals and heterosexual couples under the Children and Young Persons (Care and Protection) Act after foster care has been in place for a continuous period of two years. Moreover, and most importantly, it is extraordinarily unjust to deny particular children the possibility of eventual adoptive parentage under this Act and all the entitlements that could be conferred upon them under other legislation. In my view it is unconscionable to do that to children in the foster care of same-sex couples.

I ask those inclined to oppose the bill to focus on what is in the best interests of these children, not on their right to their opinion, informed by religion or any other matter. But these children are not their focus. When people think about adoption they are mainly thinking about what are referred to as "unknown" adoptions, where the child concerned has no prior contact with the adoptive parents. The recurring theme is the right that the child has to be brought up by their married biological mother and biological father. I respect that aspiration and the desire of many to cherish and uphold it. Indeed, it was the basis of my childhood. But we also need to recognise that, according to the Australian Institute of Health and Welfare's research, it will not be a life experience for one in four Australian children. The increasing trend to unmarried cohabitation, divorce and single parenthood has changed that. Research on the diverse parenting arrangements for children is, to be generous, contested. The Standing Committee on Law and Justice tried to discern some message from the range of findings, and I have studied its work closely. I am satisfied that sexual orientation is not a meaningful indicator of parenting ability. Indeed, our Adoption Act allows homosexual individuals to adopt a child with whom they have no prior connection. It is same-sex couples that are precluded from adoption.

Should this Act be passed, no right to adopt a child will be established. The only change will be who can apply and who can be considered. There is a thorough assessment process for all adoptions, with specific criteria set out in the Adoption Act to determine an individual or a couple's suitability to adopt a child. Birth parents can already be involved in this process, and the Supreme Court makes a final decision based on the best interests of the child. All of these protections will continue to apply if this bill is passed. Given the stringent statutory process, and as there are very few infants that are given up for adoption in New South Wales, I think the member for Sydney has some justification for concluding in the letter she sent to members a few weeks ago that her bill is "not likely to impact on unknown adoptions". If members are truly concerned about what is in the best interests of the child they should support this legislation. I commend the bill to the House.

The Hon. ROBERT BROWN [11.23 p.m.]: I speak on behalf of the Shooters and Fishers Party on the Adoption Amendment (Same Sex Couples) Bill 2010 (No. 2). At the outset I advise the House of my intention to vote against this bill and I will put forward my reasons for doing so. I have received 500-plus emails from people, like most other members, urging me to vote one way or the other—most have urged me to vote against the bill. It is plain that a lot of those objections, as well as objections by members who have indicated they will vote against the bill, are predominantly faith based. Far be it for me to belittle or decry those beliefs.

The last version of the Act this bill is attempting to amend is the Adoption Act 2000 No. 75. In an effort to determine whether this is a good bill I asked myself: What has happened between 2000 and 2010 to the plight of children who, for whatever reason, cannot live with a biological mother and a biological father? Generally speaking, the vast majority of those children, not all, cannot live with the biological mother and biological father because they are not fit to be parents. Week in and week out we are horrified by yet another report of a child being damaged or murdered. Despite the amount of effort that this Government, previous governments, and governments all over this country, put into trying to protect children, we do not seem to be making a lot of headway—the statistics will probably back that statement.

How difficult would it be for a department such as the Department of Community Services to be responsible for outcomes? My wife once thought about a career in this area but, for selfish reasons, I talked her out of it. I have talked to people who have worked in those services and I know that the emotional damage done to those workers and the turnover in the number of employees can be high. Ministers who have held this portfolio through various governments have also been put in difficult positions. Every time there is a newspaper report of a child being murdered, hurt or disadvantaged the Minister and the department get a hammering. What

an awful job! The current laws and the regulations that relate to the operation of the Department of Community Services are far too heavily weighted on the precept that children, wherever possible, should be left with the biological family. That is a nice theory but we see the consequence of that theory week in and week out—families are torn apart.

In considering this bill I asked myself: Why is this bill before the House now? Why are we debating it? What has changed for children who do not live in a "normal" relationship? I use the word "normal" insofar as it is a mathematical term to reflect that roughly 90 per cent of families comprise a mother, a father and 2.3 children, or whatever it is. I cannot see why the bill is necessary and how it is of benefit to children.

The objects of the Act are pretty clear and stark. Throughout the Act, in reference to its objectives and the rules that bind adoption agencies, the emphasis is on the best interests of the child. The Act suggests that the best interests of the child must be paramount, and that adoption is to be regarded as a service for the child concerned. However, the Act does not address the rights of adoptive parents or other people, except in a very limited fashion relating to consent. Even then, the courts have powers under certain circumstances to rule otherwise.

The Minister obviously has some reason for believing that the bill is necessary and timely. So in November 2008 terms of reference were given to the Standing Committee on Law and Justice to consider the situation. That is how we do business in this place: parliamentary committees hold hearings and take evidence regarding all viewpoints in the community. In this case, we have heard from other speakers in the Chamber—and we probably know by observation—that the determination of the law and justice committee was pretty much split 50:50, and that the committee's final determination was made on the casting vote of the chair. Indeed, providing a casting vote is one of the roles of the chair.

I believe this is a good committee report. I have not been a member of this place for long, and I have done probably a lot less committee work than some other members in this place. However, it appears to me that the law and justice committee has put in a great deal of effort in deciding whether a bill such as this is necessary. Nevertheless, the committee members' positions were pretty much divided, on what I would call perhaps almost religious lines. The committee members certainly did not vote along partisan party lines, because one Labor member disagreed with the committee's findings. Indeed, the Hon. Greg Donnelly made a dissenting statement, which is appended to the committee's report.

I have tried to work out why we need such a bill now, and what it changes in relation to the ability of children to be adopted. I looked to the determinations of the committee, and I came to the conclusion that the committee was divided evenly. So, again, there is no real indicator there. Certainly the recommendations of the committee are clear enough, but it may be that those recommendations simply reflect two opposing views and some arguments in the middle. Therefore, I do not believe the committee's report can be regarded as supporting a bill such as this. As I said, I cannot see any change or deterioration in the protection of the lives of a lot of children in our society, but I believe the issue of gay rights has progressed markedly in the past 10 years.

I ask: Is the bill about a change in the needs of children, or is it simply an argument about gay rights? Members in this Chamber and in the other place have argued some of these points. In order to inform myself better I read some of the comments made by members in the other place. I will not quote endlessly what is recorded in *Hansard*; I will simply highlight what I regard as relevant comments. In doing so, I will highlight comments by members who voted in favour of the bill and will ask members whether they gain the same impression I did. The Hon. Frank Sartor, who voted in favour of the bill, said:

I have some concerns with the bill ...

Let us remember that in seeking to amend adoption laws we should be addressing not the rights of various classes of adults but the paramount interests of children. The proponents of these amendments argue that it is all about the interests of the children, but I fear that that is not the only motivation at work here.

That is a comment on record by a member who voted in favour of the bill. I will not necessarily name the members concerned, unless the House desires that I do so. A Government member who also voted for the bill said:

The bill enshrines the important principle that the best interests of the child remain the paramount consideration in making decisions about the adoption of a child.

That is the argument that supported the eventual vote of that member. A Liberal member who voted in favour of the bill said:

It would be a great deal easier to oppose this bill; the status quo rarely needs defending to the same degree as change, and in any case I strongly support the notion that children are theoretically entitled to be brought up by both a mother and a father.

That member voted in favour of the bill, as I said, but she stressed that she felt the notion that a child has a right to be brought up by a mother and a father is the norm. Another Liberal member said:

The arguments against the bill sit easily with my own life experiences—life experiences that many people in this Chamber and in our community share, experiences grounded with a loving mother and a loving father. For me this is the ideal and it would require significant argument to alter the status quo.

Obviously there must have been significant argument because the member did alter his views about the bill. Another Labor member said:

I grew up in a loving, caring family with my mother and father ... I have great memories of growing up with my mother and father, and I was very lucky indeed ...

In a substantial part of the debate, the Leader of the Opposition said:

Like many other speakers, I believe that the ideal setting to bring up children is a loving and stable family environment with both a mother and a father present. It is the environment in which most of us—but not all—in this place have been raised. There are many others from which young people emerge but it is the ideal ...

Speaker after speaker who voted for the bill conditioned their response by stating the same thing over and again. One speaker said:

I have always held the belief that the best environment for a child is with a mother and father but ...

There are many "buts" in this debate. It appears that many speakers, even those who spoke for the bill, believe that the ideal situation is for a child to be brought up by a mother and a father. The bill seeks to change that ideal situation. It may be argued that it is pragmatic to do so. I will speak about the numbers of children who are involved and the numbers of adoptive parents who are available. With regard to the vote on the bill in the other place, 62.4 per cent of Australian Labor Party members voted in favour of the bill. However, 78.6 per cent of the Labor Cabinet voted in favour of the bill.

The Coalition and the shadow Cabinet were fairly even, with both voting roughly 35 per cent for the bill. Interestingly, the Australian Labor Party Left caucus showed 100 per cent solidarity. Does that suggest Cabinet bias for the bill? Let us consider the timing of the debate in the other place. Why did the Premier, after making a big deal about allowing a conscience vote, call on debate on a private member's bill when two of her Labor colleagues who are professed no supporters were unavailable? Why bring this bill before the Parliament?

In my view, this is more a debate on gay rights than on children's rights. We have heard that the number of children in these dire circumstances and the number of prospective adoptive parents are way out of whack. There are 10, 20, 30, 40 or 50 times the number of prospective adoptive parents. There is a large pool of prospective adoptive parents from which the adopting agencies can choose. This debate cannot be about an urgent need to increase that pool. It is not a matter for argument. The issue of foster care has been raised and whether it relates to adoption. There is a difference between foster care and adoption. Foster care is generally temporary, although it can turn into a long-term solution, and is subject to regular and constant checks by the regulators. An adoption order is for the long term. The Adoption Act specifically requires that the adopting agencies take into consideration the long-term interests of the child when the child becomes an adult. In other words, they must give consideration to the long-term circumstances.

In opposing the bill, I put up my hand and say that I am a confirmed Catholic. However, I am a lapsed Catholic since about 1962. I stand here with other members and I pray. However, I do not have any hard and fast religious views on issues such as homosexuality. I do not necessarily support some of the statements that have been made in this House by some of the no proponents who stand behind firm religious views. Equally, I do not necessarily support that part of the debate that I consider to be about gay rights. When I take into consideration all the matters—the votes in the other place, the timing of the bill and the way in which groups within Parliament have voted—I concur that this bill is probably about advancing gay rights, not necessarily about fixing an existing problem. If there were 10 prospective adoptive parents and 500 children needing adoption I would take the opposite view as there would be a problem that required fixing. That is not the case here. For those reasons, I do not support the bill.

The Hon. CHARLIE LYNN [11.43 a.m.]: The Adoption Amendment (Same Sex Couples) Bill 2010 (No. 2) should be about the rights of children who have not reached a sufficient state of maturity to allow them to make an informed decision about adoptive parents. I judge this stage to be between the birth of a child and the early teenage years. I argue that such children have a right to be raised by a mother and a father during these formative years. Unfortunately, this bill is not about the rights of vulnerable adopted children, it is about the rights of adults of the same sex to adopt infant children. The bill has not been introduced to meet an outstanding demand for adoptive parents. Indeed, the proponent of the bill, Clover Moore, admitted that there were only about 15 cases of infants given up for adoption in New South Wales last year. I understand that the number of couples and families seeking to adopt infants far exceeds this figure.

Given that the number of couples and families wanting to adopt exceeds the number of infants available for adoption, I question why we are devoting so much of the Parliament's time to debating this bill when we have other more important economic and social issues to address at present. I also note that a great number of self-congratulatory comments have been made about the fact that members of the Liberal-Nationals Coalition and members of the new rainbow coalition of Greens, Labor and Independents have been allowed a conscience vote on the issue. Apparently our leaders have decreed that members should be able to vote according to their conscience because of known divisions in the community over this issue. If that is the case—and I believe it is—then we should allow the community to exercise their conscience vote. We have six months between now and the next State election to put the debate out to the community so that people can make an informed decision at a referendum on the day of the election.

I appreciate that some members do not believe the public can be trusted to make an informed decision on such a complex social matter. I point out that the community does not have a lot of faith in the ability of elected members to get things right either. People are reminded of our failures every day of their lives as they try to get to and from work, access emergency services at our hospitals, enrol their children in good schools, pay their electricity bills, meet their tax obligations and get government out of their lives. They would much prefer that we address the issues that impact on their quality of life rather than waffle on about a social issue that has no urgency attached to it and when there is no demand because there is no shortage of prospective adoptive parents.

A number of speakers have used dysfunctional heterosexual families to support their argument in favour of same-sex couples being allowed to adopt infant children. While this is not relevant to the bill, it is interesting that many seem to agree that alcohol and drugs are a common factor amongst such families. I add a couple more: a breakdown of the traditional family unit, a dilution of family values, and welfare dependency and rights without responsibilities. Much of the blame for these shortcomings can be attributed to the social engineering that has emanated from the rainbow coalition of social justice committees in this place. That was reinforced by the Minister for Education and Training during debate on this issue in the other place and in an article she wrote for a newspaper when she advised that the bill is the last plank in the gay and lesbian platform for achieving the adoption of children.

That is a clear admission that the bill has nothing to do with the rights of infant children. It has nothing to do with the right of an infant child to have a mother and a father until they reach a stage where they are able to make a decision on their future. I have no issue with that. The Minister's outing of the real intention of the bill is another reason it should be put to the people in the form of a referendum at the next State election. That will not occur because there are members of the Left in this Parliament who do not believe the people can be entrusted with such decision. A key member of the rainbow coalition of Green, Labor and Independents, Mr Ian Cohen, said yesterday in this place:

Some may have a very sincere but misinformed belief that children will find it difficult to be raised by a same-sex couple, while others are simply exercising a disappointing level of discrimination and bigotry.

This represents an elite view of what they regard as the great unwashed in our society. I have a different view. I believe the majority of people would agree that the right of an infant child to be raised by a mother and a father is paramount. I commend the contribution of the member for Pittwater, Rob Stokes, in the other place. His contribution should be read by those who have a genuine interest in the rights of infant children and prospective adoptive parents. Rob Stokes told the House:

Much of the debate surrounding this bill has been about the rights of religious institutions in relation to adoption and the rights of homosexual people in relation to adoption. Yet in the adoption of a child surely the rights of religious institutions are not relevant and surely the rights of homosexual people are not relevant. That is not to say that the rights of religious bodies or of homosexual people are not important. They are, as are the rights of every person. But these rights are just not relevant to the adoption of children. So in my view the issue of exempting faith-based adoption agencies from the application of the

Anti-Discrimination Act 1977 in relation to their role in the placement of children for adoption is not of fundamental relevance to the adoption of children and should not be inserted into the Adoption Act. This is a bill about the rights of children, not the rights of faith-based agencies. In the same way, the issue of gay rights is simply not relevant to adoption. This is a bill about children's rights. It is not about removing "the last piece of direct legislative discrimination against same-sex couples" or about "demanding immediate adoption equality".

I note that the Legislative Council Standing Committee on Law and Justice in its report advocating same-sex adoption stated that, "Such reform will address discrimination against same-sex couples", but surely this is not the issue, and nor, from a proper reading of the Adoption Act, should any demand for rights by any adult—homosexual or not, religious or not—be a relevant factor in the adoption of children. So I believe the issue of discrimination against any adult or institution should be put to one side. It has no relevance to the substantive issue, which must be the best interests of the child. This bill has nothing to do with religion; the bill has nothing to do with discrimination; nor does the bill have anything to do with a parent's sexuality. A number of members, and the Legislative Council committee's report on this issue, have made the point that the sexuality of parents is not relevant to adoption. I would agree. I do not believe that a person's sexual orientation precludes him or her from being a fit and proper parent, but that is not what this bill is about. This bill relates to a parent's gender, not a parent's sexuality. It is a bill about whether two people of the same gender should be able to adopt a child as co-parents.

Sexuality has never been an issue under the Adoption Act. Nowhere is it mentioned in the Act and, as others have pointed out in this debate, it is currently legal for a single person to adopt and in practice some of these parents have a same-sex partner. But in relation to adoption by couples, gender is relevant. I truly believe, especially in relation to unknown adoptions by couples—adoptions that usually involve infants and very young children—that such children should retain the right to have both a mother and a father, and I believe that in New South Wales we should continue to recognise the rights of a child, wherever possible, to enjoy the love and support of both a mother and a father. The bill seeks to remove this right so that children being adopted by couples may be adopted into a situation where they have two fathers but no mother, or two mothers but no father. While I am well aware of many circumstances where such parenting arrangements work, and work really well, I remain convinced that we should continue with the law that an adopted child can benefit from the love and support of both a mother and a father.

One argument advanced in support of changing the existing law is that by expanding the pool of potential adoptive parents it allows adoption agencies a greater range of choice to select the most appropriate parents. However, I have seen no evidence that there is a shortage of potential applicants in the case of unknown adoptions. I do not believe that there is a shortage of couples willing to adopt children. So the need for more adoptive parents is not a persuasive argument for change. Another argument advanced in support of changing the existing law is the case of known adoptions. This is a situation where the child already had their relationship with the adoptive parents, typically where the child is already in the foster care of the adoptive parents. This is the situation in the overwhelming majority of adoption cases in New South Wales at present. I am aware of several circumstances where foster children in the care of homosexual couples want to be adopted by those couples, which is not possible under the existing law. I am very sympathetic to their preference and would not oppose a change in the law to allow those children the right to choose. This is in keeping with my view that adoption should be all about the interests of the child, not any adult. As the Legislative Council Standing Committee on Law and Justice stated in its report:

It is in the area of known adoptions that reform to allow same sex couples to adopt will have its greatest impact.

I understand the issues relating to same-sex adoption of known children, and I am persuaded by them. It is therefore a shame for me that this issue—the big issue in adoption by same-sex couples—has been rolled into a bill that also has the effect of altering an infant child's right to both a mother and a father in the case of unknown adoptions. Because these issues are treated together in the legislation, I am placed in a position where my conscience will not allow me to support it.

I share the sentiments expressed by Rob Stokes and I congratulate him on his thoughtful and balanced contribution to the debate. I certainly have no objections to a mature young person electing to be adopted by a same-sex couple. I acknowledge that many such couples will provide a loving, caring and secure family environment for that person. But this is not what the bill is about. The bill is about the right of an infant child to be raised in a family environment with a mother and a father. I refer to the report of the Legislative Council Standing Committee on Law and Justice entitled "Adoption by Same-Sex Couples". The committee comprised four members of the new rainbow Green coalition and two Liberal members. The committee divided on a vote to approve the report and the chair, a member of the rainbow Coalition, used her casting vote to approve the report. A Liberal member of the committee, my colleague the Hon. John Ajaka, provided a dissenting statement, which is attached at appendix 7. That dissenting statement, with which I concur, says:

I. The scope of the extension of adoption eligibility criteria

If amendment to the *Adoption Act* is to proceed, in accordance with Recommendation 1, then it is my view that the extension of adoption eligibility criteria to permit same-sex couples to apply for adoption should *only* apply in respect of 'known children'. Accordingly, I moved an amendment to Recommendation 1, to the effect that it only applies in respect of 'known children'.

The rationale for this amendment, from the evidence before the Committee, is threefold:-

1. As stated in the Executive Summary of the Committee's Report, 'it is in [the] area of known adoptions that reform to allow same-sex couples to adopt will have its greatest impact'.
2. The importance of affording legal recognition to existing relationships between same-sex couples and children by way of amendments to the *Adoption Act* was cited as one of the 'best mechanisms to overcome ... deficits' in the current law, such as the inconsistencies which currently allow for foster care by same-sex couples and adoption by gay and lesbian individuals.
3. The overriding consideration of 'the best interests of the child' will be given clearer expression in cases of known adoption, where the child is familiar with the prospective adoptive parents and can express an opinion in respect of an Adoption Order.

II. The conditional exemption for 'faith-based' adoption agencies

Whilst I support the position taken by the majority of Committee members in favour of the extension for faith-based adoption agencies from the application of the *Anti-Discrimination Act 1977* in relation to providing same-sex couples with adoption services, I dissent in relation to the imposition of conditions of the type outlined in Recommendation 4.

Recommendation 4 states:

That, if an exemption from the application of the *Anti-Discrimination Act 1977* is created for faith-based accredited adoption agencies in the provision of services to same-sex couples, the exemption should be linked to a statutory requirement that the agencies refer any same-sex couples who seek their services to another accredited agency that will assist them.

The Hon. John Ajaka continued:

It is my view that to require faith-based adoption agencies to refer same-sex couples that seek their services to another accredited adoption agency is essentially to force the agencies to indirectly assist in the achievement of an outcome contrary to their underlying principles.

The report also contained a dissenting statement from the Hon. Greg Donnelly. He began his statement by asking:

Does a child have a right to expect to be raised by a mother and a father? Should New South Wales law recognise such a right and facilitate, wherever possible, children being raised by a mother and a father?

Pursuant to sessional orders business interrupted at 12 noon for questions.

QUESTIONS WITHOUT NOTICE

REWARD CONCERNING MALCOLM JOHN NADEN

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Attorney General. Will the Government take action to increase the reward being offered for information leading to the arrest of Malcolm John Naden, who is wanted in relation to murder and aggravated indecent assault offences? Given that he is one of the top five most wanted alleged offenders in this State, he is suspected of involvement in multiple break-ins at remote properties round Barrington Tops, including the stealing of rifles, and having regard to calls on the weekend by the father of one of Naden's suspected victims for greater assistance in tracking him down, what is being done to encourage information from the public that will lead to this man's arrest?

The Hon. JOHN HATZISTERGOS: As important as the question no doubt is, the member should be aware that the issue of rewards for the apprehension of persons suspected of criminal offences is a matter for the Minister for Police. Accordingly, the question should have been directed to the Hon. Eric Roozendaal, who represents that Minister in this Chamber.

ILLAWARRA AND SOUTH COAST STORM DAMAGE

The Hon. LUKE FOLEY: My question is directed to the Minister for the Illawarra. Will the Minister update the House on the storms in the Illawarra?

The Hon. ERIC ROOZENDAAL: I thank the member for his question and his interest in this matter. As members are aware, wild storms caused much damage across the State last weekend. In the Illawarra winds reached up to 125 kilometres an hour and damage was widespread. On Monday the hardworking member for Wollongong, Noreen Hay, and I were briefed by the operations controller at the State Operations Centre of the State Emergency Service [SES], whose headquarters are in Wollongong.

I thank all State Emergency Service members, including Deputy Commissioner Dieter Gescke and Director of Operations East Mark Morrow in the operations centre, for their hard work. I also pay tribute to the hundreds of volunteers and staff of the State Emergency Service on the ground in the Illawarra-South Coast region who worked so hard to help others in their time of need, especially on Father's Day, when they could have been spending time with their families. These men and women were instead diligently helping other families across the Illawarra and further south along the coast.

The high winds caused extensive damage along the coast from the Illawarra to Eurobodalla, lifting roofs off homes and other buildings and bringing down trees and powerlines. The Government has declared a

natural disaster for the Wollongong, Shellharbour, Kiama, Wingecarribee, Shoalhaven and Eurobodalla local government areas, triggering a range of assistance for the affected communities. As of 8.00 a.m. today, the State Emergency Service had received 2,203 requests for assistance in the region. In a sterling effort, 77 per cent of those jobs had been completed by last night and crews are out in the field again today. I congratulate those hardworking State Emergency Service men and women who have been tirelessly serving their community. State Emergency Service volunteers continue to assist communities to repair the damage. Local volunteers are being assisted by State Emergency Service teams that have travelled from other regions to lend a hand and also by teams from the Rural Fire Service and New South Wales Fire Brigades. When I was visiting the State Emergency Service State Operations Centre on Monday I saw firsthand how closely and thoroughly the rainfall and flood situation in the State's south also was being monitored.

The PRESIDENT: Order! I place the Hon. Rick Colless on a call to order for allowing his mobile phone to ring.

The Hon. ERIC ROOZENDAAL: Yesterday's natural disaster declaration also included the Tumut, Gundagai and Tumbarumba shires, which endured torrential rainfall and flooding over the weekend. Five flood warnings are still current from the Bureau of Meteorology. The State Emergency Service is undertaking flood planning and preparations, urging residents to prepare their properties and providing sandbags where needed. Flood rescue operators are in the Murrumbidgee and Murray regions as a precaution.

I am pleased to report to the House that while it was a busy weekend, and a weekend that caused much distress for members of our community, the response was well within the capacity of our State Emergency Service. The reality is that extreme weather events happen and it is our responsibility to prepare for severe weather, storms, floods and fires. New South Wales is well placed to deal with them. However, it is important that we are ready with the appropriate resources to respond to minimise the damage, to help people in need and to start the clean up as soon as possible. That is why in this year's budget I announced an investment of \$972 million in our emergency services, including \$64 million for the State Emergency Service. It is important that our emergency services are ready and able to face what challenges lie ahead. This investment included 20 new staff at the Wollongong state headquarters, 12 more in other regions across the State and positions in strategic and operational planning and warning systems.

In New South Wales we have wonderful men and women who volunteer in our emergency services and it is crucial that we recognise the work they do and the time they spend doing it by providing them with infrastructure and support. The Government's investment in the State Emergency Service this year also included \$2 million to assist with the cost of about 60 emergency response vehicles and \$1.4 million for rescue equipment, including \$600,000 for about 20 flood boats. That investment means that the State Emergency Service can continue its important work in supporting communities across New South Wales. Once again I acknowledge the hard work of the men and women across our State, particularly in the Illawarra, who work to keep our communities safe and to help them in their time of need.

COMMERCIAL FISHING

The Hon. DUNCAN GAY: My question is directed to the Minister for State and Regional Development. Is the Minister aware of the report entitled "Socio-economic evaluation of the commercial fishing industry in the Ballina, Clarence and Coffs Harbour regions" that was recently completed? Is he aware that this report highlights the enormous contribution that the commercial fishing industry makes in these regions, including generating more than 930 jobs and pumping \$216 million each year into the local economy? Given the importance of fishing to local jobs and communities, why is the Government proposing to ban trawling in the Solitary Islands Marine Park and to close the most productive areas?

The Hon. ERIC ROOZENDAAL: I am happy to refer that question to the appropriate Minister.

SCHOOL LIBRARIES AND INFORMATION LITERACY UNIT

Reverend the Hon. Dr GORDON MOYES: I direct my question to the Minister for Youth, representing the Minister for Education and Training. Is the Minister aware of the valuable work that the School Libraries and Information Literacy Unit does in providing unique, high-quality information and digital literacy to teachers and students? Is the Minister aware that teacher librarians provide for, resource and manage the Premier's Reading Challenge? Is the Minister aware that a recent restructure within the department involved the

disbanding of the unit without any public consultation? Will the Minister indicate why cutbacks have included the much-needed School Libraries and Information Literacy Unit? Will the Minister indicate why the public, including librarians, were not consulted or informed of such cutbacks?

The Hon. PETER PRIMROSE: I thank the member for his question and will refer it to the Minister for an appropriate response.

DISABILITY SERVICES

The Hon. KAYEE GRIFFIN: My question is directed to the Minister for Disability Services. Will the Minister update the House on the benefits that people with a disability, their families and carers will receive from changes made under the National Health and Hospitals Network Agreement?

The Hon. PETER PRIMROSE: At the Council of Australian Governments meeting in April 2010 New South Wales agreed to a package of national health reforms that which include establishing the Commonwealth as the level of government with full responsibility for aged care. Under the National Health and Hospitals Network Agreement there will be a split of responsibilities for aged care and disability programs at 65 years of age, or at 50 years of age for indigenous Australians, with the Commonwealth to assume full responsibility for aged care services from 1 July 2012. This includes services provided under the Home and Community Care Program in New South Wales.

The potential benefits of the Council of Australian Governments reforms for people with a disability, their families and carers are substantial. The reforms will enable the creation of a national aged care system and a national disability services system, which will clarify the roles of the Commonwealth and State in the provision of these services and enable seamless pathways for clients through both systems. For New South Wales the reforms will enable improved integration of services currently provided under the Home and Community Care Program with a large range of other services available for people with a disability. And this includes closer alignment with Stronger Together, the New South Wales Government's 10-year plan for disability services, which will deliver \$1.3 billion in extra funding over its first five years. Older people with a disability and their families will benefit from the commitment of the New South Wales Government and the Commonwealth to flexible service arrangements.

People with a disability aged 65 years and over receiving disability services will be able to remain with their current service providers, and existing arrangements between the New South Wales Government and disability providers will remain unchanged. I am pleased that there is commitment to transition to the new arrangements in a way that will ensure there is no disruption to current clients, including younger people with a disability who are currently receiving care in residential aged care facilities. New South Wales maintains its commitment to the arrangements in a way that ensures minimal disruption to clients and existing providers.

New South Wales will insist that the Commonwealth provide the appropriate provisions for these organisations during transition and continues to fully utilise their services. This includes holding the Commonwealth to its commitment to not substantially alter existing service arrangements before 1 July 2015. Senior New South Wales Government officials will meet regularly with Commonwealth officials to ensure that transition to the new arrangements is carefully managed to provide continuity of care for people with a disability and that the concerns of families and carers are addressed. The Keneally Government is determined to implement the Council of Australian Governments reforms to ensure that there are real improvements for people with a disability and their families and carers across New South Wales.

We should not forget that not all people enter an aged care system as soon as they reach 65, or 50 for indigenous people. The New South Wales Government will continue to play a vital role in the ageing sphere. Last week I spoke about the Towards 2030 strategy for dealing with the challenges of an ageing population. I look forward to keeping the House updated on the many programs that are run for active seniors which allows them to keep on contributing to our society.

MEDICALLY SUPERVISED INJECTING ROOMS

Reverend the Hon. FRED NILE: I ask the Attorney General, representing the Minister for Health, a question without notice. Does the Government acknowledge the inherent flaws in the New South Wales Bureau of Crime Statistics and Research report that found no increase in crime within 50 metres of the injecting centre in Kings Cross, given police are prohibited from patrolling in that area? Will the Government confirm that only

11 per cent of its clients are referred to maintenance treatment when 66 per cent were referred prior to the trial? Will the Government confirm that only 3.5 per cent of clients are referred to detox and only 1 per cent are referred to rehabilitation? Will the Government confirm that the centre encourages risky drug use with the rate of overdose being 36 per cent higher on the streets of Kings Cross and 49 per cent higher than the national average? Is it a fact that the International Narcotics Control Board has opposed the centre? Will the Government cut the trial and open a rehabilitation centre on the same location?

The Hon. JOHN HATZISTERGOS: I will refer the detailed aspects of the question to the Minister for Health, but I would have thought that the report speaks for itself. Moreover, members will have an opportunity to consider the issue in relation to the medically supervised injecting room in due course when legislation is presented before this Parliament.

ILLAWARRA YOUTH UNEMPLOYMENT

The Hon. GREG PEARCE: My question is directed to the Treasurer, and Minister for the Illawarra, whom I congratulate on his appointment. What is the most recent level of youth unemployment in the Illawarra? What action has his Government taken to address youth unemployment in the Illawarra, and what has been the outcome of that action?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for his question and his good wishes. The latest figure I saw was the Isis report, which was prepared for the New South Wales Government and which had youth unemployment at about 14.5 per cent. It is worth reflecting that this issue was raised with me by local Illawarra members of Parliament in the preparation of the budget. During that period I took the opportunity to meet with the principal of Port Kembla senior school and with the head of BlueScope, both of whom raised issues to do with—

[Interruption]

This is an important issue. The Leader of the Opposition should put down whatever book he is reading and listen to the answer because it is about youth unemployment.

The PRESIDENT: Order! I remind the Leader of the Opposition that the use of props is not permitted in the Chamber.

The Hon. Michael Gallacher: Madam President, I will not have this document referred to as a prop. I was reading about Jewish New Year, having been sent this information by the Jewish community. If the honourable member or anyone else wants to have a go at me I am happy to table it.

The PRESIDENT: Order! I do not think that will be necessary. The Treasurer has the call.

The Hon. ERIC ROOZENDAAL: I was talking about youth unemployment. In my discussion with various people in the Illawarra, including the head of BlueScope and the principal of Port Kembla senior school, the issue of youth unemployment was raised. That is why we specifically allocated in the budget funds to support 2,000 additional places to help chronically unemployed youth, particularly those in the Illawarra and other regions. In addition, we are looking at a substantial number of TAFE positions on offer. The member would have seen the increase in funding to various areas in the budget.

Some sectors in the State face real challenges with youth unemployment. There is no doubt the Illawarra also has a higher level of unemployment generally than does the rest of the State. That is precisely the reason I am looking closely at how we can facilitate job creation. That is why we have a \$62.2 billion Infrastructure Fund over four years being invested in infrastructure, to support approximately 155,000 jobs. That is why we have the Illawarra Advantage Fund, to assist the Illawarra. Since July 1999 the Government has offered assistance for 140 different projects through the Illawarra Advantage Fund. Those projects represent about \$304 million in capital investment in the region and an estimated 3,519 jobs will be created or retained over the life of those projects.

We take the challenges of youth unemployment very seriously. We take the challenges of unemployment very seriously. In terms of unemployment, if one compares the New South Wales economy and, indeed, the national economy, with that of the rest of the world, one sees that they are doing very well, particularly when compared with the position in the United States of America, which has well over 8 per cent

unemployment and climbing. Having said that, I will look at what else we can do to assist, particularly the chronically unemployed youth, to make sure they do not fall between the cracks in society and that they undertake satisfying careers and lead fulfilling lives.

KINGSGROVE TO REVESBY RAIL QUADRUPLICATION PROJECT

The Hon. EDDIE OBEID: My question is addressed to the Minister for Transport. Will the Minister update the House on the latest milestone reached as part of the New South Wales Government's Kingsgrove to Revesby quadruplication?

The Hon. JOHN ROBERTSON: The New South Wales Government is delivering on its commitment to improve public transport for residents in Sydney's south-west. Construction on the South West Rail Link is forging ahead, but work is also progressing well on a major project that does not always receive the same level of interest. A key component of the New South Wales Government's plan for improving public transport in Sydney's south-west is the Kingsgrove to Revesby quadruplication project. The Government is investing \$774 million in the Kingsgrove to Revesby quadruplication—the biggest project as part of the Government's \$2.1 billion Rail Clearways Program. It will deliver two additional tracks—

[Interruption]

The PRESIDENT: Order! Members are reminded that they should set their mobile phones to silent mode whilst they are in the Chamber. I ask the member whose mobile phone has just sounded to identify himself or herself. It is very immature of the member not to admit to having had his or her phone turned on in the Chamber during question time. The Minister may continue.

The Hon. JOHN ROBERTSON: This project will deliver two additional tracks between Kingsgrove and Revesby, passing through Padstow, Riverwood, Narwee and Beverly Hills stations. Currently all trains using the East Hills line share two tracks between Kingsgrove and East Hills. This constraint, combined with the high frequency of services and a mix of all stops and express services, can mean that delays to one service often cause delays to subsequent services. The two additional tracks will allow the separation of local and express services operating on the line.

Reliability will be improved and capacity increased to run additional all-stop and express services on the East Hills line. This will be particularly important, with extra services running along the line from the South West Rail Link. The benefits of this project will be obvious for the tens of thousands of commuters who use the East Hills line every day. The Kingsgrove to Revesby quadruplication is a big project. In total, it involves the construction of 10 new rail bridges, modification to five existing rail bridges, installation of a number of noise walls, associated civil and rail systems work and upgrades to stations along the corridor. Construction on the project started in 2008 and is on track to be completed in 2012 to enable commissioning of the new lines in 2013.

This week we reached the latest milestone in the project with the start of work on the \$4 million upgrade of Revesby train station. The works at Revesby station include the construction of a fourth platform, an additional lift, as well as a new concourse and the extension of the footbridge on to the concourse. This upgrade will provide for platform access to the additional track, making it easier to run extra services for Revesby commuters. Preparatory work to install the new track on the Blamey Street side of the station is also underway.

In addition to improvements at Revesby station, the Government is also building a new commuter car park at Revesby. This new car park will significantly improve parking facilities for local commuters, as well as catering for growth at the station when additional services start running on the new lines. The Revesby commuter car park is under construction right now and once it is completed early next year it will provide an additional 735 car spaces north-east of Revesby station.

The Kingsgrove to Revesby quadruplication is a major investment in providing better rail services for south-western Sydney. The project is a key part of the Government's Rail Clearways Program, which when completed will simplify the operation of Sydney's rail network, improving capacity and service reliability. The Government allocated \$304 million to the program as part of the 2010-11 budget to continue work on commissioning works for turnbacks at Homebush and Lidcombe, the Liverpool turnback, the Kingsgrove to Revesby quadruplication, the duplication of the Richmond line and a bus and rail interchange, and a fourth platform at Macarthur train station.

LANDFILL

The Hon. IAN COHEN: My question is addressed to the Treasurer. What percentage of the New South Wales landfill and waste levy collected in the financial year 2009-10 was provided to consolidated revenue? On what basis is this percentage set? Does the Treasurer accept that increasing reinvestment of the landfill levy and resource recovery programs will reduce current landfill demand?

The Hon. ERIC ROOZENDAAL: That is a very specific question. I will take it on notice and obtain the exact detail.

NORTH SHORE FERRY SERVICES

The Hon. DON HARWIN: My question without notice is directed to the Minister for Transport. How can he justify cutting ferry services from Mosman to Neutral Bay when this morning children forced to stand on an overcrowded RiverCat were swaying dangerously, 50 passengers were left behind at Cremorne Point and passengers were urged to disembark rapidly at Circular Quay as the boat had to go back to pick up the people left behind?

The Hon. JOHN ROBERTSON: It is essential that the timetable of public transport services remains relevant to passengers' travel needs, and the Sydney Ferries timetable is no different. The Government is not afraid to take on the challenge to update the ferry timetable to deliver a more equitable service that meets the community's needs. Members opposite may prefer to sit on their hands than address service imbalances, but for the public good it is important to take on these issues and take a look at the changes the network needs. We are committed to ensuring that everyone in the community has an opportunity to provide feedback on the proposed changes and, to this end, we have embarked on a widespread community awareness campaign, with advertisements, letterboxing in ferry catchments and flyers on vessels.

Proposed timetables were available online, supported by an 1800 free call information line, Internet and email feedback options. We have listened to approximately 3,000 responses we have received and are working to incorporate changes to address concerns where possible and where appropriate. We must ensure that the ferry timetables reflect changes in our demographics and travelling patterns. Our city is changing and it is important that our ferries keep up with that change. Populations have grown along Parramatta River. The western edge of the central business district has developed significantly and, with the Barangaroo development, it is set to grow even more. The proposed changes seek to address these realities. Sydney Ferries is also required to take into consideration maritime speed restrictions being introduced around Darling Harbour.

The benefits of the proposed timetable changes include more peak period express services from major Parramatta River wharfs, such as Sydney Olympic Park and Cabarita, a better spread of services between Circular Quay and Darling Harbour, increased frequencies on services to Darling Harbour, Milsons Point, Balmain and Taronga Zoo and extended evening services on the Parramatta River on week days and weekends. To achieve these benefits it is proposed to shift some services from lower demand areas. Contrary to what members opposite will have one believe, the Government will ensure that all service changes will maintain a viable and equitable level of service, while targeting resources to areas of greatest community benefit. It is proposed that the final timetable will be introduced on 10 October 2010 to align the changes to the rail and bus timetables.

I want to talk about improvements occurring along Parramatta River under the proposed changes, specifically the improvements before 10.00 a.m. on weekdays. Rydalmere maintains its six services but with a more even spread; Sydney Olympic Park services before 10.00 a.m. will increase from three to nine; Meadowbank services will increase from eight to nine; Kissing Point services will increase from five to nine; Cabarita services will increase from 8 to 12; Abbotsford services will increase from 10 to 12; Chiswick services will increase from 9 to 11; Huntleys Point services will increase from 9 to 11; and Drummoyne services will increase from 10 to 11. There are also significant benefits for the return journey, with the following benefits for Parramatta River services departing the Sydney business district after 5.00 p.m. on week days. There is a significant increase in service growth to areas between Gladesville Bridge and Sydney Olympic Park; later week night services, with the last service extended from 9.40 p.m. departure to 10.25 p.m.; Sydney Olympic Park services will increase from four to eight; Kissing Point from 7 to 10; Cabarita from 10 to 14—*[Time expired.]*

CLEAN ENERGY PROJECTS

The Hon. TONY CATANZARITI: My question is addressed to the Minister for Planning, Minister for Infrastructure, and Minister for Lands. Can the Minister update the House on the New South Wales Government's efforts to encourage clean energy projects in regional New South Wales?

The Hon. TONY KELLY: I can, and I thank the member for his question. The Keneally Government is delivering on clean, sustainable energy sources for New South Wales.

[Interruption]

The Opposition just does not want to hear about some of our South Coast electorates, to which the Keneally Government is delivering. Just recently I was on the South Coast to grant a three-year investigation licence to an Australian company, Carnegie Wave Energy Ltd, to explore the development of a commercial-scale wave energy project in New South Wales. This licence allows Carnegie to establish the viability of the resource and identify the best specific site for a wave power project. While down there I was also able to announce the approval of the second largest wind farm in New South Wales, a \$700-million, 270-megawatt facility to be located near Nimmitabel, inland from Eden.

This facility has the potential to power up to 120,000 homes each year when fully operational, and will lead to greenhouse gas reductions equivalent to taking more than 160,000 cars off the road each year. The proponent, Boco Rock Wind Farm, hopes to produce electricity by 2012 and will be fully operational by 2013. I was joined by the local Federal member for Eden-Monaro, Mike Kelly—who achieved a 2 per cent swing; just like a lot of the other rural and regional members in New South Wales. I am glad the Coalition wasted a lot of money on that election! It was fitting that he should be present because it was not only a good day for sustainable energy initiatives but also for the local community and the economy. As part of a wind farm approval the proponent is required to fund more than \$300,000 worth of local projects annually, such as infrastructure upgrades and tourist development. The construction will also support around 200 jobs and provide 15 ongoing positions.

Earlier this year the New South Wales Government approved a \$190 million renewable energy farm north-west of Scone, which will combine the green-energy technologies of wind, solar and hydropower to provide power to more than 37,000 New South Wales homes. The Kyoto Energy Park will help New South Wales to meet its renewable energy targets while generating more than 450 jobs. This is another substantial injection into the New South Wales economy from the green-energy industry. Again the local community wins, with the proponent required to contribute more than \$86,000 per year to support local infrastructure and community initiatives. But it does not end there.

Approval has also been given for a \$125-million sustainable- and clean-energy technologies research centre at the University of New South Wales. The centre will bring together the internationally recognised research and teaching of the university in key energy areas, including photovoltaics, carbon capture and storage, oil and gas reserves, nano materials, energy policy and market analysis. It will help to keep New South Wales at the forefront of innovative energy research. The building itself will be a leading example of sustainable construction, with a six star green star building rating, a gas-fired tri-generation plant for power, heating and cooling, and a roof-mounted solar panel array utilising University of New South Wales solar cell technology.

COBBORA MINE

Dr JOHN KAYE: I direct my question without notice to the Treasurer. What information in relation to the current negotiations with coalmining company Whitehaven for the development and operation of Cobbora mine will be provided to the data rooms established for the gentrader transactions?

The Hon. ERIC ROOZENDAAL: It can be pronounced Cobbora or Cobra—I understand the locals pronounce it Cobra.

The Hon. Michael Gallacher: The "I've been everywhere" man.

The Hon. ERIC ROOZENDAAL: I am just enlightening the House—and I think that is appropriate—because there seemed to be some question as to how "Cobbora" was pronounced. I can advise the House that the Government will make any necessary announcements about the Cobbora project at the appropriate time. The New South Wales Government will continue to provide bidders with information that will enable them to make informed decisions for the energy transactions.

NORTH COAST COUNTRYLINK SERVICES

The Hon. JENNIFER GARDINER: I direct my question without notice to the Minister for Transport. There is still no rail service operating from the Clarence Valley to the Tweed Valley and those relying on public

transport must travel by bus. Is the Minister aware that the current contract for the CountryLink bus service from Casino to Tweed Heads is due to expire next month? Will the Minister inform the House as to the progress of the tender for a new contract? When will the contract be renewed?

The Hon. JOHN ROBERTSON: The member is correct in pointing out that the CountryLink services are provided by coach—not bus; coach is the appropriate terminology to use. CountryLink moves people in a range of areas in New South Wales by coach where it is most appropriate and considered most economical to do so. As part of a process that was started by my predecessor, Parliamentary Secretary the Hon. Penny Sharpe has been conducting a review of CountryLink services—

The Hon. Catherine Cusack: They loved her in Lismore!

The PRESIDENT: Order! I remind the Hon. Catherine Cusack not to interject.

The Hon. Catherine Cusack: We found out about it on the radio. We weren't invited!

The Hon. JOHN ROBERTSON: I acknowledge the interjection by the Hon. Catherine Cusack and make the point—

The PRESIDENT: Order! The Chair will not tolerate interjections and arguments across the Chamber when the Minister has the call. The Minister may continue.

The Hon. JOHN ROBERTSON: I acknowledge the interjection by the Hon. Catherine Cusack that she was not invited. We sent invitations out through public advertisements. She claims to live in the area. I suggest she read the local newspaper. If she had she would have seen the invitation and she would have known when the meeting was on. She was more than welcome to attend. The Parliamentary Secretary has been conducting a review of CountryLink services. As part of that review there has been a range of consultations through public meetings. In addition, people have had the opportunity to provide input into that review via the Internet. We will consolidate that information and consider what is appropriate and where changes to CountryLink services may be required.

The PRESIDENT: Order! I will not invite further questions until there is silence, and no sound effects, in the Chamber.

CRIMINAL JUSTICE SYSTEM

The Hon. CHRISTINE ROBERTSON: I address my question without notice to the Attorney General. What is the New South Wales Government doing to help the people of New South Wales better understand the criminal justice system?

The Hon. JOHN HATZISTERGOS: What a terrific question! On 26 August I took part in a public forum at the Newcastle City Hall. The forum enabled people to ask any questions they had about the criminal justice system and to hear responses from some of the State's top legal minds, including mine. A deeply interested Newcastle community and its hardworking local member, Ms Jodi McKay, were able to hear firsthand accounts of how sentences are determined from a panel of experts, including the Hon. Jerrold Cripps, QC, Chair of the NSW Sentencing Council, who provided an overview of the legal sentencing process in New South Wales; Howard Brown from the Victims of Crime Assistance League; Mark Ierace from the Public Defenders Office and me.

Over the past 12 months forums have been held in Wollongong, Parramatta, Campbelltown, Gosford and Tamworth, with each event attracting strong community participation, including by the Hon. Trevor Khan. These forums had their genesis in a survey by the New South Wales Bureau of Crime Statistics and Research and the NSW Sentencing Council. The survey found that many people were interested in knowing more about the New South Wales justice system. That survey was entitled "Public Confidence in the New South Wales Criminal Justice System", and was published in August 2008. I will quote from the opening sentence, which I believe goes to the crux of the matter:

Maintaining confidence in the administration of public services is essential across the whole of government but it is perhaps most critical in relation to the administration of the criminal justice system. This is because ... a criminal system 'that fails to command public trust and to establish its legitimacy may simply fail to function effectively'.

The forums play a vital role in dispelling misconceptions and illuminating the range of considerations that are involved in sentencing, such as the need for punishment, deterrence, community protection and rehabilitation. The survey found that a high proportion, some 66 per cent of New South Wales residents, felt that sentences imposed on convicted offenders are either "a little too lenient" or "much too lenient". However, the study also confirmed previous research indicating that the people of New South Wales are generally poorly informed about our criminal justice system and have been labouring under misapprehensions when it comes to crime rates and imprisonment, overestimating the former and underestimating the latter. The study found:

... much of what the public learns about crime and justice through books, government publications and educational institutions is filtered through newspapers, television and radio ...

All too often, media reporting of crime and justice is distorted, selective and sensationalist.

Many people rely on television, radio and the printed media as their main sources of information about the criminal justice system, rather than turning to books, government publications or educational institutions for enlightenment. That is why it is important that our community understands the process of justice so that they can arrive at their own conclusion about whether the punishment fits the crime. The feedback on the presentation across all forums has been very positive. Of the participants, 93 per cent have commented that the presentations were clear and informative.

The Hon. Michael Gallacher: It would have been better if you had had Greg Smith there.

The Hon. Greg Pearce: Another great legal mind!

The Hon. Michael Gallacher: One of the great legal minds.

The Hon. JOHN HATZISTERGOS: You are a better legal mind! The seventh instalment of this series of successful forums informing people about the criminal justice system is scheduled for 13 October 2010—I note that the Hon. Trevor Khan is writing it down—and will take place in Dubbo. I place on record the excellent work of the Department of Justice and Attorney General in coordinating these forums.

FAULTY SPEED CAMERAS

Reverend the Hon. Dr GORDON MOYES: My question is directed to the Minister for Transport, and Minister for the Central Coast, on behalf of the Minister for Roads. Is the Minister aware that a speed camera on the southbound side of Pittwater Road at North Narrabeen has been recording false readings and unfairly filming innocent, law-abiding citizens? Is the Minister aware that this speed camera is the second-most inaccurate in the entire State, and that more than 1,000 speeding offences have been overturned, with \$173,251 worth of fines being repaid to motorists? Is the Minister aware that between July 2007 and May 2010 almost 19,000 fines were overturned, resulting in more than \$3.5 million being repaid to motorists due to faulty speed cameras? Will the Minister indicate when the faulty speed cameras will be either fixed or removed, and why the Government is increasing the number of speed cameras even though the ones we already have are faulty and the Government continues to fine good, sensible drivers?

The Hon. JOHN ROBERTSON: As the honourable member's question is detailed and lengthy I will refer it to the Minister for Roads and for an appropriate response.

PRINCES HIGHWAY UPGRADE

The Hon. JOHN AJAKA: My question is directed to the Treasurer and Minister for the Illawarra. Why has the Treasurer cut the budget for the Princes Highway from \$144 million in 2008-09 to \$63 million in 2010-11? Will the Minister acknowledge that this funding cut has caused delays to the delivery of the Gerringong to Bomaderry Princes Highway upgrade, which was first promised in 2006 and is still in the planning phase? When will this essential upgrade be completed, and what is its estimated total cost?

The Hon. ERIC ROOZENDAAL: I am more than happy to talk about roads. I point out that in the last budget I brought down we saw the largest Roads budget in the history of New South Wales: \$4.7 billion being invested in New South Wales roads, which was a 7 per cent increase on the year before. I am happy to talk about roads in the Illawarra, and about how we are improving safety and accessibility. We have already delivered a number of important roads projects, including the Princes Highway upgrade from Oak Flats to Dunmore, a \$110-million extension of the Northern Distributor and the spectacular Sea Cliff Bridge. We are building on this record, with more projects in the works.

The 2010-11 budget delivers a further \$94 million investment in roads in the Illawarra. These projects include \$16 million for the Gerringong upgrade of the Princes Highway, \$10 million for the Foxground and Berry bypasses on the Princes Highway, and \$3.3 million to complete construction of the highway at the Lawrence Hargrave Drive intersection. I could go on. We are committed to improving road safety throughout New South Wales. I will carefully monitor the situation in the Illawarra in consultation with the hardworking—

The Hon. Duncan Gay: Who's paying for your stylist?

The Hon. Michael Gallacher: Who's paying for your stylist?

The Hon. ERIC ROOZENDAAL: Clearly, you two have not got one. We will work very closely with the local members of Parliament in the Illawarra to ensure we get the best deal for the Illawarra.

ILLAWARRA JOBS GROWTH AND ECONOMIC DEVELOPMENT

The Hon. HELEN WESTWOOD: My question is addressed to the Minister for the Illawarra. Will the Minister update the House on jobs growth and economic development in the Illawarra?

The Hon. Duncan Gay: Is it a fashion statement, or is it a hairstyle?

The Hon. Michael Gallacher: No, it's not a hairstyle; you can see that.

The Hon. ERIC ROOZENDAAL: When you have finished—

The Hon. Michael Gallacher: We've never finished with you.

The Hon. ERIC ROOZENDAAL: It is like Abbott and Costello. I will leave it to members to work out which one is which. The Illawarra is, and will continue to be, a central focus of the Keneally Government. A successful Illawarra is crucial to a prosperous New South Wales; the Illawarra is a critical part of the \$400-billion New South Wales economy. The Illawarra has emerged well from the financial downturn. Just a few weeks ago Port Kembla Port Corporation reported record trade, with more than \$13.1 billion of trade passing through the port gate. This is a performance we can be proud of. But it is not a time to pat ourselves on the back; it is a time to re-double our efforts. We need to make sure the Illawarra is equipped to deal with future changes in the global outlook and well placed to benefit from the strength and resilience of the New South Wales economy. That is why we are making huge investments in the Illawarra. In this year's budget I announced a record \$1.7 billion investment into the region.

The PRESIDENT: Order! Members wishing to engage in private conversations should do so outside the Chamber.

The Hon. ERIC ROOZENDAAL: I am beginning to feel uncomfortable with the level of compromise coming from the table here. We are investing in infrastructure, education and public transport—lasting investments that generate jobs and make the Illawarra more competitive, a more attractive place to invest, and better placed to take advantage of a growing local and State economy. This year's budget saw the New South Wales Government make record investments in the Illawarra, including \$512 million in the region's health services, \$644 million in ongoing public school and TAFE funding, \$94 million on Illawarra roads, and \$61 million on public transport.

The Government is also seeing strong jobs growth in the Illawarra. Since March 2009 the number people of employed in the Illawarra region has increased by approximately 3,300. That is very good news for the region. We are also investing heavily in Port Kembla. The Government moved car imports from Sydney Harbour to Port Kembla, making it the number one car import terminal in Australia. Incidentally, that was an initiative of this Government, opposed by the Opposition and opposed by Barry O'Farrell. It is a stimulus for Port Kembla and Wollongong that has sent a positive economic ripple throughout the region.

We are not stopping at diversifying Port Kembla; we are expanding it to take advantage of new and emerging business opportunities. The outer harbour expansion will see the creation of 53 hectares of new multi-use port-side land. By creating flexible port-side land, Port Kembla is well placed to bring new trade opportunities—and, critically, new jobs—to the region. It does not stop with building Port Kembla towards a more prosperous future. We are investing across the Illawarra to provide better services and greater opportunity,

with \$15 million for the Illawarra Health and Medical Research Institute at the University of Wollongong, a \$130-million, 600-bed jail in Nowra, TRUenergy's \$430-million Power Station A at Tallawarra, Integral Energy's \$18-million Mount Ousley zone substation, and a \$215-million Illawarra Waste Water Strategy, recycling around 21.6 million litres of water per day. It is clear that only this side of the Chamber has a plan for the Illawarra—a plan we are delivering right now. It is also clear that the other side of the Chamber has no policies and no ideas, and that it has consistently ignored the Illawarra and opposed any initiatives that will help it to grow.

FOOD PRODUCTION

Reverend the Hon. FRED NILE: I ask the Minister for Planning, Minister for Infrastructure, and Minister for Lands, representing the Minister for Primary Industries, Steve Whan, a question without notice. Is the Minister aware that, according to the United Nations, by 2050 global food production will need to increase by more than 70 per cent just to meet demand? What is the New South Wales Government doing to meet this demand? Will the New South Wales Government increase funding for rural infrastructure and services to ensure security of investment for farmers? Will the New South Wales Government increase investment in agricultural development and research?

The Hon. TONY KELLY: I thank Reverend the Hon. Fred Nile for his question and undertake that I will pass it on to the Minister for Primary Industries. However, in doing so I make the comment that after yesterday's election of the Gillard Government, together with the commitments made, I am sure that rural and regional New South Wales is in for significant investment over the next few years.

The PRESIDENT: Order! I call the Hon. Catherine Cusack to order for the first time.

WOLLONGONG AND SHELLHARBOUR COUNCIL ELECTIONS

The Hon. MARIE FICARRA: My question without notice is directed to the Treasurer and Minister for the Illawarra. Will the Minister join with the majority of Wollongong and Illawarra residents to support the return of democracy to the people of Wollongong and Shellharbour local government areas by holding council elections in September 2011?

The Hon. ERIC ROOZENDAAL: Local government issues fall outside my portfolios.

The Hon. Tony Kelly: This crowd picked the date for the next election.

The Hon. ERIC ROOZENDAAL: The Minister for Planning has provided that advice. As the Hon. Marie Ficarra has raised the issue of democracy, I take this opportunity to reflect on how democracy has played out this week in Canberra. It was great to see Prime Minister Julia Gillard proudly taking on the role to lead Australia for the next three years. I believe we need to thank some people.

The Hon. Don Harwin: Point of order: The Minister was asked a question in his capacity as the Minister for the Illawarra. He is not talking about the Illawarra. He is not being relevant and he should be brought back to the issue.

The PRESIDENT: Order! In responding to the question the Minister should be generally relevant to the issues raised in the question.

The Hon. ERIC ROOZENDAAL: The people of the Illawarra have been very concerned about democracy and the Federal Government. In that regard, we need to acknowledge the contribution of a few people. Who could forget the contribution of Barnaby Joyce, who got into a brawl with Tony Windsor on election night? Barnaby Joyce, The Nationals pin-up boy, epitomises the intelligence of The Nationals. If Barnaby Joyce is the smartest operator in The Nationals, what does that say about this lot in here? We cannot go past the contribution of Senator Heffernan, who rang up and told the family of one of the Independents that he was the devil. That was a moment of honesty. He decided to confess. It is no wonder that the Independents, after carefully weighing up—

The Hon. Greg Pearce: Point of order: The question was about democracy in the Illawarra. The council elections in Wollongong and Shellharbour are very important issues for the people in those areas. The Minister has recently been appointed Minister for the Illawarra. He should not trivialise such important issues. My point of order is relevance.

The PRESIDENT: Order! If the Hon. Greg Pearce continues to use points of order as debating points I will place him on a call to order. I uphold the point of order as to relevance. The Minister should continue to be generally relevant in his answer.

The Hon. ERIC ROOZENDAAL: I feel the embarrassment of that side of the Chamber as I relate the actions of their pin-up boys. In relation to Wollongong City Council elections, I am advised that the timetable for elections remains 2012. A period of administration was seen as necessary by the Independent Commission Against Corruption to ensure public confidence in the council and council processes. The recommendations of the Independent Commission Against Corruption related not only to elected officials but also to staff. Administrators have to make sure there is strong governance and appropriate staff culture in place before we start to think about moving to elections.

CONVICT SITES WORLD HERITAGE LISTING

The Hon. IAN WEST: My question without notice is addressed to the Minister for Planning, Minister for Infrastructure, and Minister for Lands. Will the Minister update the House on the recent World Heritage listing of Australian convict sites?

The Hon. Duncan Gay: Do you get on with Tim Fischer?

The Hon. TONY KELLY: I get on really well with Tim Fischer. In fact, I had a meeting with him last week. I am delighted to inform the House that UNESCO's World Heritage Committee, at its recent meeting in Brasilia, determined to inscribe Australian convict sites on the World Heritage list. World Heritage inscription is the world's highest level of official heritage recognition. It places the Australian convict sites alongside the Vatican City, the Taj Mahal and the Sydney Opera House for official recognition of the outstanding universal value of these special places to all humankind. Eleven sites across Australia collectively make up the World Heritage serial inscription of the Australian convict sites. These sites represent the global phenomenon of convictism, the forced migration of convicted persons to penal colonies in the eighteenth and nineteenth centuries, and global developments in the punishment of crime and reform of criminals.

Collectively the 11 sites are the pre-eminent examples of our rich convict history that is unique in the world. Four of these sites are in New South Wales. Old Government House and Domain site at Parramatta was one of the two most important command posts of the New South Wales convict system. About 100 convicts lived in huts on the site and worked there. This site is closely associated with Governor Macquarie's efforts to reform convicts and rehabilitate them back into society. Hyde Park Barracks in Sydney also was associated with Governor Macquarie's reforming regime for convicts. Previously, convicts had to find their own accommodation, resulting in disorderly conduct and an unproductive workforce. Governor Macquarie ordered that the Hyde Park Barracks be built to house, manage and control the convict work gangs for his building program.

The other two sites in New South Wales represent the achievements of convict work gangs undergoing hard labour under harsh conditions or in remote and rugged country for new offences committed in the colony. The convict-built Old Great North Road is a small, early section of the 250-kilometre Great North Road, which is a major engineering achievement of the early colony. Cockatoo Island was a penal settlement for reoffending convicts undergoing hard labour. Convicts quarried, excavated and constructed a sandstone dockyard and grain silos. Many also suffered solitary confinement in underground cells built into the sheer sandstone cliffs.

The World Heritage inscription represents the combination of more than four years of work by the Heritage Branch of the Department of Planning, acting as the lead New South Wales government agency. The branch coordinated the work of the Parramatta Park Trust, the National Trust (NSW), the Historic Houses Trust of New South Wales and the Department of Environment, Climate Change and Water with the Commonwealth Government. The Department of Planning is currently preparing a State environmental planning policy for world heritage sites. This will ensure that the world heritage value of sites will be considered when preparing an environment planning instrument, as well as determining a development application or carrying out an activity in the buffer zone surrounding the sites. A discussion paper to the proposed State environmental planning policy has been placed on exhibition on the department's website for comment. A national committee of Commonwealth and State jurisdictions and site managers will cooperatively manage the World Heritage values of the inscribed sites. World Heritage inscription branding is well recognised internationally. It is anticipated that this listing will provide a welcomed impetus to international tourism in New South Wales.

EXERCISE AND SPORT FOR PEOPLE WITH DISABILITIES

Mr IAN COHEN: My question without notice is directed to the Minister for Ageing and Minister for Disability Services. Given Professor Gordon Parker has indicated that research has shown that exercise benefits people with mood disorders and that depression is the number one cause of disability in the world, and given that next week is Exercise Your Mood Week, what programs has your department undertaken to encourage exercise and sport for people with disabilities?

The Hon. PETER PRIMROSE: Ageing, Disability and Home Care is involved in delivering a range of services within New South Wales. Its operating budget for this year is \$2.468 billion. The Government is committed to improving services for people with a disability and their families and carers. It is out there for everyone to see. Services such as the direct personal service that Mr Ian Cohen has asked about are very much a part of the Keneally Government's 10-year plan, Stronger Together, a blueprint for a decade of improvement, change and revitalisation. For example, the increase in funding that has been available over the past five years has translated to measurable increases in services and support. For the first three years of Stronger Together almost 3,900 new respite places have been funded. That includes more than 1,000 places jointly funded with the Australian Government to assist older carers.

A record 1,176 school leavers applied to enter a post-school program in 2010, with 739 accepted in the Transition to Work Program and 382 accepted into the Community Participation Program. By the end of 2009-10, and this is directly relevant to the honourable member's question, an additional 3,157 therapy places for children and adults with a disability have been rolled out across New South Wales. By the end of 2010-11 the overall increase in the number of therapy places under Stronger Together will be more than 3,700. There is a string of other issues that I am sure the honourable member may be interested in, such as the actual location of the specific programs that he has raised with me. I will get a detailed report from Ageing, Disability and Home Care and provide him with that information.

The Hon. JOHN HATZISTERGOS: I suggest that if members have further questions, they place them on notice.

BUSHFIRE HAZARD REDUCTION

The Hon. TONY KELLY: Yesterday the Hon. Melinda Pavey asked me a question about bushfire hazard reduction at Brooms Head. I can advise the House that the Land and Property Management Authority has been working closely with other land management agencies to reduce the risks to coastal towns and villages along the North Coast. Enhancements to the asset protection zones managed by the authority were carried out at Brooms Head in the financial years 2007-08 and 2008-09. For this financial year the authority has secured additional funding for strategic hazard reduction works in and around the village of Brooms Head. These works include the maintenance of asset protection zones and fire trails. Planning and assessment for the work has been completed and the work is expected to be carried out during October this year in preparation for the coming fire season.

ARMIDALE LANDFILL PROPOSAL

The Hon. TONY KELLY: Yesterday The Hon. Ian Cohen asked me a question about the proposed landfill in the Armidale-Dumaresq local government area. Armidale-Dumaresq Council is seeking approval for a new landfill and it requires my approval as Minister for Planning under part 3A of the Environmental Planning and Assessment Act 1979. It also requires the approval of the Commonwealth Minister for Environment Protection, Heritage and the Arts as it is a controlled action under the Environmental Protection and Biodiversity Conservation Act 1999. The environmental assessment has recently been on an extended exhibition. The Department of Planning received more than 90 submissions on the proposal, so I am aware of community concerns regarding the project. The Department of Planning is reviewing the submissions and has also requested the proponent to respond to the issues raised in the submissions. I will make a decision on the project only after considering the environmental assessment, the department's assessment report and all the issues raised during the public exhibition.

NORTH SHORE FERRY SERVICES

The Hon. JOHN ROBERTSON: Earlier in question time I said that the proposed ferry timetable changes were available online and that commuters could provide feedback on those via email or the 1800 number. I would like to clarify that submissions have in fact now closed and are being considered by Sydney Ferries ahead of the release of the final timetable.

EXERCISE AND SPORT FOR PEOPLE WITH DISABILITIES

The Hon. PETER PRIMROSE: Earlier in question time the Hon. Ian Cohen asked me a question relating to engaging people with a disability in sporting activities. Participating in sport is one way that people with a disability can achieve sustainable, regular and ongoing participation in community life. The New South Wales Government invests significantly so that people with a disability can participate in sport at many levels, ranging from the simple pleasure of being a spectator to being an active participant at every level, from general interest to elite competition. Ageing, Disability and Home Care sponsors a number of initiatives designed to increase the participation in sport of people with a disability. These include a \$400,000 grant to the Special Olympics to support its role in providing opportunities for people with a disability to participate in sport, to volunteer at sports events or to train in sports administration.

In addition, \$1 million over four years has been provided to Arts, Sports and Recreation within Communities NSW for the Disability Sports Assistance Program. This program provides one-off grants of up to \$20,000 to community organisations throughout New South Wales for projects to build their capacity to provide sport and physical activity programs for people with a disability. The sports include wheelchair rugby, football, cycling, sailing, horseriding, swimming, basketball, dance and general physical fitness programs designed for those who otherwise would not be able to participate. Some of the grants include \$20,000 to Disabled Wintersport Australia; \$10,000 to Cycling NSW for its recreational and track cycling development program; \$9,900 to the Windgap Foundation at Eastlakes for its Commitment to Fit Program; \$10,000 to New South Wales Rugby League for its inclusive rugby league program; and \$7,000 to Accessible Arts New South Wales to conduct workshops and dance for people with a disability.

Questions without notice concluded.

[The President left the chair at 1.05 p.m. The House resumed at 2.35 p.m.]

ADOPTION AMENDMENT (SAME SEX COUPLES) BILL 2010 (NO. 2)**Second Reading****Debate resumed from an earlier hour.**

The Hon. CHARLIE LYNN [2.35 p.m.]: I will leave it to the Hon. Greg Donnelly to comment on the dissenting report. My email inbox has been flooded in the past few weeks. However, because of my compromised eyesight I have not been able to read any of them and I have hit the delete button. I suggest to one and all that there is a better way to lobby members and not to annoy. I dumped all of those emails. I have taken an interest in the debate and my contribution is based on my own views and experiences and those of the people with whom I mix. I accept the fact people have different views and I respect that. This is a complex issue and there are no easy answers. I congratulate all members on their contributions, but I oppose the bill.

Dr JOHN KAYE [2.36 p.m.]: I support the Adoption Amendment (Same Sex Couples) Bill (No.2) with great pleasure and pride in the manner in which politics can deliver positive outcomes. The starting point for every debate for everyone—I think we all start from this point or claim to do so—is the protection of the rights and welfare of children. That should be the beginning, the middle and the end of our deliberations. I have been through the intellectual exercise of asking what is best for children. What is best for children who for whatever reason do not have a family they can live in or who do have a family but it is not legally recognised in the State of New South Wales? Every which way I look at the issue I come to the conclusion that I must support this legislation and the right of children to be adopted into households that are not necessarily headed by two people of the opposite sex.

Although members have said that the research on this issue is troubling, it is also very clear. The independent research that I have reviewed—that is, research that does not come from researchers with a specific ideological point of view—indicates that same-sex parents provide no less quality parenting and child development outcomes than opposite sex parents. There is no reputable evidence that demonstrates the contrary. From that and the perspective of the child, one comes to three conclusions about the law in this State, which effectively prohibits same-sex adoption. First, the current situation is deeply irrational; secondly, it inflicts unnecessary harm on children being raised by same-sex parents; and, thirdly, it reduces opportunities for unknown children to be put up for adoption.

We have all received a welter of emails about this legislation. I think the Hon. Robert Brown said that he had received more than 500. I am envious; I have received more than 1,000 and I am still counting. However, volume does not speak to quality or right and wrong in this debate. Each of the emails opposing the legislation began with the assertion that children have a right to parents of the opposite sex. That is clearly nonsense. If one were to follow that logic to its obvious conclusion, we would remove children from a family where sadly one partner had died unless the remaining partner were prepared to find another partner of the opposite sex. The emails go on to allege that having two parents of the same gender will impair a child's development. The evidence clearly proves that that is not the case. They also contain various other assertions that are largely theological in nature and should be of no concern to us.

The evidence on children's welfare is exceptionally clear. The Barnardos submission to the Standing Committee on Law and Justice inquiry into adoption by same-sex couples from July of last year surveyed the research. Whether it was the contribution of Professor Jenni Millbank, the British Association for Adoption and Fostering and the article it published by Helen Cosis Brown and Christine Cocker, the work of Gerald Mallon and Bridget Betts in 2005, Dr Ruth McNair's paper to the Victorian Law Reform Commission, or, indeed, the Australian Psychological Society, all that evidence points in one direction—that the welfare of children is in no way impaired, but rather, in many cases, enhanced, by same-sex parenting. In 2007 the Australian Psychological Society published a literature review on lesbian, gay, bisexual and transgender parented families. The paper comments on the very large body of research in this area and notes that a critique has been made of comparative family research. The authors concluded the following:

Research indicates that parenting practices and children's outcomes in families parented by lesbian and gay parents are likely to be at least as favourable as those in families of heterosexual parents, despite the reality that considerable legal discrimination and inequity remain significant challenges for these families.

The report quoted Professor Judith Stacey of New York University:

Rarely is there as much consensus in any area of social science as in the case of gay parenting, which is why the American Academy of Paediatrics and all the major professional organizations with expertise in child welfare have issued reports and resolutions in support of gay and lesbian parental rights.

It is impossible to argue against such a huge body of evidence. The evidence shows that which all of us who have had experience of quality same-sex parenting amongst our friends and relatives already know: It is the love, tenderness, care and dedication, not the genders or the sexual orientation of the partners, that determine outcomes for children. As the Hon. Catherine Cusack so elegantly explained in her speech—and I pay credit to her and a number of other speakers on this side of the debate—arguments about mums and dads are all about gender stereotypes that are in many cases out of date and nothing to do with the needs of children.

I wish to go through my three accusations against the current situation. The first is that it is irrational. In the face of the evidence I referred to before, prohibiting adoption is irrational and discriminatory. It is only at this point that anti-discrimination enters into the debate. The anti-discrimination argument comes in as a consequence of protecting the rights of children, not as something that overrides the rights of children. Possibly the most outstanding example of the irrationality is that while same-sex couples can and do foster, and many do an excellent job of fostering children, they are not allowed to adopt. This is an insult, not only to same-sex couples who foster children but also to the thousands of marvellous and remarkable individuals who foster children. Their act of love is being demeaned by the statement that fostering is in some way a less significant act of love than adoption would be.

A similar indictment against single gay and lesbian parents is that single gay and lesbian parents are allowed to adopt but not with their partners. I heard Reverend the Hon. Fred Nile say on ABC's *Stateline* last Friday that the way to resolve this particular irrationality is to ban gay and lesbian parents from fostering and adopting. Clearly, that is not a reasonable outcome. To begin to discriminate against people without any basis in science or fact shows, at least for Reverend the Hon. Fred Nile and for thousands like him who are arguing against this legislation, that this is all about prejudice. It is about prejudice against people who are different from them and not about the welfare of children. If we are serious about the welfare of children, we must put aside prejudices.

The second indictment against the current situation is that it inflicts unnecessary harm on children growing up in same-sex relationships. Earlier I quoted from the Australian Psychological Association, which went on to say that despite the reality, considerable legal discrimination and inequity remains a considerable challenge for families with regard to so-called known adoptions—the gay foster parents, the gay and lesbian foster parents, the gay or lesbian step-parent and the gay single parent who then partners up with somebody else. In those situations that family operates under significant stress and that stress really should be relieved.

Many of us would have received a letter dated 27 August from Gillian Calvert, the inaugural Commissioner for Children and Young People. The letter was signed also by Associate Professor Judy Cashmore from the faculty of Law at the University of Sydney and the Centre for Children and Young People from Southern Cross University, and by America's Professor Dorothy Scott, the inaugural director of the Australian Children's Protection Society Council. Their letter was clear. Not only did they reiterate the statement I made earlier, that they were not aware of sound evidence that indicates same-sex parenting has an ill effect on children; they went on to say:

We are aware however of sound evidence that the lack of stability can and usually does have ill effects on the child.

It is clear from the research that children's sense of security, the sense that they are loved and wanted, is critical to their wellbeing and welfare. Children think about who will care for them if a parent dies. They notice when one parent is unable to sign permission notes at school or cannot consent to medical treatment. This bill remedies those uncertainties for those children and places them on a level playing field with their friends. Importantly, for children already disadvantaged, being given heritage rights sends a clear and strong message to them that they are wanted and are part of the family, just as their friends are part of their families. This shows clearly that the current situation is undermining the rights of children who are otherwise being raised by very loving, caring and nurturing relationships.

It is important to reiterate what many speakers have said, that adoption does not just happen; it occurs after a substantial series of checks and inquiries into the nature of the parents. No set of parents will be allowed to adopt, whether they come from same-sex relationships or opposite sex relationships, without thorough checks and balances, and ongoing checks up to the point of adoption.

The third issue is the welfare of the so-called unknown adoptions; the children who are relinquished by their birth parents. I understand that the Hon. Matthew Mason-Cox will move an amendment to remove the capacity of same-sex partners to adopt as a partnership the children who are relinquished—the so-called unknowns. The Greens will oppose this amendment. Whilst a relatively small number of children are involved—I believe it is below 15 each year—it is still important that they have access to the very best possible match and are given the best opportunity to grow up in a loving and nurturing family. If it happens that a same-sex couple turns out to be the best for those children, surely the rights of the children dictate that that is the household into which those children should be placed.

The current situation limits opportunities for such children. This is about the rights of highly vulnerable children—the right to live in a loving, caring environment and the right to parenting from skilled, concerned and dedicated folk. There is no evidence that sexuality or family structure plays any role whatsoever in those outcomes. As the Hon. Catherine Cusack said, this bill is about providing security, happiness and love to children who are vulnerable. She said this is the finest thing that we, as legislators, could do. It should be understood that this bill did not just appear from nowhere. While the member for Sydney, Clover Moore, put a lot of work into getting this bill to the Parliament, this legislation and the point at which we find ourselves today is the result of the hard work of many people to remove the irrationality and the harm being done to children by the current situation.

On behalf of the Greens I pay tribute to the institutions and individuals and the many foster and same-sex relationship parents who have worked hard to demonstrate the value that they can bring to their children. I pay tribute to Aids Council of New South Wales [ACON], the Gay and Lesbian Rights Lobby, and welfare organisations such as Barnardos, Uniting Care, the Benevolent Society and the Association of Children's Welfare Agencies. At this point I give particular credit to the majority report of the Standing Committee on Law and Justice on adoption by same-sex couples. I pay particular tribute to the Hon. Christine Robertson, to you Madam President, and to the recently retired Sylvia Hale, for producing what I regard as a sea-changing report that created debate that has culminated in this bill.

I pay tribute to both the Premier and the Leader of the Opposition. They have both spoken very powerfully and cogently in favour of the legislation. The Premier's arguments are worth reading. They are theological arguments and, therefore, I could not hope in any way to replicate them. Nonetheless, they start with a deeply and profoundly committed Roman Catholic point of view and produce an outcome that comes to exactly the same conclusion as many of us in this Chamber have arrived at, me included. I give credit also to the Leader of the Opposition, Barry O'Farrell, who also gave a very fine speech in support of the bill.

One has to admire individuals who can reason their way beyond the limitations of the institutions to which they belong. The Premier and the Leader of the Opposition did just that, and that is to their enormous

credit. However, the greatest single credit goes to a young 14-year-old woman, Brenna Harding. If we were looking for evidence to demonstrate how successful same-sex parenting can be, one would need look no further than a letter that was sent to us from young Brenna Harding. In her letter she not only outlines her own individual experience of same-sex parenting, but she also talks about the evidence generally. Her letter is worthy of our note and worthy of the sort of leadership that we as a Parliament ought to provide. So often it is true that it is the young who have not been tainted by the experiences of later life who have the clarity to see through situations. In this case Brenna Harding provides more leadership than all the organisations and individuals working for this legislation by demonstrating through her very existence that by being a child of two lesbian mothers she can become not only a well-adjusted and very self-confident young woman but also an advocate for the rights of all children everywhere. I seek leave to table the letter from Brenna Harding.

Leave granted.

Document tabled.

Having tabled the letter, I conclude by stating that I strongly support this bill. It is a great honour to support it and I congratulate those who brought it before the House.

The Hon. GREG DONNELLY [2.55 p.m.]: I speak on Clover Moore's Adoption Amendment (Same-Sex Couples) Bill 2010 (No. 2). As honourable members would know, I have displayed more than a passing interest in the progress of this matter, both inside the State Labor Government, before the other place and now before this House. I have done so because I was and still am a member of the Legislative Council's Standing Committee on Law and Justice that, during the first half of 2009, deliberated over the issue of homosexual couples adoption.

I take this opportunity to put on the record this afternoon my sincere thanks to the Hon. Christine Robertson, who chaired the inquiry into this matter. On the fundamental issue, while belonging to the same political party, we find ourselves separated by 180 degrees. That was the case at the start of the inquiry and that is still the case. I wish to thank the committee chair though for her abundant patience, good grace and even-handedness throughout the whole inquiry and beyond. I believe that in political or diplomatic speak the terms used are "robust discussion" and "frank exchanges". It is fair to say that on this committee with this inquiry we had a lot of both and some more. I take the opportunity also to thank the committee secretariat, led by Rachel Callinan. They were thorough, efficient and professional as always. This House and this Parliament are all the better because of the ongoing work of such dedicated people.

Even if I were not a member of the Standing Committee on Law and Justice, one can be certain that I would have still displayed great interest in this matter. One may ask why? It is quite simple. Where the family goes, thus go our communities and society. I do not claim originality for this thought or these words. However, I do believe that what is behind these words is so intrinsic because of who we are as human beings that it is axiomatic. Within our human nature lies an unchanging truth that its essence, in my view, cannot be changed or amended. Putting it another way, it is who we are; it is what we are. To come to this view, I believe one can get there with as much or as little religious faith as one likes. Indeed, with no faith in an omnipotent God, the possibility of eternal life and anything else that a believer may wish to throw in for good measure, I believe that the rational application of reason can get one to the point of seeing with some clarity what it is that makes us—all of us—human.

Furthermore, in that understanding, is there something intrinsic about what constitutes a human family or family of humans over time on some permanent, unchanging basis? In reflecting on this, I am trying, perhaps without much success, to be as clear as I can without trying to come across as a smart alec. I am not a trained philosopher or theologian, and we certainly did not debate this when I did economics 101 at university in 1979. What is my point? Is there something worth putting "a stake in the ground" when looking at what it means to be human and how we understand how a human family is configured and shaped? Or, alternatively, are we dealing with concepts that are, by their very nature, elastic and malleable; subject to human and legal definition and redefinition over time? It is obvious that, having listened to the considered contributions by members of this House and the other place, this touchstone issue has challenged many of us.

I say "challenge" because that is certainly what it has done. This debate forces us to look into our soul, or spiritual essence for those who do not believe in God, and come down on one side. It is, by definition, highly emotional, layered in nuance, personal, familial, technical, legal—I could go on. Each speaker in this debate has brought his or her thoughtful contribution both to this House and the other place and prosecuted his or her arguments as thoroughly as he or she could. That much is clear to anybody who has been following this debate.

I have listened carefully to everybody's contribution and read the *Hansard*. As mentioned earlier, I also served on the Standing Committee on Law and Justice that examined this matter. I read all the submissions to that inquiry, attended all the hearings and read the evidence of the witnesses published in *Hansard*. I too, like all members, have been inundated with emails from many constituents. I have tried to read as many of those as I could but keeping up has been challenging, to say the least. I have also appreciated the letters and telephone calls that have come to my office. All of this material has assisted me in my deliberations on this matter.

In terms of my position on the principal and associated issues before the House, I do not intend to canvass them in detail. For anybody interested, I direct them to report no. 39 of the Standing Committee on Law and Justice titled "Adoption by Same-Sex Couples", which was reported to this House on 8 July 2009. I unequivocally stand by the comments I made in my dissenting statement. For my position on a range of issues I draw the attention of members to the minutes of the deliberative meeting attached to the inquiry report dated 29 June 2009. I stand by the decisions I made at that deliberative meeting. However, I will comment briefly on a few matters in the time I have remaining.

Central to my concern about this bill is that, contrary to what some speakers have articulated, the net outcome is that it further fragments rather than consolidates the natural biological origins between a child and his or her biological heritage. I believe that we are now starting to see the evidence of this as children born from artificial reproductive technology techniques, first commercialised in Australia in the early 1990s, are entering adulthood. This is critically relevant to the matter before the House because—placing the issue of fostering to the side for one moment—homosexual couples cannot by themselves create children. The creation of children, that as a couple they may wish to adopt subsequently, cannot take place without the participation of a third party.

To my mind this is a critical matter that we as a society have barely started to reflect on in detail, let alone come to any firm conclusions on. In some sense it is fair to say that that is how matters have developed, and I understand the legal positivist view that we should just update the law and get on with things. However, everybody in this House knows the power of laws made by this Parliament. Laws inform, educate, guide, direct, confirm and validate. How many times have we heard people say, "If it's legal, it must be okay." The laws passed by this Parliament set the cultural and moral tones for this State. That is, at least in part, why people believe that the Parliament and what it does is important.

During the course of the Standing Committee on Law and Justice inquiry there was one experience that I will never forget—those wishing to appreciate all the details can consult the *Hansard*. It involved an exchange between me and a 12-year-old being raised by a lesbian couple. In sharing this particular example with the House I in no way seek to antagonise, attack or undermine the love of that couple for the child; I merely wish to make a point by considering that exchange. I will remove the reference to specific names for this purpose. The *Hansard* reads:

BIOLOGICAL MOTHER: [Daughter] has a donor and she does know who he is. She does not legally have a father.

The Hon. GREG DONNELLY: No, a biological father.

BIOLOGICAL MOTHER: The donor, yes.

The Hon. GREG DONNELLY: Who is her biological father.

BIOLOGICAL MOTHER: Yes, she knows who he is.

I then directed a series of questions to the young girl.

The Hon. GREG DONNELLY: ... you may wish to answer this question. Do you have contact with your biological father?

WITNESS: I see him every third Sunday and I spend the day with him, but that was my choice. My mum asked whether I wanted to see him and I said yes. To my friends I describe him as my father, but it is not a father like any other father. He is my donor. When I am describing who he actually is, he is my donor. He does not live with me, he has not raised me. I see him but he is not like [X]. [X] is there all the time.

The Hon. GREG DONNELLY: He does not live with you, obviously?

WITNESS: No.

The Hon. GREG DONNELLY: Did you say every third Sunday?

WITNESS: Yes.

The evidence continued:

The Hon. GREG DONNELLY: So it is a range of things that basically you are happy to do with [your biological father].

A discussion then took place but was suppressed by a resolution of the Committee and not recorded in the *Hansard*.

WITNESS: Not really. When they are talking to me about it they say, "I went for a picnic with my family." They do not describe doing as much of that sort of stuff with just their dad. I do not really talk about what I do with him—

"Him" being the biological father—

The Hon. GREG DONNELLY: Obviously there is a range of things you do.

The dialogue continued:

The Hon. GREG DONNELLY: For 12 years—since you were a very small girl. Do you think that you want to see more of [your biological father]?

WITNESS: Not necessarily. I mean, he is a nice man, but I am happy to be at home. I would not care if it was every second, I would not care if it was every fourth. I am happy to see him, but I do value the time that I spend at home as well.

The Hon. GREG DONNELLY: Do you have feelings towards [your biological father]? ...

WITNESS: Slightly, I mean, 97.9 per cent of my family is these guys, and the rest is my friends and [evidence suppressed]—about half: half. He does not take up much of my family. He is there, but as maybe an auntie or an uncle would be there for another kid.

There can be no question that this is a domestic arrangement that comes about as a result of choice. But it is not the choice of the child; it is the choice of the adults. Unlike cases of accidental death of a parent or parents, abuse or domestic violence, the biological heritage of the child was deliberately subverted in this case to deny the young girl a father. This is just an example. It could easily involve two men seeking to have a child and denying that child a biological mother. While these instances arise in society they are the exception, and I do not believe that the adoption laws of this State should be amended to accommodate the exceptions. Other suitable legal arrangements are available through the Commonwealth Family Law Act and, in conjunction with a properly drafted will, can clarify perceived legal uncertainties between a child and a non-biological adult.

In my view the case to facilitate the possibility of homosexual adoption involving unknown children is even less persuasive. Those instances also clearly establish a legal construct that may lead to a child, who has the State as their legal guardian, missing out on being raised by a mother and father. Time prevents me from dealing with a number of other key matters. In my view there is disregard for the social science evidence that validates that the optimal parenting arrangement for a child involves the child being raised by a mother and a father in a permanent, preferably married, relationship. I urge members who are interested in the matter to read a comprehensive bibliography attached to the report that contains, in my view, overwhelming social science evidence that validates the position I have just stated.

If there ever were a case to support the position being put to the House, I suggest that the precautionary principle should operate when looking at legislating for and on behalf of children. As I have said, a number of the children we are talking about are just starting to reach adulthood and are able to, and are starting to, articulate their position about the way in which they were parented by a non-biological parent and a biological parent who were in a homosexual relationship. In my view this Parliament is acting with undue haste in this matter.

With regard to fostering, I believe it is in the best interests of children who need to be fostered that they be fostered by a couple that is made up of a mother and a father. On the matter of single homosexual adoption, in my view this argument is in reality being used—and indeed has been used, both in the other place and in this place—as a wedge to advance the case for adoption by same-sex couples. I conclude my contribution by quoting from a paper presented recently at a conference by Margaret Somerville, a well-known Australian bioethicist who resides in Canada. The paper, which is titled "Children's Human Rights to Natural Biological Origins and Family Structure", was presented in Slovakia at the end of May this year. At page 9 the paper reads:

Children have a right to be conceived from untampered-with biological origins, a right to be conceived from a natural sperm from one identified, living, adult man and a natural ovum from one identified, living, adult woman. Society should not be complicit in [undermining what I believe is a fundamental human right for children, which comes directly into play with respect to this bill].

I will not support the bill.

The Hon. HELEN WESTWOOD [3.12 p.m.]: I speak in support of the Adoption Amendment (Same Sex Couples) Bill 2010 (No. 2). I commend the member for Sydney in the other place, Ms Clover Moore, for introducing this legislation in the lower House and I commend the Hon. Penny Sharpe for introducing the bill in this House. If this bill is successful it will be another step on the path to New South Wales and Australia becoming a truly inclusive society that values all of its citizens as equal before the law. The bill seeks to amend the Adoption Act so that the best interests of the child are the sole determinant in adoption matters. It aims to uphold the very important object of the Act that adoption is a service to the child.

In considering the bill I have relied upon a number of sources, including the comprehensive report of the Standing Committee on Law and Justice regarding same-sex adoption, peer-reviewed research, reports of other inquiries, and reviews of adoption laws. I believe those sources have already been well canvassed and quoted from during the debate, both in this place and in the other place, and I do not intend to repeat many of the statistics and facts that other members have put before the House. Nor do I intend to quote research papers and experts' opinions because, as I have said, much of that material has already been covered. Suffice it to say, my position on the bill has been reinforced by much of the information and evidence presented in the documents I have referred to.

In addition to the evidence from experts in the field, I have also reflected on my own experience in a foster care and adoptive family, and on my own experience of parenting. I believe my own experience is very relevant in this debate, as I am the only member in this Parliament, either in this House or in the other place, who has had the experience of raising children in both an opposite-sex and a same-sex relationship—I am the only one who is willing to admit to it. After some of the contributions to this debate, one can understand why that may be the case.

My mother is a wise woman, and it is her considerable knowledge and experience that has also helped to inform my view on same-sex adoption. My sister came to our family as a foster child in the late 1950s. She was a ward of the State but had not been relinquished for adoption. Her legal status as a foster child meant the continual involvement of the government department now known as the Department of Community Services in her life. She was visited by welfare officers, and decisions about her considerable health problems and education were ultimately made by a departmental officer. During adolescence my sister experienced a number of crises that had a lifelong effect. My mother was firmly of the view that it was the lack of permanency of a placement in our family that caused a feeling of insecurity and a lack of certainty in my sister's life that led to these crises. So convinced was my mother that she wrote a very angry letter to the Minister of the day telling him her view and demanding that my sister's placement in our family be made permanent by way of adoption. I think my mother also threatened to write to the newspapers—which is not uncommon. As politicians we are all familiar with those sorts of threats. My mother obviously made a good point, because within a matter of months my parents adopted my sister after being her foster parents for 14 years. Regrettably, the emotional and health effects had already changed the course of my sister's life.

The importance of permanency is well documented throughout child protection and child-welfare literature. It points to issues of attachment, children's developmental needs, and the negative consequences of instability and uncertainty. All the child welfare agencies across Australia and those in many overseas jurisdictions talk about the need for permanency planning in children's lives. This bears out my own family's experience of child raising. Most of the agencies point to the types of experiences children and young people should have in permanent placements. I will quote from the permanency planning policy of the Western Australian Department for Child Protection. The policy is similar to the policies that other jurisdictions around the world have. The policy states:

Within a permanent placement, a child or young person should be able to:

- ☐ develop reciprocal strong relationships with the people who are providing their day to day care;
- ☐ feel a sense of belonging as a member of the family/household;
- ☐ develop trust in their relationships with others;
- ☐ feel a part of a wider family, friendship and community network;
- ☐ feel loved and valued for who they are;
- ☐ experience continuity of culture, language and religion;
- ☐ develop a knowledge and acceptance of their birth family and their personal life history;
- ☐ expect that the placement will continue;
- ☐ be supported as they grow up towards increasing independence;
- ☐ have contact with the people who are significant to them;
- ☐ understand and exercise their rights and responsibilities as a member of the family/household and in the community.

Gender or sexuality is not listed as a quality or criterion for determining the best placement for a child in need of out-of-home care in any of the literature or policies of government and non-government agencies that I have located. Gender or sexuality is not relevant when considering the best interests of the child. This is consistent with much of the evidence given to the law and justice committee inquiry into adoption by same-sex couples. I find the evidence to the inquiry from Ms Gillian Calvert, who at that time was the New South Wales Commissioner for Children and Young People, very compelling. Ms Calvert articulated:

Adoption is clearly for the benefit of children, not for parents. The legislation is also clear that we have a responsibility towards children: the decisions made about them are in their best interests. The legislation is also clear that children have a right to participate in decisions about adoption, having regard to their development, and that their wishes are an important factor in adoption decisions. Adoption is clearly important to children because it is providing them with families and stability for life. I know from my many conversations with children and young people over the past 10 years that families are central to children and young people's wellbeing. Families are the basis on which a child's life sits. It is where kids have experiences of being loved and cared for.

I am sure that all members in this place would agree with Ms Calvert's statement. All who have participated in this debate agree that adoption is about meeting the best interests of the child. It is on how the child's best interests can be met that we have divergent views. Contributions to this debate and the adoption by same-sex couples inquiry centre around the question of family form or family function. Is the best family for a child one that meets a certain prescription in its form, that is, a mother, a father, a child or children? Or is the best family one in which the child will be nurtured, valued, supported materially and emotionally, loved and encouraged to realise their full potential? I would argue that a good family function provides the best environment for a child to be raised in, regardless of the gender or sexuality of the prospective parents.

My own experience of parenting supports this, having raised my children in both opposite sex and same-sex relationships. I am sure it was the quality of our parenting that made the difference in our children's lives. It was our capacity as parents to love our children, to care for them when they were unwell or had a tough day at school, to provide for their material and nutritional needs, to provide them with a home free from violence and abuse and to give them new and interesting experiences that developed their academic and cultural potential and provided them with the best opportunities in life. One of our children had a disability, and we had the ability to ensure that she received the benefit of early intervention programs and that she had the necessary technical aids and medical treatment. We learnt about her language, Auslan, and her community, the Australian deaf community. These are the ways in which we provided good parenting to our children. They were not dependent on our gender or sexuality but on our commitment and capacity as parents.

As many members have pointed out, the overwhelming majority of children whose adoption is affected by the outcome of this bill are children known to the prospective adoptive parents, that is, those in long-term foster care placements or in step-parent type relationships where the adoptive parent is in a relationship with the child's biological parent. Clearly, there is no justifiable reason to deny these children permanent parenting placements through adoption, thus enabling them to enjoy all the legal rights of inheritance and certainty that other children enjoy. As many others have noted, children in foster care are usually those whose biological family is incapable of providing them with a safe, nurturing and loving family in which to be raised. The foster parents step in and provide that ideal family to them. In many cases these children have poor physical and emotional health, as well as very challenging behaviours as a result of the poor, inadequate and often unsafe parenting they have experienced early in their lives. It takes a great deal of dedication and commitment to parent these children and provide them with the nurturing and loving environment they need to overcome the impact of the very dysfunctional families they were born into.

The various adoption agencies take great care to assess the capacity of potential foster and adoptive parents to provide the quality parenting these children need. It is only when these agencies have rigorously assessed the potential parents that a child is placed within a family to be fostered or a recommendation is made for adoption. These agencies also thoroughly assess the needs of the child, and it is only when they consider that the child's needs can best be met by a particular parent or parents that they make a placement or recommend adoption. They make a great deal of effort. All of us who have researched this issue and read the various documentation and reports available to us understand that the agencies thoroughly examine the needs of the child—their physical, emotional and cultural needs—and assess the capacity of prospective parents to be able to provide a suitable environment in which to raise the child. They make the match.

It is not in the best interests of the child not to place them with a parent or couple who is best able to meet the child's needs, in many cases very complex needs. It is not in the best interests of the child not to place them with a family or couple on the basis of the parent or parents' gender or sexuality. To do so is to discriminate against the child on the basis of the prospective parent's or parents' gender or sexuality. This applies

in both known and unknown adoptions. As others have pointed out, when we talk about unknown adoptions we are talking about a very small number of children. However, I do not believe there is a compelling argument not to place a child with a couple who is unknown to the child simply because of the couple's gender or sexuality. If a relinquishing parent wants their child to be placed with a same-sex couple and the same-sex couple has been assessed as being capable of providing quality parenting that meets the needs of the child, the current laws prevent such an adoption proceeding. This makes no sense. Clearly, it is not in the interests of the child, nor is it complying with the wishes of the biological parent.

I support the bill, but I will refer to the exemption for faith-based agencies. Some concerns have been raised about this exemption. At a practical level it makes sense to exempt those agencies from providing for prospective adoptive couples who are of the same sex. The principle of exemption already applies to religious organisations, schools and others in the provision of services. I also believe it would not be a good experience for a same-sex couple to deal with a faith-based agency that has homophobic views and that does not want to provide services to a gay or lesbian couple. It would be a negative experience for the couple and it would not be a practical pursuit. Although I understand the concerns that have been raised in relation to this provision, at a practical level it makes sense to exempt those faith-based agencies. I support the exemption because it is in the interests of the couple.

Other members, particularly the Hon. Robert Brown, spoke about contributions from members in the other place. The Hon. Robert Brown used some of their contributions relating to their own childhoods and experiences as proof that a mother and a father provide the ideal family environment in which to raise a child. That is a nonsensical argument because, as we know—and it is certainly evident from many of the emails that I have received—there is still a great deal of homophobia in our community. I do not think many members in this place would disagree that not many people who identify as being gay or lesbian would be successful either in a preselection battle or in winning a lower House seat. I believe we still have some way to go before there is real acceptance and tolerance throughout our community.

I have been disappointed with some of the contributions to the debate. I am particularly concerned about the lack of leadership on the issue of diversity, particularly from those who live in western Sydney in ethnically diverse communities. We talk often about the value of diversity and about the need for tolerance and acceptance of difference. Yet I have heard it argued in the corridors of this place that members cannot possibly support the bill because their ethnically diverse communities are not tolerant or not accepting of gays and lesbians. That that attitude is still so strongly held is a pretty sad reflection on our society. It demonstrates how much more we have to do in this area.

The last speaker said that the laws of our land validate and legitimise opinions and attitudes. While ever we have laws in our State and in our country that discriminate against a group of people, it validates and legitimises that discrimination. For that reason I will fight long and hard to remove all laws that discriminate against any group in our society. I believe we are all the poorer when we have a society that is not accepting of diversity, that is not accepting of difference and that believes people can be discriminated against on the basis of their sexuality, their race, their religion or their culture. I do not accept that. I commend the bill to the House. I believe it will make a very positive difference to the lives of a number of children throughout this State.

The Hon. PENNY SHARPE (Parliamentary Secretary) [3.32 p.m.], in reply: It is a rare occasion in our Parliaments when there are free votes on individual bills. Such bills are confined almost exclusively to issues considered to be matters of individual conscience. The debate today has shown again that members have engaged in deep and thoughtful reflection on the issues considered in the Adoption Amendment (Same Sex Couples) Bill 2010 (No.2). This is entirely appropriate when considering some of the most vulnerable people in our community—our children. The bill asks members to consider what is in the best interests of children in New South Wales and throughout the debate each of us has come from a different perspective to form different views on these issues—although I note that some of us have formed views easily and some of us have had a great deal more difficulty.

I place on record my thanks to all honourable members who contributed to debate on the bill. Adoption confers rights and protections on adoptive parents and adopted children that are not covered by any other mechanism. It is a permanent change but it must be in the best interests of the child. Despite the hundreds of emails, letters and phone calls for and against the bill, the reality is that adoption in New South Wales is very rare. In 2007-08 there were 52 adoptions: 37 children were adopted by either their step-parent or their foster parent or parents, three were adopted by other family members and two were special-case adoptions. In 15 cases the biological parent or parents entrusted the love and care of their child to a parent or parents via adoption agencies.

In all cases the individuals and the couples who adopted the children had to go through an extensive, rigorous application and assessment process. In all cases the final adoption was overseen and finally approved by the Supreme Court. The only test the Supreme Court could consider was what was in the best interests of the individual child, taking into account that child's individual circumstances. That is exactly how it should be. The process to adopt a child must be rigorous, and ideology has no place in the decision. The only thing that should matter is what is best for each individual child in his or her individual circumstance. Passage of this bill will not change any of these rigorous processes.

In New South Wales it is estimated that 1,300 children are currently living in families headed by same-sex couples, including parents of the biological or adoptive child of the other parent—that is, step-parents—and same-sex couples caring for foster children. For these children who are in existing same-sex parented families, the bill will do two things. First, it will give children who live with their biological parent the ability to be adopted by the second parent of the same-sex couple—known as their step-parent. It will mean that a young woman named Brenna—many members have spoken about her—can finally be adopted by her mum Jackie. Jackie has been Brenna's mum for the past nine years. Brenna, who is now 14, wrote to all of us. I know that her words have been put on the record extensively but I want to quote her in my speech. She wrote:

I can see no valid reason why my parents cannot legally be my parents. It is my life and it's a pretty good one too. I am well off. I am happy. Surely love makes a family not 'man, woman and child' and I can tell you there is plenty of love in mine.

It is really important to me that my family is recognised as one.

The bill will also allow same-sex couples who are providing foster care to children together to adopt those children. Currently the only protection these very vulnerable children have is the ability to be adopted by only one of their parents if their parents are the same gender. It has been very difficult to have the voices of same-sex foster carers and their children heard in this debate.

The foster parents I have been in contact with have watched this debate intensely, frustrated by their inability to enter the debate and tell their stories. But there is one very good reason for that: the children who are being cared for by these couples are not allowed to be identified, and those foster parents take this responsibility extremely seriously. The children are in their care because it is no longer possible for those children to live safely with their biological parents. The ongoing protection of the privacy of those children is paramount so that they can have the best chance to find the peace and security previously denied to them. While they have so much to gain for their families, these couples have remained resolute in protecting the children in their care and have not entered the public fray of this debate—although I know that some very courageous people have done so, and they should be acknowledged. I have the utmost respect for these families and acknowledge what has been a stressful and anxious time for them while the Parliament has been making this decision.

Perhaps the aspect of the bill that has provoked the most debate is the issue of the approximately 15 children per year whose birth parents, via adoption agencies, voluntarily entrust the care and protection of their children permanently to either a single adoptive parent or a heterosexual couple. This form of adoption is known as local or unknown adoption. I acknowledge and strongly support the right of the birth parents to have the absolute right to decide to whom they will permanently entrust the care of their child. I acknowledge the deeply held belief of individuals that all children in these circumstances are best placed with both a mother and a father. I acknowledge the concerns raised by faith-based agencies. This bill does nothing more than allow same-sex couples to be given access to the application process for adoption. That rigorous process will continue to be overseen by the Supreme Court.

The passage of this bill will allow couples to be assessed for their suitability as adoptive parents. If they are assessed as suitable they will be able to be considered by agencies to be put forward to parents who are giving up a child for adoption. No birth parent will ever be forced to have their child adopted by a same-sex couple against their wishes, and nor should they be. With the exemptions built into this legislation, no faith-based agency will ever have to consider or assess a same-sex couple to be put forward to the birth parents using their services. I understand that one of the amendments that will be moved in Committee asks the Parliament to remove the ability of same-sex couples to access the process for unknown adoption. I will have more to say about that in Committee, but at this stage I ask members to reflect on the rights of a parent who wants a same-sex couple to adopt their child. Will we deny them that option? We must also consider that scenario.

The bill was introduced in the other place for the second time on 1 September 2010 by the member for Sydney as a private member's bill. It was defeated in 2000 by both major parties in the other place. I am pleased

that she was willing to introduce it again for consideration by the Parliament when many told her that it was too hard and had little chance of success. I acknowledge the representations received from child protection experts, child welfare agencies, fostering agencies, the Gay and Lesbian Rights Lobby and others whose practical experience has reinforced that the rights of children will be promoted through the passage of this bill. I acknowledge the individual families who have courageously told their stories about why this bill will make a difference to their children. I also acknowledge the hard work done by the Standing Committee on Law and Justice under the thoughtful and inclusive leadership of the Hon. Christine Robertson. The committee's report has laid the groundwork for much of this debate and this bill.

I also acknowledge the members of Parliament who have worked very hard across parliamentary lines—it was scary for all of us at times—to promote the passage of this bill. I particularly acknowledge the commitment of Clover Moore, Linda Burney, Nathan Rees, Gladys Berejiklian, the Hon. Don Harwin, Russell Turner, the Hon. Ian Cohen and the Hon. Trevor Khan. I also recognise the Attorney General for his forensic approach to the issues surrounding what we will now call the "Frank Sartor amendment". The Attorney General has closely examined the amendment and identified significant unintended consequences that will impact on the way in which anti-discrimination law operates in this State and he will move an amendment to deal with them in Committee. I have consulted with the member for Sydney and she supports the amendment, as do I. Finally, I acknowledge the leadership shown by the Premier and the Leader of the Opposition in being prepared to support that which is not necessarily popular but which is absolutely necessary to promote the best interests of all children in all their individual circumstances in New South Wales. I commend the bill to the House.

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

The House divided.

Ayes, 22

Mr Ajaka	Mr Khan	Ms Sharpe
Mr Cohen	Ms Parker	Mr Veitch
Ms Cusack	Mrs Pavey	Mr West
Mr Foley	Mr Pearce	Ms Westwood
Miss Gardiner	Mr Primrose	
Ms Griffin	Mr Robertson	<i>Tellers,</i>
Mr Hatzistergos	Ms Robertson	Mr Harwin
Dr Kaye	Mr Roozendaal	Ms Voltz

Noes, 15

Mr Brown	Mr Kelly	Mr Obeid
Mr Catanzariti	Mr Lynn	
Mr Clarke	Mr Mason-Cox	
Ms Ficarra	Mr Moselmane	<i>Tellers,</i>
Mr Gallacher	Reverend Dr Moyes	Mr Colless
Mr Gay	Reverend Nile	Mr Donnelly

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 and 2 agreed to.

The CHAIR (The Hon. Kayee Griffin): Order! There are three amendments relating to schedule 1. I propose to call on the amendments in the order that they seek to amend the Act.

The Hon. MATTHEW MASON-COX [3.53 p.m.]: I move my amendment on sheet C2010-080:

Page 3, schedule 1. Insert after line 9:

[2] **Section 28 Adoption by couple**

Insert after section 28 (2):

(2A) **Requirements for same sex couples**

The Court must not make an order in favour of a same sex couple unless:

- (a) the couple have been authorised carers (within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*) for the child for a continuous period of not less than 2 years immediately before the application for the order, or
- (b) one of them is the birth parent of the child and section 30 is complied with in relation to the other of them.

While I commented in detail about this amendment during my speech at the second reading stage, I will reiterate a few key points. First, the effect of this amendment is to exclude unknown adoptions—that is, adoptions where the prospective adopted child is not known to the adopting parent. In that regard, it is my very strong view that the bill in its current form and as it relates to unknown adoptions simply goes too far. As I noted earlier, it subsumes the rights of what I consider to be the most vulnerable in our community to the rights of, in this case, the most vocal. It must be the duty of the State to defend the best interests of those who do not have a voice, particularly when there is no substantive, reliable, empirical evidence in support of such a change.

I note that a number of members referred to the excellent report of the Standing Committee on Law and Justice entitled, "Adoption by same-sex couples," which comprehensively reviews the research in relation to parenting by same-sex couples and by heterosexual couples. I note in particular some comments by members, including the Hon. Dr John Kaye, that the evidence is really all one way and there is no case to suggest that either set of parents is superior in providing care to children. It is important to note that the evidence is not incontrovertible, and when the evidence does not clearly support making the change it is my considered view that we should not make such a serious change when there is fundamental unease in the community about it. As I said earlier, all things being equal, children's interests are best served by being brought up in the care of a father and a mother.

In the case of known adoptions, the circumstances are not equal. In these cases—be it foster care or a biological relationship with a prospective adopted child—a relationship exists, it is in play, and the child in question can express a view in many of these circumstances. Section 8 of the Adoption Act allows these circumstances to be taken into account, particularly the views of the prospective adopted child, and that is most appropriate. We must remember also that in these circumstances the adoption process is a robust one and is well able to act in the best interests of children.

I note in particular that my amendment stipulates in paragraph (a) that in the case of foster care pursuant to the Children and Young Persons (Care and Protection) Act 1998 the couple must have been authorised carers for not less than two years. This period is appropriate and reflects section 30 of the Adoption Act, which stipulates the same period in order for adoption by a step-parent to proceed. So there is legislative precedence for a period of two years. Paragraph (b) of the amendment also refers to section 30 of the Adoption Act but this time so as to make it clear that the proposed amendment does not override section 30 in its application. Again, this is entirely appropriate as section 30 deals with the issue of step-parents. I reiterate my strong view that the critical touchstone in this debate must be to act in the best interests of the child. In my view, the amendment strikes the right balance in a difficult and contentious area, and I commend it to the Committee.

The Hon. MARIE FICARRA [3.58 p.m.]: I support the amendment of the Hon. Matthew Mason-Cox on the basis, again, of what I believe is right for children. This amendment is based on similar Tasmanian legislation that is functioning well. In this amendment we are talking about two special situations of known adoptions—the emphasis is on known as against unknown adoptions. At present, fewer than 20 babies or small children—these are unknown adoptions—are given up for adoption in this State on a yearly basis. This amendment will cover most of the situations that members supporting this bill are concerned about. Most of them have spent their time talking in this place or in the other place about known adoptions. Members who support the bill are concerned about two main issues. One is the many same-sex foster carers in New South

Wales who have cared lovingly and successfully—and have been assessed by agencies that they work with as having done so—for children in their care. Very often these children have special needs and may come from difficult backgrounds.

They need loads of love and attention; lots of nurturing to restore their minds, bodies and spirit. I salute these foster parents, whether they be same-sex couples or heterosexual couples. I salute them for their dedication, love and care on an emotional, physical and financial level. Where same-sex foster carers have been caring for children for at least two years and obviously all parties are happy to proceed to adoption and comply with the requirements of the Adoption Act—particularly section 8, which relates to principles for decision-making about adoption in determining what is in the best interests of individual children to be adopted—the overriding issue is the future welfare and happiness of the child or children. When all this is taken into account, why deprive these children of a loving family? The relationship may not be a heterosexual one. If a same-sex relationship is assessed to be beneficial for this child or children, it would be cruel indeed to not allow this adoption to proceed with all the normal Adoption Act regulatory checks and balances satisfied. These children would then have the chance of a productive and happy life with parents they felt cared for them. The discrimination referred to by members in their speeches in this Chamber and in the other place with regard to heterosexual foster parenting couples being allowed to adopt but not same-sex couples who were assessed by agencies as performing well in their carers role, would be addressed if this amendment is passed.

The second situation of concern to so many members is one in which one individual in a same-sex relationship is the biological parent of a child. Many of us understand that this situation relates to hundreds if not thousands of individuals in New South Wales where a parent is in a loving same-sex relationship and obviously the relationship involves a child or children. If this family unit is a happy, stable and positive one, which again complies with the Adoption Act and all its stringent checks and balances, why deprive this child or children of a loving family unit that will bring much security—emotionally physically and financially? Many of us would have preferred that such children have a mother and father, but for many reasons we know that this can never happen in many cases. Same-sex couples going through an adoption process must have given the adoptive process deep consideration. It is not something that people jump into without a lot of thought; it is not like buying a pet, for example. They understand that this will be a lifelong commitment. Again, it is the welfare and happiness of the children involved in such cases that should be the overriding factor.

For all these reasons involving the two major categories of known adoptions I support the amendment of the Hon. Matthew Mason-Cox and I congratulate the Australian Christian Lobby via its New South Wales director, David Hutt, on being understanding, Christian minded and proactive in its support of this amendment. It will have positive and profound social outcomes for the many New South Wales families, same-sex couples and children involved. I wish to quote from correspondence that all members received today from the Australian Christian Lobby, which states:

We are motivated to participate in this debate out of a genuine concern for the welfare of children and that the best interest of the most vulnerable of those, those orphaned or given up for adoption are maintained by retaining the principle that adoption is about them and not adults.

I am now writing to you in light of the amendment foreshadowed by the Hon Matthew Mason Cox that aims to separate "known" and "unknown" adoptions. It has become clear throughout the debate that Parliament is determined to make changes in the field of adoption. The rationale for change presented by proponents of the bill has focussed almost exclusively on the need to provide certainty to children already living in same sex parent households.

From our perspective, the benefits of the amendment before the House are as follows:

- Only parents who have an existing relationship with the child in question will be allowed to adopt.
- No additional relationships between children and same sex parents will be created as a result of this amendment
- The amendment is in keeping with standards set in other Australian jurisdictions—notably Tasmania.

This amendment will be positive for the children and adults concerned, always with the Adoption Act checks and balances applied by adoptive agencies and the court in their assessments. Both the agencies and the courts have done a terrific job in ensuring our adoption process is fair and always in the best interests of the children involved, and I have confidence that this will continue. This amendment would leave things as is, with approximately less than 20 a year unknown baby and small child adoptions in New South Wales. With so many hundreds if not thousands of heterosexual couples desperate to adopt children, usually for reasons of infertility, we should consider the love and care that they could provide to these unknown adoptive children when we vote

today. I ask all members to consider that there is room enough to satisfy all here. We should be guided by what is best for the children involved. However, I emphasise that if the amendment is lost, there is no way that I could support the bill. I commend the amendment to the Committee.

The Hon. IAN COHEN [4.05 p.m.]: On behalf of the Greens I speak to the amendment moved by the Hon. Matthew Mason-Cox. It proposes to allow authorised foster carers who have cared for a child for more than two years to apply for adoption. As we heard during the second reading debate, the weight of empirical evidence shows that same-sex parenting is as likely to result in positive developmental outcomes for children as does opposite sex parenting. A number of members have said that the child has an absolute right to a mother and a father. Later in Committee amendments will be moved to contradict this claim. The amendment moved by the Hon. Matthew Mason-Cox is an acknowledgement that there is empirical evidence that same-sex couples can offer a child stable and loving environments. Unfortunately, it puts unnecessary and discriminatory limitations on characterising the best interests of the child. The Greens oppose the amendment.

The Hon. ROBERT BROWN [4.06 p.m.]: I speak in support of the amendment by the Hon. Matthew Mason-Cox. This seems to me to be a reasonable amendment. When I consider the contributions made by members who spoke against the bill during debate on the second reading, it seems that most of the objections were strongly based on this very issue—where harm would be caused to existing situations. I hope that those voting for the bill do not regard this as a bad amendment. I have asked the Hon. John Hatzistergos whether this amendment in any way interferes with or negates his proposed amendment, which I will be supporting. He assures me that it will not and does not.

The Hon. TREVOR KHAN [4.07 p.m.]: I am torn by the amendment. I would respectfully suggest that it is one of the first positive contributions in opposition to the bill. I am torn for this reason. What we have seen generated by a number of groups opposed to the bill has been what, at best, could be described as a vilification of same-sex couples. In truth we have seen an avalanche of emails that have been unequivocal in their attack on same-sex couples and their raising of children. At this late stage, to have a change in position after we have seen the level of attack causes me very considerable unease.

The Hon. Marie Ficarra: Attack by whom?

The Hon. TREVOR KHAN: I am torn by the matter but I am very concerned at the way the debate has been allowed to generate in the community. It has not been balanced—and I note that the Hon. Marie Ficarra is concerned that my comments are directed at her; they are not. The way this has been generated in the community, the way the campaign has been run by various groups, and to see a change in position at the last moment, causes me great unease.

The Hon. CATHERINE CUSACK [4.10 p.m.]: I oppose the amendment. The Hon. Matthew Mason-Cox made a significant factual error in his speech yesterday when he foreshadowed this amendment. He said words to the effect that in this State there are a shortage of foster parents and an abundance of people wanting to adopt. My response to the Hon. Matthew Mason-Cox is that in this State there are many foster parents providing a wonderful service to our community, but with 10,000 children not living at home there is an abundance of children in need of those foster care services and there are very few children to adopt. Up until this point the debate has been focused on the children and what is in their best interest. This debate is not about the abundance or non-abundance of parents. This debate should stay on the issue of the children. What might strike some members as a shortage of foster parents is in reality so many children in foster care and very few adoptions.

It is very difficult to obtain permanent care for children with profound disabilities, and only a small number of such children are adopted each year. These adoptions are referred to as unknown adoptions. The reason for such a small number of adoptions is not because of a shortage of children but because of a major shortage of parents willing to enter into such adoption arrangements. I do not believe that same-sex couples should be excluded from consideration for adoption. I could not support excluding from consideration any category of person able to pass all of the necessary tests and willing to provide for these children.

The proposed amendment relates to the selection of adoptive parents—one of the most contentious issues in the adoption process. In 1997 the Law Reform Commission considered this issue in great detail. The commission considered whether the previous system of a "pool" of approved applicants should be allowed to continue. It is important for members to understand how the system works so I will quote from the conclusions reached by the commission on this issue in its report. The commission stated:

The present method of maintaining a "pool" of approved applicants is an appropriate way of dealing with the great imbalance between those wishing to adopt and children available for adoption, while minimising the time a child must wait for a suitable placement. Also, any guidelines for "pool" management should be considered in practice by the agencies rather than prescribed in

legislation. Any guidelines should support a "pool" membership consisting of applicants who are determined most likely to meet the needs of children expected to become available in the near future. This approach means that the placement decision focuses on the needs of particular children rather than on the general eligibility of applicants as adoptive parents.

Section 45 of the Adoption Act 2000 prescribes regulations to the Act. Regulation 12 of Adoption Regulation 2003 lists the criteria for assessment of applicants as follows:

... the relevant decision-maker is to have regard to the following matters when assessing the suitability of a person to be approved to adopt ...

- (a) the person's health, including emotional, physical and mental health;
- (b) the person's age and maturity;
- (c) the person's skills and life experience in relation to the person's ability to undertake parenting tasks and attend to the specific needs of an adopted child;
- (d) the person's capacity to provide a stable, secure and beneficial emotional and physical environment during the child's upbringing until the child reaches social and emotional independence;
- (e) the person's financial circumstances in relation to the person's capacity to adequately provide for the child's needs;
- (f) the person's capacity to support the maintenance of the child's cultural identity and religious faith (if any);
- (g) the person's appreciation of the importance of and capacity to facilitate:
 - (i) contact with the child's birth parents and family, and
 - (ii) exchange of information about the child with the child's birth parents and family;
- (h) the general stability of the person's character and the person's criminal history (if any);
- (i) the stability and quality of the person's relationship with his or her spouse (if any) and between the person, his or her spouse (if any) and other members of the person's family and household;
- (j) the criminal history (if any) of the person's spouse (if any) and other members of the person's household;
- (k) if the person has had the care of a child before the application whether the person has shown an ability to provide a stable, secure and beneficial emotional and physical environment for the child.

This outstanding criteria is being followed, and should be allowed to be followed, in the adoption of children. I make a plea to this Chamber, particularly on behalf of children with special needs, to not exclude a category of very loving households that could make a major difference to their lives. I do not believe the amendment is genuine. I believe it has been made in an attempt to harm the successful passage of this bill. It has been moved by members who do not support the bill. Echoing the concerns of the Hon. Trevor Khan, I urge members to stick with this very well researched and considered approach that is before the Committee.

The Hon. MATTHEW MASON-COX [4.15 p.m.]: Madam Chair, I want to respond to that garbage.

[Interruption]

To suggest that this is not a genuine amendment is outrageous. The conduct and suggestions of the Hon. Catherine Cusack are outrageous.

The Hon. Christine Robertson: Point of order: My point of order is that the Hon. Matthew Mason-Cox must address anything he has to say through the Chair.

The Hon. MATTHEW MASON-COX: Through you, Madam Chair: the comment of the Hon. Catherine Cusack in suggesting that the amendment is not genuine is outrageous.

The Hon. Christine Robertson: The Chair has to rule on the point of order.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Is the Hon. Matthew Mason-Cox speaking to the point of order?

The Hon. MATTHEW MASON-COX: I am speaking through you, Madam Chair. I am willing to acknowledge the point of order.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! This is an extremely serious debate and as the Chair of the Committee I would caution members not to get involved in personalities when considering amendments. The Hon. Matthew Mason-Cox has raised concern about comments made by the Hon. Catherine Cusack. Members should bear in mind the serious issues involved and the implications that will arise depending on whether or not amendments are agreed to. This debate has always been about the rights of children and up until this moment has been conducted fairly and with due consideration for the issues and the views of members. I ask all members to heed my comments as the consideration of the various amendments proceeds.

The Hon. MATTHEW MASON-COX: If I may continue? I believe the comments made by the Hon. Catherine Cusack impugn my integrity. I ask her to withdraw them insomuch as they suggest my efforts have not been genuine and that my amendment is not genuine.

The Hon. Catherine Cusack: I certainly did not refer to the Hon. Matthew Mason-Cox by name, and I was not directing my remarks to him. But if he has been offended in some way, I will withdraw those remarks.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! The Hon. Catherine Cusack has withdrawn her comments. I remind members of my recent ruling. This is an extremely serious debate, and not a debate during which members should argue personalities. Amendments are being moved by members who are very concerned about this proposed legislation. Members should be mindful of the tone of their remarks as they contribute to the serious issues that are before the Committee for consideration.

The Hon. GREG DONNELLY [4.18 p.m.]: I speak not to delay the proceedings but to make a couple of points in relation to the amendment, which in my view has been put forward in a genuine way. I want to respond, without creating argument with the Hon. Trevor Khan, to the emails issue. Can I say to you—

The Hon. Christine Robertson: Through the Chair.

The Hon. GREG DONNELLY: I am sorry?

The Hon. Christine Robertson: Through the Chair.

The Hon. GREG DONNELLY: Yes, I know the forms of the Committee. I say to the Hon. Trevor Khan: We have all been basically bombarded with emails and other communications regarding the issue, and that includes letters, packages of information, and so on. Firstly, I have found it difficult to get through the large volume of material. Secondly, I believe that some of the arguments put, and perhaps even some of the language used, have been somewhat indelicate. Having said that, though, obviously people have strong views about this matter.

I say to the Hon. Trevor Khan that I—and, I am aware, other members in my party who oppose the bill, as well as Coalition members and crossbench members who oppose it—have been working studiously behind the scenes to try to, as it were, tone things down. I think this debate, in the main, has stayed away from being a debate in which the whole issue of homophobia is drawn in and we get down to those sorts of issues. I honestly do not believe that any member who has participated in the debate in this Chamber thus far has put forward these arguments to prosecute their position. I, for one, would not support that style of argument in an effort to advance the position. The Hon. Trevor Khan's decision will obviously be his decision, but I hope it does not ultimately bear on the style of the material that has been presented to us, without an appreciation of what some people have been seriously trying to do to contain what is in some of that material.

I must say that I am not completely happy with the amendment moved by the Hon. Matthew Mason-Cox, in the sense that I would prefer not to be dealing with the amendment because I would like to have won the vote earlier this afternoon. Having said that, however, I realise that the amendment is now before us. The attitude of those who have successfully prosecuted their position in the House may well be, "Winner takes all. Politics is Politics."

With regard to the issue of "unknown" adoptions, the reality is that there are very few unknown adoptions in this State—I will not canvass the figures; people are well aware of that fact—and that large numbers of heterosexual couples are desperate to adopt. In the scheme of things, unless it is a matter of principle—and I suspect that it is a matter of principle for the people advancing their position—ultimately those people will oppose the amendment because that is their position. However, as I said, a large number of heterosexual couples are desperate to adopt.

The issue of overseas adoptions was canvassed in the second reading debate, but it is also relevant in debate in Committee. None of the countries with which the Commonwealth of Australia has a bilateral agreement in place with respect to adoption—from recollection, 14 or 15 such agreements are in place—permits homosexuals to adopt children. The argument might be advanced, "Look, these countries had better get with it." The information is on the Commonwealth Attorney-General's website and members can go through the countries listed there and see for themselves the terms of the individual bilateral agreements. In those countries a fundamental view operates about the value for a child being raised by a mother and a father.

I conclude by reiterating this point. The issue of the form versus function argument was well and truly ventilated during the hearings of the Standing Committee on Law and Justice and is dealt with in its final report. The best-case scenario that can be put forward by those advancing the case for change is that there is no evidence that children raised in a same-sex relationship are worse off than those raised in a heterosexual relationship. The difficulty I have in going through the material presented to us is this. With respect to the social science methodology used to make the assessment in regard to the bill, those techniques are fundamentally flawed. I will describe how the techniques are fundamentally flawed.

With respect to good social science, members of this Chamber would appreciate that one needs to have a proper random sample. One then looks at that random sample over a long period and then, through proper assessment, comes to a conclusion. The problem with the social science that has been heavily relied on in debate today is that the fundamental methodology does not involve using a random sample; indeed, in the main it involves self-selection. If one considers the material in the main—and I do not argue that this is the reality with the papers that have been produced to advance the case for change—there is virtually no evidence about the impact of children being raised by male homosexuals. That is because that circumstance is extremely rare, not just in Australia but around the world.

Lesbians raising children is much more common than gay males raising children. However, lesbians self-selecting into a survey and then being asked questions in regard to outcomes for children defies statistical integrity in terms of the way in which one properly conducts a survey if one wants it to stand up to proper peer review and rigour. That is the reason that the precautionary principle I advocated earlier should be before us in exercising our minds with regard to this issue.

Reverend the Hon. FRED NILE [4.27 p.m.]: On behalf of the Christian Democratic Party I am pleased to support the amendment moved by the Hon. Matthew Mason-Cox. I have had no role in drafting the amendment, but I commend the Hon. Matthew Mason-Cox for his initiative in presenting it to the Committee for consideration. The amendment he has moved is straightforward. It provides:

The Court must not make an order in favour of a same-sex couple unless:

- (a) the couple have been authorised carers (within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*) for the child for a continuous period of not less than 2 years immediately before the application for the order, or
- (b) one of them is the birth parent of a child and section 30 is complied with in relation to the other of them.

I note that the Australian Christian Lobby, which has indicated its support for this amendment, in its letter addressed to members dated 7 September wrote:

The rationale for change presented by proponents of the bill has focussed almost exclusively on the need to provide certainty to children already living in same-sex-parent households. Regardless of the merits of a case for legislative change in the area of "known" adoptions—there has been no credible argument put forward in favour for extending "unknown" adoption rights to same-sex couples.

An "unknown" adoption is a traditional adoption, in which the adoptive parents have had no previous association with the child to be adopted. The letter from the Australian Christian Lobby continues:

From our perspective, the benefits of the amendment before the house are as follows:

- Only parents who have an existing relationship with the child in question will be allowed to adopt.
- No additional relationships between children and same-sex parents will be created as a result of this amendment. The amendment does not create a new class of relationship between children and same-sex parents.
- The amendment is in keeping with standards set in other Australian jurisdictions—notably Tasmania.

This amendment will help to relieve some of the concerns of people about the impact of the legislation and of those members who voted against it. I will support the amendment.

The Hon. MARIE FICARRA [4.30 p.m.]: I put on record that the motivation of those who helped in the drafting and lobbying of this amendment is not artificial. The amendment has not been moved for the purpose of a quick retreat on numbers or a change in position. In my earlier speech on the bill I mentioned my concern about same-sex foster parenting couples. That concern still holds. The language in some of the emails and correspondence on both sides of the argument that members have received was disgusting and unacceptable. But such behaviour has not been associated with any member of this Parliament. It is unacceptable to make the remote connection, as some members have, that this is an orchestrated campaign. I place on record that all members who have similar views to mine find these emails and calls to our mobiles, homes and offices totally offensive.

The Hon. ROBERT BROWN [4.31 p.m.]: I will address a comment that was made by the Hon. Trevor Khan about the reasons for this amendment. We will consider at least two amendments, one moved by the Hon. Matthew Mason-Cox and one by the Attorney General, both of which change the focus of the discrimination issues in the bill. I do not see how members can vote against the Hon. Matthew Mason-Cox's amendment and then support the Attorney General's amendment. In my view, both amendments improve the probability that the bill will help rather than hinder children.

The Hon. LUKE FOLEY [4.32 p.m.]: I have had, and continue to have, an open and inquiring mind on unknown adoptions. Indeed, in many discussions with the proponents of the bill I have asked them to make the case to me for changing the law on unknown adoptions. For some time I have felt that the case has been made for known adoptions. I ask the mover of this amendment, given what he has said, if we carried his amendment would he then vote for or against the bill?

The Hon. MATTHEW MASON-COX [4.33 p.m.]: I would support this bill with that amendment.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [4.33 p.m.]: Some aspects of the debate that have taken place on this amendment have, no doubt, found support amongst some members. However, I am concerned because the amendment is limited in a way that may lead to a situation where the best interests of the child are not advanced. The amendment seeks to limit the capacity of the court to be able to make an order, first, in circumstances of foster care, where a person has been authorised as a carer under the Children and Young Persons (Care and Protection) Act for two years immediately before the application of the order; and, secondly, in circumstances where one of the couple is the birth parent of the child and the other meets the requirements of section 30 of the legislation.

A number of circumstances are excluded by this proposal. One of the most significant is surrogacy where a person, for example, is not in a fostering relationship. Surrogacy arrangements are legal in New South Wales and children are being brought up in such environments. Regardless of whether members approve of this arrangement, it is a fact of life. The effect of this amendment would be to potentially exclude the application of adoption laws in relation to those circumstances. Moreover, it is not impossible to envisage circumstances in which a mother and a father who have a severely disabled child and feel that they are ill-equipped to manage, hand the child over to an adoption agency where, frankly, the options for placement are limited. Amongst the limited pool there may be a same-sex couple that is prepared to offer the child a home and a nurturing environment. These are the difficulties that arise when we start setting rules in concrete.

I have always said that the issue should be the best interests of the child, and I maintain that position. I believe the best interests of the child are met by leaving the court in the position of being able to decide in any particular case on the best interests. I have never taken the view that the Anti-Discrimination Act should act as a vehicle of social engineering to ensure an outcome for a young person where that outcome would not be in the child's best interests. For example, in the case of a young Aboriginal child who is put up for adoption, I would fully support the strong view that the child's best interests would be advanced by the child being placed with a family of similar cultural and linguistic background. Those best interests should be advanced in that way, notwithstanding that the Anti-Discrimination Act in its pure application would lead to a different outcome.

My view is that these decisions are best made in the context of individual cases without us attaching trip wire. In saying that, I do not in any way impugn the motives of the mover and supporters of the amendment. I understand that they hold passionate views on these issues, as do other members. But before members vote on the amendment it is important that they consider the full impact of such an amendment being carried.

The Hon. GREG DONNELLY [4.38 p.m.]: I will respond to the comments of the Attorney General. Members found out today by email that a bill on surrogacy, of which we are yet to learn the details, will be

presented to Cabinet shortly. Today we are dealing with legislation on adoption, and we need to deal with it today. We do not have the scope to deal concurrently with the two bills and come up with a solution. In response to the Attorney General, the issue he raises in relation to surrogacy may well be and should be looked at during debate on the surrogacy bill. Once members have seen that bill and considered its full implications, it would be open for the Parliament to revisit this whole issue in due course, if members considered that was appropriate.

[Interruption]

These are complicated matters, the Hon. Dr John Kaye knows that. I know the Greens have a policy position on this but not everyone has and we are trying to work our way through it. I hope he respects that. That is my response to surrogacy.

In regard to advancing the case of the disabled child, with the greatest respect to the Hon. John Hatzistergos, that is just an example. I do not think that a consideration of an attempt to try, in the main, to accommodate the thrust of what people are seeking in this Parliament—changing the underpinning values of the Adoption Act to accommodate what people say are particular needs—is compromised. Putting forward a single example and saying, "What if?" or "maybe", and then saying that we should take that into account, particularly when this is a genuine attempt to accommodate particular needs, is a bit rich. I believe it is a genuine attempt, although I was not involved in drafting the amendment and I have seen it only in the past 24 hours. That is my response to the comments of the Hon. John Hatzistergos. I believe the amendment moved by the Hon. Matthew Mason-Cox deserves the support of this House.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.40 p.m.]: The single example is exactly the reason why this amendment cannot be passed. This is not, in the main, a discussion about children being raised by a mother and a father. I know there are people in this place who deeply believe that and I respect that. I have spoken to the Hon. Matthew Mason-Cox and to the Hon. Marie Ficarra, and they have indicated to me that they were genuine in this, and I respect that. I know that they come to this debate with the best of intentions. However, I will make a couple of points.

The test is: What is in the best interests of an individual child in that child's individual circumstances? If this bill is passed it means that the House believes that there will never be an individual child for whom adoption by a gay or lesbian couple is in the child's best interests. I believe that is a risk that is not worth taking. There is one example of same-sex unknown adoption in Australia—in Western Australia. I seek leave to incorporate a document of the voice of a biological grandmother about a family decision and why they picked a particular couple. I seek leave to have the document tabled and I ask members to consider it. It is a very, very powerful statement about why you can never generalise about what is in the best interests of all children. The only thing that matters is who is the best person for the child in the child's individual circumstances? In many, many cases that will be a heterosexual married couple, and that is absolutely appropriate. In some cases it might be a single person.

The scenario could be of a young woman who cannot look after the child that she has given birth to and seeks to have her brother and his partner adopt that child. Do we seriously want to stomp on her decision—the hardest decision she will ever make? Do we seriously want to say that under no circumstances is that reasonable? You cannot support this amendment unless you can contemplate and are willing to say that there is never going to be such a case. The pure reality of this debate is that very, very few children are given up for adoption. It is a heart-wrenching decision for every person who has to make it. It is their right to decide where that child is cared for and entrusted into the future. We have no right to dictate to them what they consider to be in the best interests of their child.

The second point I make about this amendment is that, for all its good intentions, I do not believe it is equitable. It does not cover all known adoptions. In the report of the Legislative Council Standing Committee on Law and Justice the Hon. John Ajaka moved a dissenting report in which he talked eloquently about his concerns about known versus unknown adoptions. I believe that his dissenting report reflects the genuine concern of people within this debate. I do not say this lightly, but there is a technical problem with this amendment. It is not the technical problem that the Hon. John Hatzistergos raised but one that concerns excluding same-sex couples who have been fostering a child when one of them has adopted the child. The child is no longer in foster care. If we pass this amendment such children will not be captured by the legislation; their second parent will still not be able to adopt them. I have confirmed that with advice from the Department of Community Services. This has come to my attention only recently. If I had known about it earlier I would have spoken to the Hon. Matthew Mason-Cox about it.

All the issues have been canvassed. I do not seek to go into the research regarding same-sex parenting and I do not seek to go into intercountry adoption, because, quite frankly, they are irrelevant. The only thing that we are considering in this bill is what is in the best interests of an individual child in that child's individual circumstances. Unless you can contemplate that there is never a circumstance in which the best interests of that individual child are going to be served you cannot pass the legislation. We have to have faith in three things. First, we must have faith in the process being rigorous, that no-one is ever going to be put forward as adoptive parents unless they are absolutely suitable to look after children. Any fault in that process is unacceptable. Secondly, we must have faith in the process that the adoption agencies will vet adoptive parents. Thirdly and finally, we must have faith that the birth parent who is relinquishing the child is making the best decision in the best interests of their child. I urge members to reject this amendment.

The CHAIR (The Hon. Kayee Griffin): Order! The standing orders do not provide for the tabling of a document in Committee, which, if it were permissible, would be for the information of members during Committee consideration only. However, I remind the Hon. Penny Sharpe that she may seek leave to table the document during debate on the third reading of the bill.

The Hon. PENNY SHARPE: I seek leave to circulate the document now. I just want people to read it in the context of this debate.

The Hon. Duncan Gay: We are happy for you to circulate it.

The CHAIR (The Hon. Kayee Griffin): Order! If the member wishes the document to be part of the public record, it must be tabled.

The Hon. PENNY SHARPE: I may seek leave during the third reading stage to incorporate it, but at this point I just want people to read the document.

Dr JOHN KAYE [4.47 p.m.]: I am in strong opposition to this amendment largely for the reasons that have been outlined by the Hon. Penny Sharpe, the Hon. John Hatzistergos, the Hon. Trevor Khan and the Hon. Ian Cohen. I want to make absolutely clear what this amendment does. As the Hon. Penny Sharpe said, this is not about unknown adoptions and it is not about all known adoptions. It allows for only two kinds of same-sex adoptions, the first one being the authorised carers and the second one being where one of the parents is a birth parent—for example, someone has a child and they might enter a relationship with someone of the same sex. The amendment completely excludes cases that have been referred to in material that has been sent to us and in the debate. For example, the brother of one of the parents and his partner, the sister of one of the parents and her partner are completely excluded by this amendment. This is not a case of excluding unknown adoptions; it goes far further than that.

If you vote for this amendment thinking it is okay because all we are doing is excluding the unknown adoptions and that is only 15 or so each year, that is not what you are voting for. You are voting for something far more restrictive. You are gutting the bill and you are removing options for children that could work extremely well for them—to stay within the extended biological family or to be placed with same-sex partnerships where it would be totally appropriate for them to be. I therefore urge members who are thinking of supporting this amendment because it deals with the issue of known children and unknown children to recognise that it does not. This is a far tougher and far more restrictive amendment than that envisaged by the Hon. John Ajaka in his dissenting statement. It would be extremely restrictive about who could or could not adopt.

One of the arguments in support of this amendment is that the position put by members who oppose it has been based on the known case. That is not true. I very deliberately devoted equal time to the analysis of each of those cases in my speech during the second reading stage. It is not true that the case in support of the legislation rests solely on known cases. As stated by the Hon. Penny Sharpe and every other member who supports this bill, it rests solely on the best interests of the child. It will create options for children, whether they have parents who are of the same sex, the opposite sex, married or de facto. It recognises that adoption agencies can make excellent decisions if they are given the scope to do so.

The Hon. ROBERT BROWN [4.51 p.m.]: This is a perfect example of the traps involved in debating complex issues. Members are telling us that the amendment has technical problems. Some of them are lawyers and one assumes that they know what they are talking about. I believe that the Hon. Matthew Mason-Cox is genuinely trying to improve the legislation. Mistakes will be made when we rush legislation through both

Houses and sit until 10.00 p.m. I will stick with my original decision to support the amendment because I cannot decide whether the technical issues raised by the Hon. Penny Sharpe and the Attorney General have merit. Members should not be put in this position.

The Hon. GREG DONNELLY [4.52 p.m.]: I would like the Parliamentary Secretary to elucidate the technical issue. I may be a bit of a dill, but I cannot understand the technical issue that the department has raised. I am casting no aspersions on the Parliamentary Secretary or the department, but the statement has been made and we are entitled to some advice.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.52 p.m.]: And no-one is suggesting that the member will not get it. I have been advised that this amendment would preclude a person who is the same-sex partner of someone who, as a single person, has adopted a child from being able to adopt that child. If the parent is an adoptive parent and not biologically related, the child is no longer in foster care. I do not know how to word it and I accept that this issue has been raised late in the day. However, my understanding is that it would mean the same-sex partner of the adoptive parent would have no ability to adopt.

It is difficult for me to be more precise because I do not want to breach the privacy of the individuals involved, but I am aware of a same-sex couple who have been foster carers and each one has adopted one of their children because they are not allowed to adopt them together. That is the point. Those children would have been adopted jointly by their two mothers if that had been possible. In reality, they have two mothers. If this amendment is passed it will not cover that scenario and these children will never have their two mothers legally recognised. I acknowledge the member's good intentions and I do not believe that that is what he is seeking to achieve.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [4.55 p.m.]: One of the difficulties with bills that are the subject of a conscience vote is that there is no Government or Opposition position. Traditionally, the Minister's interpretation of the legislation and his or her contributions during the second reading debate and in Committee are used by departments and courts in interpreting its intent. In this case we have no Minister taking responsibility for this bill; the Parliamentary Secretary has simply moved the second reading. It is my understanding as a supporter of this amendment that there is no intention to remove the category that the Hon. Penny Sharpe indicated that the department feels should be excluded. I do not know how we go about explaining that interpretation and whether we simply need the Hon. Matthew Mason-Cox, who moved the amendment, to make a statement along those lines. On the other hand, perhaps the Hon. Penny Sharpe or the departmental officers can come up with some words that will clarify the situation. Rather than rejecting the amendment for the sake of it, we should try to improve it. Surely we can work through this.

The Hon. MATTHEW MASON-COX [4.57 p.m.]: I endorse the Hon. Duncan Gay's comments. There is no intention to preclude the position put by the Hon. Penny Sharpe. It is certainly a misadventure in that sense. If the Parliamentary Secretary comes up with some words to address that situation, I would be favourably inclined to accept them if that is the wish of the Committee.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.58 p.m.]: I find myself in the interesting position of seeking to amend an amendment that ultimately I will not support. I have been advised by the departmental officers that the amendment can be fixed by the simple insertion of the word "adoptive" in paragraph (a) after ", or".

Dr JOHN KAYE [4.58 p.m.]: This is not appropriate process.

The Hon. Christine Robertson: It is normal in Committee.

Dr JOHN KAYE: I would like to be allowed to complete my comments. It is not appropriate for a member who opposes an amendment to seek to improve it. However, if we do that to accommodate the scenario raised by the Hon. Penny Sharpe, what will happen in the scenario that I raised where a couple dies and the logical course of action is to have their children adopted by their uncle and his same-sex partner? As I read it, this amendment would prohibit that from happening. It would force those children to be adopted by someone not biologically related to them. In fact, even if the Parliamentary Secretary's amendment is accepted, I see this amendment as profoundly anti the biological family. It says that because my brother is gay he and his same-sex partner cannot adopt my children. There is something profoundly wrong with that and I do not think it can be fixed on the run.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.59 p.m.]: I am advised that what the Hon. Dr John Kaye said is correct. The phrase "or adoptive" fixes the amendment a little but it is still not able to remedy the exact situation that the Hon. Dr John Kaye raised. I am genuinely trying to be helpful, but the case remains that we cannot pass this amendment, even with the change. It is not enough.

The Hon. ROBERT BROWN [5.00 p.m.]: I will need some advice on this point, but my reading of the situation is that, in the specific circumstance raised by the Hon. Dr John Kaye regarding an uncle, if the best interests of the child is the ultimate aim of the court then surely there would be a mechanism available whereby the uncle and his partner could become foster carers, care for the child for two years and then adopt when the child is over three years old. I think I am correct.

Dr JOHN KAYE [5.01 p.m.]: I do not wish to dismiss what has been said, and I appreciate that the Hon. Robert Brown is trying to work his way to a solution, but I urge members to remember what we said at the outset. We said that this is about the best interests of the child. What is the worst thing you can do to a child who has just lost their parents? You say, "We cannot give you a stable family relationship. We can foster you out to your uncle and his partner for two years and then you will pass the bar under section 28 (2A), if it is inserted, and then you will have to go through the whole adoption process". This is a terrible thing to talk about, and I find it difficult, but that is the reality we have to deal with. A child who is three years old at the start of the process is likely to be nine before they have a stable family relationship. I do not think it is good to pass laws that would prohibit a three-year-old from knowing anything like the permanency of a legally sanctioned set of parents for such a long time. I do not think that is the right thing to do.

Reverend the Hon. Dr Gordon Moyes: Fostering can be stable.

The Hon. MATTHEW MASON-COX [5.02 p.m.]: To pick up on the circumstances that the Hon. Robert Brown mentioned, of course there is the opportunity for an authorised caring relationship under the Children and Young Persons (Care and Protection) Act, and of course that relationship can be stable. I think we are pushing it to the nth degree. Perhaps the Hon. Dr John Kaye is looking for reasons to block an amendment that could deal with the situation adequately but not as quickly as he would like. As to the circumstances drawn to the attention of House by the Hon. Penny Sharpe in relation to paragraph (b), I am happy to accept that paragraph (b) should read that one is the birth or adoptive parent of a child, and section 30 is complied with in relation to the other parent. We could insert the words "or adoptive" between the words "birth parent" in paragraph (b) of the amendment. I am happy to accept that. Then the circumstances alluded to by the Hon. Dr John Kaye will be dealt with sufficiently.

The Hon. TREVOR KHAN [5.03 p.m.]: I am persuaded by what the Attorney General had to say and by the debate that has occurred that the amendment is ineffective. In the past half an hour we have identified at least one circumstance that was not contemplated. So we clearly cannot contemplate all the circumstances that could arise. We are talking about constructing an arrangement whereby a child goes into foster care for a period and then through the adoption process. I have spent a good deal of time in the Children's Court and I know that, even for the adults involved, it is a fairly traumatic, expensive and—regardless of what the Act may say—lengthy process. If the child is of some age they will be aware of the permutations, court appearances and interview processes that are involved. I am trying to work out how there can be an interim arrangement; how potentially extended litigation will work in the child's best interests and then, after two years are up, they go through the adoption process. In my 22 years of practising law, I was involved in three adoption cases. After that I spent the rest of my time in practice trying to convince people not to do it because of the expense and the sheer difficulty involved.

The situation that we are considering is rare. The number of children we are talking about is not great, but it is an expensive and traumatic process. The Hon. Matthew Mason-Cox is making a genuine attempt but, having moved away from saying it is horrible to talk about same-sex couple adoptions, we are now shuffling deck chairs on the *Titanic* in an attempt to fit in everyone's concerns. That is bizarre. We have not addressed the case that the Hon. Penny Sharpe raised involving the biological grandmother. Are we going to try to introduce amendments to cover that issue? The Hon. Matthew Mason-Cox's attempt may be genuine but we have one fundamental alternative: declare the bill to be adequate and leave it to the courts to make a decision whether it is in the best interests of the child. That is preferable to mildly confused legislators cobbling together amendments in an attempt to shore up the numbers.

I am troubled by the amendment—I make it plain to the Hon. Matthew Mason-Cox that it is not because of his motives, which are fundamentally genuine—because unfortunately it does not fix the problem. It

is a difficult problem. Dealing with children in these circumstances is extraordinarily difficult, and I think the bill is the most appropriate way to proceed, as both the Hon. Penny Sharpe and the Attorney General have said. Therefore, I will oppose the amendment, but do so reluctantly.

Dr JOHN KAYE [5.07 p.m.]: I must clarify one point. Some members may have interpreted my comments as meaning that I believe care relationships are unstable. That is not what I meant. I meant that the legal situation is unstable. To force children to march through the legal minefield that I outlined would be inappropriate and not in the best interests of those children.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [5.08 p.m.]: I suggested the change in response to the Hon. Trevor Khan's comments. I was persuaded by the amendment but then alerted to a problem with it. I made the suggestion to satisfy my conscience in voting for the amendment, not to get the numbers. I suspect we do not have the numbers—regardless of whether the amendment is changed. But I believe if you see a problem and you can fix it, you should do so.

The Hon. MATTHEW MASON-COX [5.09 p.m.]: I seek leave of the Committee to amend my amendment in the following terms:

That the amendment be amended by inserting after the word "birth" in paragraph (b) the words "or adoptive"

Leave granted.

The Hon. MATTHEW MASON-COX [5.09 p.m.]: Accordingly, my amendment now states:

Page 3, schedule 1. Insert after line 9:

[2] **Section 28 Adoption by couple**
Insert after section 28 (2):

(2A) **Requirements for same sex couples**

The Court must not make an order in favour of a same sex couple unless:

- (a) the couple have been authorised carers (within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*) for the child for a continuous period of not less than 2 years immediately before the application for the order, or
- (b) one of them is the birth or adoptive parent of the child and section 30 is complied with in relation to the other of them.

Question—That the amendment of the Hon. Matthew Mason-Cox as amended be agreed to—put.

The Committee divided.

Ayes, 16

Mr Ajaka	Mr Gay	Reverend Nile
Mr Brown	Mr Kelly	Mr Obeid
Mr Catanzariti	Mr Lynn	
Mr Clarke	Mr Mason-Cox	<i>Tellers,</i>
Ms Ficarra	Mr Moselmane	Mr Colless
Mr Gallacher	Reverend Dr Moyes	Mr Donnelly

Noes, 20

Mr Cohen	Mr Khan	Ms Sharpe
Ms Cusack	Ms Parker	Mr Veitch
Ms Fazio	Mrs Pavey	Mr West
Mr Foley	Mr Primrose	Ms Westwood
Miss Gardiner	Mr Robertson	<i>Tellers,</i>
Mr Hatzistergos	Ms Robertson	Mr Harwin
Dr Kaye	Mr Roozendaal	Ms Voltz

Question resolved in the negative.

Amendment of the Hon. Matthew Mason-Cox as amended negatived.

Reverend the Hon. FRED NILE [5.08 p.m.]: I move Christian Democratic Party amendment on sheet c2010-071B:

Page 3, schedule 1. Insert after line 9:

[2] **Section 28 Adoption by couple**

Insert after section 28 (4):

(4A) **Requirements for same sex couples**

The Court must not make an adoption order in favour of a same sex couple unless one of them is the birth parent of the child.

This is a very important amendment. Members debating the Adoption Amendment (Same Sex Couples) Bill 2010 (No. 2) have raised a number of issues. In fact, the author of the bill, Ms Clover Moore, has often made the point that it deals predominantly with some 1,300 children who already have same-sex parents, one of whom in most cases is the birth parent, as my amendment states. Same-sex adoption has been the focus of this debate, with little discussion of any other same-sex parenting. I remind members of the very important statement made by the Australian College of Paediatricians:

The environment in which children are reared is absolutely critical to their development. Given the current body of research, the American College of Paediatricians believes it is inappropriate, potentially hazardous to children, and dangerously irresponsible to change the age-old prohibition on homosexual parenting, whether by adoption, foster care or by reproductive manipulation. This position is rooted in the best available science.

With the current cost of in-vitro fertilisation treatment and the practical legal problems surrounding surrogacy, it does not take a genius to realise that same-sex couples who want children and who obviously cannot have them themselves will increasingly turn to the foster care adoption route as a means of acquiring children and circumventing what Ms Clover Moore calls "the common parental desire for children to have a traditional family upbringing". Considering the aforementioned issues facing the homosexual and lesbian communities, it is hard to justify exposing children to this kind of risk. I believe this amendment limits the scope of the legislation to situations where one parent is the birth parent. This is an important amendment and I hope that members will support it.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.21 p.m.]: I urge members not to support Reverend the Hon. Fred Nile's amendment. I will not speak for long on this amendment as we had an extensive debate on the last amendment that canvassed many of the same issues. This amendment will significantly narrow the focus of the bill and restrict the case for adoption by same-sex couples to the basis of one of them being a biological parent. The issues have been well canvassed. I urge members not to support the amendment.

The Hon. IAN COHEN [5.21 p.m.]: I do not support Reverend the Hon. Fred Nile's amendment.

The Hon. GREG DONNELLY [5.22 p.m.]: I will take my lead from the Parliamentary Secretary and not prolong the debate by canvassing the issues again in detail. In my earlier speech I spoke about the realities of familial relationships these days. I argued strongly for what I believe is the right of a child to have a biological heritage that is understood. We are only now starting to comprehend the advocacy of young people entering their teenage years. I invite any member interested in the general area of the advocacy of children born through assisted reproductive technology and related matters to visit the website of TangledWebs Inc. Over the past year I have got to know Myfanwy Walker, a very effective advocate of TangledWebs, from her speaking about her experience of being born by means of the donation of anonymous semen in Victoria. This goes to the heart of a person's humanity—it touches the very core. With respect to the claim by same-sex couples and adoption—and I think it is a claim—it is eminently reasonable to support the proposition that at least one of the partners should be biologically connected to the adopted child.

Question—That Christian Democratic Party amendment [C2010-071B] be agreed to—put and resolved in the negative.

Christian Democratic Party amendment negatived.

Reverend the Hon. FRED NILE [5.25 p.m.]: I move Christian Democratic Party amendment on sheet c2010-074A:

Page 3, schedule 1. Insert after line 9:

[2] **Section 45A**

Insert after section 45:

45A Background information about prospective adoptive parents to be made available to birth parents

- (1) If an application to adopt a child is made by a couple, any background information relating to the couple that is obtained by the Director-General or principal officer in connection with the application is, at the request of the birth parents of the child, to be provided to the birth parents before any adoption order may be made in relation to that child.

- (2) In this section, **background information** relating to a couple includes information about the couple's social and cultural background, religious beliefs, domestic relationship and living arrangements, but does not include any information that identifies the couple.

When Ms Clover Moore introduced the bill it was accompanied by a letter from her to all members, dated 1 September 2010, which read:

Dear colleagues,

A number of members have asked for clarification about the wishes of birth parents when they give their children up for adoption.

In these very few cases, the wishes of birth parents are taken into consideration. They can ask that their child be brought up by a: heterosexual couple; a couple of a particular religion; or a couple with no children. **In addition, birth parents are offered the opportunity to choose between a number of couples assessed as suitable to parent their child.**

Experience indicates that birth parents tend to favour married couples who will offer the child a traditional family upbringing, which they as a single parent feel unable to provide.

In her letter Ms Moore concludes:

My bill would not change this situation.

Regards
Clover Moore, MP
Independent Member for Sydney

My amendment will give legislative authority to Ms Clover Moore's claim. It will do so by ensuring that birth parents are able to make an informed decision, made possible by providing birth parents with all the available information pertaining to prospective adopting couples regarding religious beliefs, social and cultural background, and domestic and living arrangements. My amendment is important. It is in line with the position of Ms Clover Moore, who introduced the bill in the other place, and I hope that members will support it.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.28 p.m.]: I ask members not to support the amendment because it is not required. I will provide information about its application and how it operates so that people can understand that the concerns of Reverend the Hon. Fred Nile are absolutely at the heart of what currently exists in practice. The Adoption Regulation 2003 sets out the criteria for assessing the suitability of a person to adopt. These criteria look at issues such as skills and life experiences, financial circumstances, health, capacity to support maintenance of cultural identity and religious faith, stability of character, stability and quality of family relationships, and capacity to facilitate contact and exchange of information with the child's birth parents and family.

Prospective adoptive applicants are provided with preliminary information about adoption. Applicants may then order an adoption information package and submit an expression of interest if they consider they are eligible to adopt. Applicants attend a preparation seminar. In the local adoption program, attendance at the seminar is by invitation, depending on the needs of the program. Following the preparation seminar, applicants may launch a formal application to adopt. Applicants undergo an adoption assessment, which includes health, police and referee checks, as well as interviews with a contracted adoption assessor. An approval decision is made by Community Services. As I said, it is a rigorous process, as we have heard in the debate, and it will remain so.

The requests and views of the child's birth parents are taken into account when a decision is being made about who will have long-term care of the child. That is absolutely at the heart of the legislation. Again, I do not intend to canvass the entire debate, except to say that the decision of the birth parents is a fundamental one; necessarily, it is always made in the best interests of their child. I therefore believe this amendment is unnecessary, and I ask members to oppose it.

The Hon. GREG DONNELLY [5.31 p.m.]: I support the amendment. If endorsed, the amendment would enhance and improve transparency regarding the whole adoption process. I reflect on a matter, the details of which I am happy to have corrected by the department if what I say is incorrect. In doing so, I do not wish to in any way cast aspersions on same-sex couples fostering children, or on people's views about that one way or the other. It was in about 2006 that I first became aware that the Department of Community Services was providing same-sex couples with fostering arrangements. I read about the matter—regrettably, I was not able to source the article before this debate commenced—in an article in the *Sunday Telegraph*. The article referred to comments made by the then Minister for Community Services, Reba Meagher, about same-sex fostering. The

article—which appeared some time ago and members can look for it if they wish—reported the Minister as saying that same-sex couples in New South Wales were fostering children and that therefore perhaps the time was ripe to look at same-sex adoption in New South Wales.

At that time I was totally surprised to find that same-sex couples in New South Wales were fostering children. That led me to speak to officers within the Department of Community Services to find out upon what basis we had the situation in New South Wales where same-sex couples were fostering and whether it was a legal position. I did not know whether it was legal or illegal, and I was looking to inform myself about it. At that time the officers of the Department of Community Services informed me that under departmental policy they had created the ability for same-sex couples in New South Wales to foster children. I believe that is significant in this debate, and I will explain why.

During this debate it has been argued that because children are being fostered by homosexual couples in New South Wales—not just in the instance of emergency fostering, which might be for a very short term, such as 24 hours or on the weekends, but over the long term—that consolidates a relationship between the same-sex couple and the child, particularly in regard to the child and the non-biological parent, which in the main is a woman. It has been argued that because such a situation exists in New South Wales, it validates the argument that simply a tweaking is required to convert a fostering arrangement to an adoption arrangement. Members of this House know full well that there is a major difference between a fostering arrangement and an adoption arrangement.

It is extraordinary that we find ourselves in a situation—I appreciate that it is the reality—whereby what is in effect an internal policy of the Department of Community Services without any reference back to the Parliament, which ultimately makes the laws, and indeed the Minister, who makes the regulations, was given any capacity to determine whether, as a matter of basic principle, it is a reasonable proposition that that should be the case in New South Wales. I have not been able to pinpoint at what time in this State same-sex couples were given the green light by the Department of Community Services to foster. However, from time to time I find myself—and I am sure other members of this House find themselves in the same situation—browsing through the *Sydney Star Observer*, which is the major homosexual newspaper in this State.

The Hon. Ian Cohen: Is that a point against you?

The Hon. GREG DONNELLY: Maybe that will get the hit rate up on the computer, but I have not received the phone call yet. I have not checked the count, but perhaps I should. The point I make is that certainly in that journal of record for the same-sex community in New South Wales there are advertisements, on an extremely regular basis, seeking same-sex couples to foster in New South Wales. I simply say that is the reality. Anyone can browse through the *Sydney Star Observer* and find those advertisements; that has been the case for a few years. However, surely a fundamental change in the way in which children in this State who do not have the capacity to live at home safely and in a caring and loving relationship with their mother and father, are, for whatever reason, removed from that environment and then ultimately put in a situation—I say "put in a situation" not in a insulting way, as some people might want to infer—

The Hon. Trevor Khan: We are in agreement.

The Hon. GREG DONNELLY: Okay. I am simply saying that a key plank of the argument, which is being advanced to pass this law today, is something that we should be well aware of—something that has happened almost by default. For that reason I believe it is eminently fair to support a provision that will provide a greater degree of transparency regarding the arrangements under which adoption will be considered in the State of New South Wales. I think it is nothing more than that.

Reverend the Hon. FRED NILE [5.39 p.m.]: I have just been given advice that the inclusion of the word "any" in the first line of subsection (1) of new section 45A of my amendment would create an administrative problem for the department in raising the issue if the department misses "any" information. I am happy to seek leave of the Committee to remove the word "any" from that provision. The rest of the amendment would remain as is. The amendment would then be quite specific from the department's point of view as to what information should be made available to the birth parents of the child, at the request of the birth parents.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.39 p.m.]: I have sought the advice of the department in relation to this amendment. The department considers that with the removal of the word "any" the amendment basically reflects current practice. The department does not consider that it has any unintended consequences. As a result, I will support the amendment.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [5.40 p.m.]: I also support the amendment and I commend Reverend the Hon. Fred Nile for moving it. Although it may reflect existing practice, it is important to ensure that any views that may be expressed by the biological parent or parents are as well informed as possible in relation to any proposed adoption. Giving them a statutory right to this information adds an additional safeguard to the process.

Reverend the Hon. FRED NILE [5.40 p.m.]: I seek the leave of the Committee to remove the word "any" where it first appears in proposed subsection (1) of my amendment.

Leave granted.

Reverend the Hon. FRED NILE [5.41 p.m.]: Consequently, my amendment now reads:

Page 3, schedule 1. Insert after line 9:

[2] Section 45A

Insert after section 45:

45A Background information about prospective adoptive parents to be made available to birth parents

- (1) If an application to adopt a child is made by a couple, background information relating to the couple that is obtained by the Director-General or principal officer in connection with the application is, at the request of the birth parents of the child, to be provided to the birth parents before any adoption order may be made in relation to that child.
- (2) In this section, *background information* relating to a couple includes information about the couple's social and cultural background, religious beliefs, domestic relationship and living arrangements, but does not include any information that identifies the couple.

Question—That Christian Democratic Party amendment [C2010-074A] as amended be agreed to—put and resolved in the affirmative.

Christian Democratic Party amendment as amended agreed to.

Schedule 1 as amended agreed to.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [5.42 p.m.], by leave: I move amendments Nos 1 and 2 in globo:

No. 1 Page 5, schedule 2.1, line 6. Omit "Nothing in this Act affects any policy or practice of an organisation or person providing adoption services". Insert instead "Nothing in Part 3A or 4C affects any policy or practice of a faith-based organisation concerning the provision of adoption services".

No. 2 Page 5, schedule 2.1. Insert after line 15:

- (3) In this section, *faith-based organisation* means an organisation that is established or controlled by a religious organisation and that is accredited under the *Adoption Act 2000* to provide adoption services.

I have canvassed at some length the concerns I had in relation to this proposed legislation as it was amended in the Legislative Assembly. I want to make it clear that my support for this bill in the third reading is contingent on this amendment being carried. The proposal that was carried by the Legislative Assembly effectively allows any adoption service provider, whether faith-based or secular, including the non-religious provider Barnardos and the Department of Community Services, to discriminate in the provision of adoption services, irrespective of whether it is in the best interests of the child. Moreover, the way it is currently structured, the bill would sanction any practice relating to adoption services. That could include, for example, any discriminatory conduct in relation to the employment of staff. The effect of the changes would be that the potential pool of adoptive parents would be diminished and, to that extent, the best interests of the child would not be advanced.

The Act already makes it perfectly plain that the best interests of the child are the paramount consideration in any decision. To the extent that the adoption of any of those principles conflicts with provisions in the Anti-Discrimination Act, it is the best interests of the child that prevail. That is clear in the legislation. It

is unnecessary to have such a broad-based exemption, which seeks to carve out the Anti-Discrimination Act in ways that I believe would effectively enable any agency that is providing adoption services to have broad-based policies to discriminate against persons on the basis of age, race, ethno-religious grounds, caring responsibilities and so on.

The Anti-Discrimination Act was a key achievement of the Labor Government in 1977. It was enacted as a piece of important social reform to protect the most vulnerable sections of our community. Exemptions from that legislation should be granted only in circumstances where there is sound reason. There is no reason to grant exemptions for agencies such as the Department of Community Services or Barnardos, the other non-faith based provider. The only exemption that is necessary to support religious freedom is in relation to faith-based services and strictly in relation to the task of adoption as opposed to broader issues. For those reasons, I am unable to support the amendment that was carried in the Legislative Assembly, which seeks to carve out a slab of important reform. I believe the reasons for doing so have not been substantiated. I commend the amendments to the Committee.

The Hon. IAN COHEN [5.45 p.m.]: On behalf of the Greens, I support these amendments. In my speech in the second reading debate I noted concerns about the amendment moved by the Hon. Frank Sartor in the Legislative Assembly. New section 59A provides that policies and practices of an adoption service or anything done to give effect to such policies and practices are exempt from the Anti-Discrimination Act. In speaking to this amendment the Hon. Frank Sartor stated:

The amendment seeks to ensure more regard for the diverse values in our community by, first, providing more flexibility for adoption service providers and, secondly, allowing the views of biological parents to receive greater weight.

The Minister was trying to establish a situation whereby biological parents could express wishes or preferences for their child not to be placed with a same-sex couple. Unfortunately, the amendment has gone well beyond the realm of this intention. The principal problem with the amendment is that it creates an ability for adoption agencies to put in place, whether mandated by a Minister or of their own accord, policies that prevent people with a disability, people of a particular age or marital status, carers or same-sex couples from applying for adoption. All the groups that are provided protection by the Anti-Discrimination Act will no longer have protection in the formulation and application of adoption policies by adoption agencies. Even before an adoption agency begins to consider the section 8 principles of the Adoption Act, adoption agencies may put in place policies that preclude people with a disability, same-sex couples, carers and people of a particular age or marital status from applying to adopt. Even before the best interests of the child are considered, certain people in our society could be excluded from adopting. We are removing one form of discrimination and potentially replacing it with another.

A secondary potentially unintended outcome of the amendment is that adoption agencies, including the Department of Community Services, may require broad exemption from the Anti-Discrimination Act in relation to policy documents and practices relevant to the Adoption Act and adoption services. For example, policies and practices relevant to the recruitment of staff to work for the adoption services would not be affected by the Anti-Discrimination Act. This would mean that recruitment practices of the Department of Community Services in relation to its adoption services could theoretically contravene protections against discrimination contained in the Anti-Discrimination Act. While this is not the intent of the amendment moved by the Hon. Frank Sartor, it could be a potential outcome.

The amendments moved by the Attorney General seek to reduce the scope of the Hon. Frank Sartor's amendment. The Attorney General's amendment restricts the switching off of the Anti-Discrimination Act to policies or practices implemented by faith-based adoption services in relation to homosexual and transgender persons using the terminology of that Act. In other words, faith-based organisations accredited under the Adoption Act will be able to refuse to offer same-sex couples and transgender individuals adoption services and breach the Anti-Discrimination Act without affected individuals having any legal recourse. We need to consider some very tough questions about whether agencies should be accredited to provide adoption services if they cannot put the best interests of the child ahead of their personal moral beliefs. Article 3 of the United Nations Convention on the Rights of the Child states:

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

The Greens are uneasy with the exemption of faith-based organisations from the Anti-Discrimination Act. We accept that Clover Moore has consulted and negotiated with faith-based adoption agencies in order to secure

passage of the bill through the Legislative Assembly. When we compare the amendment moved by the Hon. Frank Sartor with those proposed by the Hon. John Hatzistergos, we see in the amendments of the Hon. John Hatzistergos a vast improvement on the potential Pandora's box of discrimination that could be unleashed by the amendment of the Hon. Frank Sartor. In relation to the Hon. Frank Sartor's concern about the wishes of the biological parents, I believe there is already sufficient scope under section 8 (2) (e) of the Adoption Act for adoption agencies to take account of the wishes of biological parents. I thank the Hon. John Hatzistergos for providing a briefing on these amendments and I thank his staff for answering our questions about them. The Greens certainly support the amendments of the Hon. John Hatzistergos.

The Hon. ROBERT BROWN [5.49 p.m.]: The Shooters and Fishers Party supports the amendments moved by the Hon. John Hatzistergos. The moving of the amendments by the Hon. John Hatzistergos supports an assertion I made earlier in Committee that rushed legislation can lead us into traps—even moves by governments with last resources.

Reverend the Hon. FRED NILE [5.50 p.m.]: I have one question for the Hon. John Hatzistergos. The Hon. Frank Sartor's amendment, which was adopted by the other place—and adopted unanimously I believe—refers to "any policy or practice of an organisation or person providing adoption services". Amendment No. 1 of the Hon. John Hatzistergos focuses on the terminology of a faith-based organisation. His amendment No. 2 again refers to a faith-based organisation. I am not sure whether it is deliberate, but the amendment has omitted the words "or person". The original amendment, now part of the bill, referred to "organisation or person" and the amendment of the Hon. John Hatzistergos removes the reference to "or person". Is that deliberate or accidental? I foreshadow that I will move an amendment to put the words "or person" back into the bill. The reference to a person has been eliminated but there could be a person involved in the adoption procedures who technically is not an organisation but who wishes to follow policies and practices relating to his or her faith while working in a religious organisation.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [5.52 p.m.]: The bodies that are accredited to provide adoption services are organisations not persons. This is the problem with the amendment that was passed in the lower House: it extends the provisions to the practices or procedures of basically any organisation or person. It is so broad that it could cover any employee within any of those agencies if they particular practices or policies are implemented. I know Reverend the Hon. Fred Nile is going to move an amendment with which he will seek to, effectively, provide an exemption for persons on the basis of religion, but we cannot have a situation in which persons working for particular agencies are allowed to, effectively, bypass the provisions that have been passed by this Parliament on the basis of their own individual spiritual beliefs.

We acknowledge that faith-based agencies—Anglicare and CatholicCare are the two specific ones that provide adoption services, and, indeed, any other faith-based agency that may subsequently be accredited to provide those services—have particular views in relation to homosexuality and transgender individuals that may lead them to be unable to provide their services if they were forced, effectively, to provide such services to particular groups. Therefore, in order to be able to accommodate their circumstances we provided an exemption for those particular groups. The amendment that was passed in the lower House would extend the exemption not only to the faith-based agencies but to the secular agencies, including the department, and any person in relation to policies and procedures, and then, as I said previously, that would be on grounds that have nothing to do with religious conviction.

CatholicCare and Anglicare have never argued that they should be able to discriminate against people on the basis of age, marital status, care and responsibility or on any other grounds that are specified in the Anti-Discrimination Act. The only thing that they want to be able to do is exercise their religious liberties—and we are sensitive to that—and, at the same time, discharge the responsibilities that the Adoption Act places upon them as an accredited provider. That means making a decision in the best interests of the child. And to the extent that making that decision involves conflicts with the Anti-Discrimination Act, they are protected by section 54 of the Anti-Discrimination Act, which makes it quite clear that, to the extent that a person is carrying out a duty under another statute, the Anti-Discrimination Act does not apply.

Reverend the Hon. FRED NILE [5.56 p.m.]: Just to clarify that point. What the Hon. John Hatzistergos is saying is that if an employee of a faith-based organisation made a decision, that person could not be targeted by someone as having breached the provisions of the Anti-Discrimination Act, as distinct from making a complaint against the organisation. Is the Hon. John Hatzistergos saying that the employees are all protected by his proposed amendment?

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [5.56 p.m.]: We do not accredit individuals to provide adoption services, we accredit organisations. They are the bodies that are authorised by statute to be able to discharge responsibilities under the Adoption Act. They are the ones that need this protection in the case of faith-based agencies, and the Adoption Act provides for those agencies and those who are exercising responsibilities on behalf of those agencies to make decisions with the interests of the child paramount. To the extent that they make decisions that might otherwise conflict with provisions of the Anti-Discrimination Act they are protected.

Reverend the Hon. FRED NILE [5.57 p.m.]: That was the point I wanted the Hon. John Hatzistergos to make quite clear—that there is protection for the individuals who work in those organisations. Someone could make a complaint against the Catholic or Anglican adoption service but they may want to make a complaint against the manager of a department within that particular organisation. The Hon. John Hatzistergos has stated that they are protected by his amendment.

Question—That amendments Nos 1 and 2 of the Hon. John Hatzistergos be agreed to—put and resolved in the affirmative.

Amendments Nos 1 and 2 of the Hon. John Hatzistergos agreed to.

Reverend the Hon. FRED NILE [6.00 p.m.]: I move the Christian Democratic Party amendment on sheet C2010-079:

Page 5, schedule 2.1. Insert after line 15:

[2] **Section 59B**

Insert at the end of Part 6:

59B Adoption services—exemption based on person's religious beliefs

Nothing in this Act renders unlawful any act or omission by a person in relation to the provision of adoption services under the *Adoption Act 2000* if the act or omission was done in accordance with the person's religious beliefs.

I am following up the point that I have already made about the need to protect individuals' conscientious beliefs. This bill is the subject of a conscience vote because we respect the conscience of each member, and we should afford that respect to each individual involved in the adoption process. We as legislators are enjoying the freedom to vote according to our conscience in respect of this legislation. If passed, this amendment will extend some freedoms to those directly involved in the adoption process. Individuals who as a matter of conscience based on religious belief find themselves unable to support the measures in this legislation will be protected from prosecution under the Anti-Discrimination Act. This is an important amendment and I hope that members will support it. It will not undermine the legislation; it simply ensures that we respect the right of an employee to act on a conscientious objection and not to be prosecuted.

The Hon. TREVOR KHAN [6.02 p.m.]: I will not support this amendment. It strikes me as being far too wide. A member on the backbench made an interjection about the source of this amendment. It is interesting that it has been proposed by the mover of another bill that specifically prohibits a person from wearing a face covering in accordance with a religious belief. This amendment provides a carte blanche exemption for "any act or omission" by a person on religious grounds. We cannot contemplate what act or omission will be covered and then described as being in accordance with a person's religious beliefs, whatever the religion may be.

The Hon. IAN COHEN [6.03 p.m.]: This amendment proposes to insert new section 59B into the Adoption Act to allow people to discriminate against carers, people with a disability and people of a particular age or marital status as long as it can be characterised as consistent with some form of nebulous religious belief. In a bid to dissolve the demarcation between church and State, Reverend the Hon. Fred Nile is proposing to unravel the Anti-Discrimination Act, which protects the rights of some of the most vulnerable people in our society. In attempting to codify an individual's religious belief as law, he is opening a Pandora's Box of divisive discrimination.

We have a broad spectrum of religious beliefs in our society and giving an individual immunity from their actions as long as they accord with their religious beliefs is gravely problematic. There are some religious beliefs and practices that our secular political institutions find difficult to accept. Some individuals subscribe to

religious beliefs that support female circumcision and some religious organisations have different approaches to interfamily marriage. I know that Reverend the Hon. Fred Nile has strong objections to religious beliefs that support women wearing certain items of clothing. His feelings about these women and what they wear in accordance with their religious beliefs are so strong that he has introduced a private member's bill banning them from acting in accordance with those beliefs.

This amendment would allow people working in adoption agencies to pursue policies that support religious beliefs that are not consistent with our human and civil rights framework. It also represents a radical departure from focusing on the best interests of the child and puts the religious beliefs of an individual working for an adoption agency ahead of those interests. The moral consistency of an individual providing adoption services becomes more important than the child having a vibrant and secure future. Certainly, the irony of Reverend the Hon. Fred Nile's moving such an amendment should not be lost on members of this House as society's representatives. The Greens do not support Reverend the Hon. Fred Nile in his attempt to dismantle the Anti-Discrimination Act and to subvert the rights of society's most vulnerable members. The Committee should reject this amendment in the strongest possible terms.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [6.05 p.m.]: Much has already been said about this amendment, but I will recapitulate. This amendment does not cover only the provision of adoption services; it covers anything in relation to the provision of adoption services. A human resources manager in the Department of Community Services with responsibility for employing staff to make adoption decisions might decide on a whim to discriminate against carers, homosexuals, married people and so on because of a religious belief and be exempt from the Anti-Discrimination Act. That demonstrates the absurdity of this amendment. Faith-based agencies are adequately protected by the amendment already passed by the Committee.

Reverend the Hon. FRED NILE [6.06 p.m.]: The scenario cited by the Attorney General could not happen because we are discussing only that exemption. Obviously, if anyone in the department did something that was not in line with departmental or government policy, he or she would be reprimanded. They would not be dealt with under the Anti-Discrimination Act. They would still be required to follow instructions as an employee of the department, but they would not be vulnerable to action under the Anti-Discrimination Act. In response to Mr Ian Cohen, legislation already provides for people to express conscientious objection in this State and the Commonwealth. It is not unusual or extreme; it is already embodied in legislation.

Question—That the Christian Democratic Party amendment [C2010-079] be agreed to—put and resolved in the negative.

Christian Democratic Party amendment negatived.

Schedule 2 as amended agreed to.

Title agreed to.

Bill reported from Committee with amendments.

Adoption of Report

Motion by the Hon. Penny Sharpe agreed to:

That the report be adopted.

Report adopted.

Third Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [6.09 p.m.]: I move:

That this bill be now read a third time.

Question put.

The Committee divided.

Ayes, 22

Mr Ajaka	Mr Khan	Ms Sharpe
Mr Cohen	Ms Parker	Mr Veitch
Ms Cusack	Mrs Pavey	Mr West
Mr Foley	Mr Pearce	Ms Westwood
Miss Gardiner	Mr Primrose	
Ms Griffin	Mr Robertson	<i>Tellers,</i>
Mr Hatzistergos	Ms Robertson	Mr Harwin
Dr Kaye	Mr Roozendaal	Ms Voltz

Noes, 15

Mr Brown	Mr Kelly	Mr Obeid
Mr Catanzariti	Mr Lynn	
Mr Clarke	Mr Mason-Cox	
Ms Ficarra	Mr Moselmane	<i>Tellers,</i>
Mr Gallacher	Reverend Dr Moyes	Mr Colless
Mr Gay	Reverend Nile	Mr Donnelly

Question resolved in the affirmative.

Motion agreed to.

Bill read a third time and returned to the Legislative Assembly with a message requesting its concurrence in the amendments.

[The President left the chair at 6.17 p.m. The House resumed at 8.00 p.m.]

CRIMINAL ASSETS RECOVERY AMENDMENT (UNEXPLAINED WEALTH) BILL 2010

Second Reading

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [8.00 p.m.], on behalf of the Hon. Roozendaal: I move:

That this bill be now read a second time.

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

Leave granted.

- This bill provides the Supreme Court with the capacity to make an unexplained wealth order in those cases where there is reasonable suspicion a person has engaged in a serious crime-related activity, and that person cannot lawfully account for the sources of their wealth.
- However, the court has the discretion to not make the order or to reduce the amount payable, if it considers it is in the public interest to do so.
- This bill takes New South Wales law enforcement agencies one step closer to dismantling the iniquitous enterprises of those criminals who are avoiding confiscation and capture under the current law.
- Because the criminal marketplace adapts and changes to comprise not just traditional vices like drug importation and supply, but other high profit crimes like money laundering, motor vehicle theft, car rebirthing, fraud, and internet crime; the law needs to be able to punish in a way that is the most limiting, the most hurtful and the most effective—the seizure of criminally obtained wealth.
- This bill does so by amending the Criminal Assets Recovery Act 1990 so that the New South Wales Crime Commission can apply to the court for such an order when they have reasonable suspicions the person is involved in serious criminal activity; or
- Where they hold reasonable suspicions the person's wealth is derived from the serious criminal activity of another person or persons.
- The court must be satisfied on the balance of probabilities that the wealth is not or was not, illegally acquired property.

- The Criminal Assets Recovery Act or CARA has proven to be a highly successful mechanism for asset confiscation in New South Wales and provides a logical basis for the inclusion of an unexplained wealth regime.
- Those suspected criminals who have, so far, evaded confiscation within the existing framework can now be targeted.
- And their money will be provided to victims of crime through the Victims Compensation Fund.
- The national movement towards adoption of unexplained wealth confiscation regimes to assist in combating organised crime was confirmed by national senior officers meetings on 5 June 2009, 17 July 2009 and 5 February 2010.
- Two Commonwealth parliamentary reports have also commented favourably upon unexplained wealth provisions.
- The Commonwealth Senate Standing Committee on Legal and Constitutional Affairs supported unexplained wealth confiscation, stating the Committee "wholeheartedly endorses the purpose of the unexplained wealth provisions: namely targeting the people at the head of criminal networks, who receive the lion's share of the proceeds of crime, whilst keeping themselves safely insulated from liability for particular offences".
- The New South Wales Crime Commission at present can usually take no action against persons about whom:
 - they hold highly developed suspicions regarding serious criminal activity;
 - only minor offences, if any, can be proved against them; and
 - that person has insufficient lawful sources to justify their wealth, accumulation of assets or expenditure.
- The new regime will close that loophole.
- These amendments will be in addition to existing powers already available to the New South Wales Crime Commission to commence confiscation proceedings relating to restraining orders, assets forfeiture orders, and proceeds assessment orders. The Government is not proposing to alter those powers with this bill.
- However, the new unexplained wealth regime will differ in some significant aspects:
- The threshold about which the court must be satisfied concerning criminal activity in respect of an unexplained wealth order will be changed from a balance of probabilities (the civil burden) to a reasonable suspicion test.
- It is not proposed to change the definition of serious criminal activity already contained in the Act.
- Once the court accepts that there are reasonable grounds to suspect that a person has engaged in serious criminal activity, the court will then hear evidence from both the Crime Commission and the person involved, in order to determine whether wealth has been lawfully obtained.
- If the court is not satisfied, on the balance of probabilities, that wealth has been lawfully obtained, the court will be able to make an unexplained wealth order and the amount payable pursuant to the unexplained wealth order will become a debt due to the Crown.
- Unlike existing assets forfeiture orders and proceeds assessment orders, the new unexplained wealth orders will not include a requirement to establish that the serious criminal activity occurred in the past six years.
- Furthermore, the period over which the unexplained wealth order may be calculated will not be time limited.
- This is consistent with the recent Commonwealth unexplained wealth legislation.
- Our new provisions for unexplained wealth will not affect ordinary citizens who are not criminals and are lucky enough to experience a financial windfall.
- The proposals are clearly aimed at those suspected criminal persons, or their family members and associates, who law enforcement discovers have wealth well in excess of that which their legitimate occupations could explain.
- The court will only consider wealth about which the Crime Commission has presented evidence.
- The public interest test includes that the court may reduce the amount payable under the order.
- This is intended to ensure that the court may provide for the hardship imposed on dependents, such as young children, so that they may not suffer unduly.
- While only the New South Wales Crime Commission has standing to make applications under the Criminal Assets Recovery Act, nothing in this bill affects the role of a New South Wales police officer acting as an authorised officer, nor the vital role of both agencies in joint operations or task forces in bringing persons before the court.
- Now to the details of the bill:
- The objects of the Act will include concepts of unexplained wealth, and distinguish these from proceeds assessment orders.

- The definitions will be made consistent with the new unexplained wealth regime and define unexplained wealth orders.
- References to proceeds assessment orders throughout the Act will now also refer to unexplained wealth orders.
- Interstate proceeds assessment orders will now include unexplained wealth orders to ensure that where other jurisdictions also have the new unexplained wealth orders the provisions in this Act apply.
- The bill clarifies that a person in the broader meaning includes a corporation, however the provision relating to proceeds assessment orders whereby a child under the age of 18 years cannot have an order made against them, is retained.
- Unexplained wealth orders will also apply to restraining orders.
- The restraining order may apply to all the interests in property, not just specified interests, of a person suspected of deriving property from serious crime-related activity as a consequence of the application.
- The bill also clarifies that the suspicion of the authorised officer may also attach to the serious crime-related activities of another person.
- This will mean an unexplained wealth order may be obtained for persons who are suspected of having derived their wealth from the crimes of their family or associates regardless of whether they have been able to keep their own noses clean.
- These provisions will ensure that when serious criminals attempt to hide their money by giving it away to family or allies (who may be well aware of the source of that wealth) those persons are still made to account for it.
- This new regime targets the current practice of criminals or their allies using expensive cars or living in large mansions which, on paper, they do not own, but which are clearly not accounted for by their income.
- A new unexplained wealth order will be created to complement the existing orders in the Criminal Assets Recovery Act.
- The Crime Commission may apply for an unexplained wealth order or a proceeds assessment order, or both.
- However, the court is to only make one order, whichever is the greater amount.
- These orders are located within the existing confiscation regime.
- This introduces unexplained wealth orders under an existing, well proven process.
- Three new sections of the Act provide for the application by the Crime Commission for an unexplained wealth order.
- The court must make the order if it finds there is a reasonable suspicion that the defendant has engaged in serious crime-related activity or has derived the proceeds of the serious crime-related activity of another person.
- The bill does not affect the capacity of the New South Wales Crime Commission to apply to the court to confiscate the assets of persons who would previously have been targeted under asset forfeiture orders.
- For example, the six-year limitation may prevent the Crime Commission from seeking to confiscate wealth from 10 years ago under an assets forfeiture order, but they could now commence unexplained wealth proceedings for that additional wealth.
- The court may refuse to make an order, or may reduce the amount payable under the order, if it thinks it is in the public interest to do so.
- This is a critical safeguard to the regime, designed to ensure that the court has to be fully satisfied as to the suspicions of the serious criminal activity and the lawfulness of the sources of the person's wealth.
- Furthermore, the court may exclude a portion of the wealth from the order to provide for dependents and ensure they do not suffer any undue hardship as a result of the confiscation.
- The assessment of a person's unexplained wealth includes the total current or previous wealth other than that part of the wealth the court is satisfied, on the balance of probabilities was not lawfully acquired.
- The bill sets out the things included in the current and previous wealth of a person.
- Wealth that has been expended, disposed of or consumed and wealth provided to others as a service, advantage or benefit are included in the calculations.
- This is to ensure that where a criminal has provided a service or been living the high-life, the expenses for this lifestyle are accounted for.
- The Crime Commission will be required to present evidence on this expended wealth as well as any assets or property.
- And the court will only consider wealth that is subject to such evidence.

- The court is also to include in the assessment any wealth that is outside New South Wales as well as in the State.
- The value of current property will be whichever is the greater: the value at the time of application or the value when the property was acquired.
- The value of consumed or disposed of property will be whichever is the greater: the value at the time the property was acquired; or the value immediately before the property was consumed or disposed of.
- This ensures that criminals cannot have a mate make a dodgy evaluation of the car or house and claim that as the true worth.
- Current general provisions in the Act are retained for proceeds assessment orders.
- Most of these will also apply to unexplained wealth orders.
- These provisions relate to such matters as: ancillary orders; the effect of confiscation orders or action taken by other jurisdictions; the setting aside of convictions; actions to be taken when a person has died or is not present; and evidence in relation to drugs or drug plants.
- In addition, when assessing the amount to be paid under an unexplained wealth order, the court must deduct the value of any interests in property already forfeited under the Criminal Assets Recovery Act, a similar interstate order or orders made under the Confiscation of Proceeds of Crime Act.
- The person subject to the order must still be given notice of the application to the Court for an unexplained wealth order.
- As currently applies, the person is provided a statement of facts and circumstances outlining a summary of the commission's case.
- The Crime Commission will then present to the court the suspicions regarding the criminal activity and that the wealth is illegally acquired.
- At a hearing on unexplained wealth the person who is subject of the application will have the opportunity to rebut the evidence of the Crime Commission on the reasonable suspicion of serious criminal activity and to provide evidence of the lawful sources of their wealth.
- The making of an assets forfeiture order does not prevent the making of a proceeds assessment order or an unexplained wealth order.
- However, an unexplained wealth order may exclude any assets forfeited or that are subject to other confiscation orders.
- This ensures that the debt due to the Crown does not include wealth already confiscated by another order or confiscated under another Act including from other jurisdictions; even though those assets may be included in the calculation of the wealth.
- It will depend on the circumstances of each case, under which order the New South Wales Crime Commission will elect to take action: assets forfeiture, proceeds assessment or unexplained wealth.
- The unexplained wealth order differs from a proceeds assessment order in the following significant ways:
- As I have already mentioned, the threshold to which the Crime Commission must satisfy the court on application for the new unexplained wealth order will be a reasonable suspicion that the defendant has engaged in serious crime related activity, as opposed to the balance of probabilities.
- This reasonable suspicion includes that the crime-related activity occurred at any time.
- The six-year time limit which applies to other orders under the Act is therefore not applicable for unexplained wealth.
- To ensure that the wealth may include any, or all, of the ill-gotten gains, the suspicion attached to the unexplained wealth being derived from criminal activity is also over any period of time.
- The six-year time limit, in similar federal legislation, was also considered at length by the Commonwealth Senate Legal and Constitutional Affairs Legislation Committee.
- They concluded and I quote:
- "The committee accepts the evidence it received that the six year limitation period on non-conviction based confiscation causes significant difficulties where the DPP is pursuing confiscation in matters involving complex and ongoing offences. The committee therefore supports the removal of this limitation period".
- However, the court will make the single final confiscation order based on the balance of probabilities that the wealth is not or has been not illegally acquired.
- The burden of proof will rest with the person to prove to the court that the wealth was not illegally acquired.

- The Government has not taken this particular step lightly nor are we alone in considering the import of such a significant amendment.
- The Commonwealth Senate Legal and Constitutional Affairs Legislation Committee stated in their report on the Commonwealth Crimes Legislation Amendment (Serious and Organised Crime) Bill 2009, and I quote:
- "The placing of the onus of proof on a respondent in proceedings where the respondent faces a penalty of forfeiting property is an exceptional step because it represents a departure from the axiomatic principle that those accused of criminal conduct ought to be presumed innocent until proven guilty. Despite this, the committee accepts that it would defeat the purpose of the provisions if the onus was not on the respondent: the purpose of unexplained wealth orders is to require the respondent to explain the source of his or her wealth".
- These are serious amendments with serious consequences and the Government has ensured that there are safeguards to these provisions.
- Of course the primary safeguard of the right of appeal is not altered by the amendments.
- Importantly, the Supreme Court will have the discretion to decline to make an unexplained wealth order, or to reduce the amount payable under the order, if it considers it is in the public interest to do so.
- Examples of such interest may include: to relieve any undue hardship on dependent children under the age of 18 years or dependents with a severe disability.
- And the bill is clear that the court does not have to consider wealth about which the Crime Commission has not provided evidence.
- So that while the onus is on the person to provide the lawful sources of their wealth, it is only that wealth which the Crime Commission suspects are the takings of serious criminal activity.
- These new provisions will force a suspected criminal to account for the wealth or expenditure and the sources of that wealth or face having that wealth removed by court order.
- Remember, these are serious and often highly organised criminals with complex accounting systems and business practices. These are not the small fry of a criminal organisation.
- The Crime Commission is careful in its targeting—which in part accounts for the success of the confiscation regime so far—and is not going to waste its resources frivolously chasing the lightweights in the criminal world.
- The last amendments in the bill relate to the allocation of the confiscated wealth.
- The amendments will provide that 50 per cent of all proceeds assessment confiscations and/or unexplained wealth confiscations, which would otherwise be paid into the confiscated proceeds account will be allocated to the Victims Compensation Fund.
- This allocation will occur after all court orders, disbursements or sharing of proceeds with other law enforcement agencies in other jurisdictions have been accounted for.
- In this way we are ensuring that those who endure the worst at the hands of serious and organised criminals—the long suffering (and often faceless) victims—have some way of redressing the balance.
- The New South Wales Crime Commission, the New South Wales Police Force and the Office of the Director of Public Prosecutions will continue to fight the good fight against criminals, especially those involved in organised and serious crime, by taking from them that which they desire most—their money.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [8.01 p.m.]: The Criminal Assets Recovery Amendment (Unexplained Wealth) Bill 2010 amends the Criminal Assets Recovery Act 1990 to provide for unexplained wealth orders to allow the New South Wales Crime Commission to recover the criminal assets of a person who is engaged in serious crime-related activity or who has obtained illegally acquired property from such a person. The bill sets the standard that there should be a reasonable suspicion that a person is engaged in such activity. An unexplained wealth order requires the Supreme Court to order a person to pay the Treasurer an amount equal to the value of the person's current or previous illegally acquired wealth. There is a requirement that the person not be able lawfully to account for the resources of his or her wealth.

The main provisions of the bill include that the New South Wales Crime Commission may apply for an unexplained wealth order or a proceeds assessment order. The Supreme Court will make only one order, whichever is for the greater amount. The Supreme Court is required to make an unexplained wealth order if there is a reasonable suspicion that persons have engaged in serious crime, that is, an offence with a maximum penalty of five years or more. This requirement is regardless of whether they have been charged with the offence and, if charged, whether they are convicted. Offences covered by the five-year maximum penalty include serious drug and violence offences, tax evasion and intentional damage to property of more than \$500 in value.

There will be no time limit under the bill on the date of the acquisition of assets. Currently the Crime Commission can only target assets acquired in the past six years. The new provision is consistent with Commonwealth legislation. The Supreme Court will have the discretion not to make an unexplained wealth order when it is not in the public interest to do so; for example, when a genuine reason exists not to have financial records of a transaction or to provide for dependants of a person subject to an order. Currently the court will make an order on the balance of probabilities. This bill will change the threshold to reasonable suspicion. A person includes a corporation.

Children under the age of 18 will remain exempt from being subject to an order. In addition, the court does not have to consider wealth of which the Crime Commission does not provide evidence. Right of appeal is included in the legislation. Existing laws require police to prove the money and assets of a person are proceeds of criminal activity. These changes will require persons to prove they obtained their wealth legally. Similar unexplained wealth legislation has already been passed by the Commonwealth, West Australian and Northern Territory governments. The Government has indicated that the laws have been developed out of national meetings of law enforcement and justice agencies. The Government has committed to directing half of all proceeds to the Victims Compensation Fund, which it claims could add up to an additional \$120 million over the next 10 years, although it is fair to say that no actuarial advice has been provided to the Parliament on how the Government has reached that determination. The half share of the proceeds is post-allocation for court orders, disbursements and any sharing with other law enforcement agencies.

I am happy to support any legislation that targets unexplained wealth, or people involved in illegal or highly organised criminal activity. Members who have known me long enough know that I and particularly Reverend the Hon. Fred Nile within the context of debates in the Parliament and indeed outside have spoken widely about the Mr Bigs involved in criminal activity. These people are quite often involved in myriad criminal networks. It is not always just about drugs; many are involved in highly lucrative and large frauds but they also dabble in drugs, firearms and overseas people trafficking. There is no end to the preparedness of these people to move across the various crime sectors in which they are involved.

For many years I have spoken about what we commonly refer to as RICO—racketeer influenced and corrupt organisations—legislation. There has been a gradual move in the United States towards what is referred to as racketeering legislation, which has been in place for some years and which targets the unexplained wealth of individuals who go out of their way to set up highly elaborate corporate structures in which they are capable of hiding unexplained wealth gained through criminal activity. How many times have we heard of people involved in organised crime? They apparently have no discernible method by which they obtained their wealth but often we hear about them driving around in the latest sports cars and living in Sydney's best suburbs.

The Hon. Charlie Lynn: Bentleys.

The Hon. MICHAEL GALLACHER: Yes, Bentleys, and most certainly living a very high life, given their apparent lack of any lawful means of obtaining money. What concerns me about these people—and I refer to recent television dramas, particularly the *Underbelly* series—is the way some of them have been glorified. For some reason they are portrayed as role models for younger people, who see these people and their activities as a pathway for them to acquire wealth. This Parliament must put in place as many barriers as it can muster to ensure that people involved in criminal activity do not become role models. Therefore, when any opportunity comes their way to acquire wealth through criminal means they will find that the Parliament is supporting our law enforcement agencies, who work across national and international boundaries to ensure that they do not sleep easy at night.

These criminals are prepared to engage high-paid legal advice and financial advice to try to mask how they acquire this money. They wash the money through legitimate businesses, but legitimate businesses that have been built upon the pain and suffering of people involved in the drug trade, prostitution and other criminal enterprises. This legislation is long overdue. I note that it was first raised by the Premier at the biennial conference of the New South Wales Police Association at Terrigal a few short months ago. The unexplained wealth provisions, including the intentional damage to property of more than \$500 in value, contain a provision to make an unexplained wealth order against these people.

That definition gives the impression that we will see police targeting people who are involved in committing graffiti crime or acts of malicious damage, for example. It does not take very much to damage a vehicle to the value of \$500. Someone deliberately scratching the duco along the side of a car with a coin will see that \$500 disappear. It also suggests to the public that the police will take the gloves off and take people to

court to seek an unexplained wealth order against them if the police believe they are involved in criminal activity such as causing more than \$500 damage to property. I find that small part of the legislation interesting, but I think the rest of it is targeted correctly at highly organised criminal activity.

Over the past couple of years there have been some fairly startling cutbacks to the budget of the New South Wales Crime Commission. These cutbacks have always been dressed up in such a way as to suggest that they were the result of the fantastic self-funding job the commission was doing as a result of the unexplained wealth provisions in earlier legislation—which would increase the commission's ability to go after more money. We need to ensure that organisations such as the New South Wales Crime Commission are keeping pace with legislation and are fully resourced with sufficient funding, staffing and technology. We also need to ensure that they have the legislative backup of the Parliament to go after criminals and make sure that none of them sleep easy at night.

Reverend the Hon. Dr GORDON MOYES [8.11 p.m.]: The object of the Criminal Assets Recovery Amendment (Unexplained Wealth) Bill 2010 is to amend the Criminal Assets Recovery Act 1990 to provide the Supreme Court with the capacity to make a final order where there is reasonable suspicion that a person has at any time been engaged in a serious crime related activity and that person cannot lawfully account for the source of their wealth. The court can also make an unexplained wealth order against a person who has at any time acquired any property derived from the serious crime related activity of another person.

The Australian Attorney-General, Robert McClelland, expressed that organised crime costs Australia at least \$15 billion a year and has inflicted substantial harm on the community, business and the environment. Unfortunately, in many cases people who are involved in serious crime related activity, and those who reap the benefits of such crimes, have been able to avoid detection and prosecution at the expense of the rest of society. Family First, on behalf of whom I speak, believes this is unacceptable. The Commonwealth, Western Australia and the Northern Territory have already enacted provisions relating to unexplained wealth from suspicious criminal activities. The Federal Government has estimated that more than \$40 million in alleged criminal assets have already been seized in the Northern Territory and Western Australia under unexplained wealth provisions since 2003.

In October 2009 the South Australian Legislative Council passed the Serious and Organised Crime (Unexplained Wealth) Act 2009, which "targets members of serious organised criminal gangs by forcing them to explain the source of specified assets, suspected of being acquired through illegal means". However, the legislation has not yet come into effect and will expire after 10 years. In April 2009 the Standing Committee of Attorneys-General, which goes by the glorious acronym of SCAG, agreed to a united response, saying that organised crime requires a nationally coordinated response by all jurisdictions. It was noted that all governments should consider legislative reforms to combat crime and to strengthen criminal asset confiscation, including unexplained wealth provisions.

The New South Wales Crime Commission confiscated more than \$24 million in proceeds of crime in 2008-09, and \$23 million in 2009, under the Criminal Assets Recovery Act. The New South Wales Crime Commission announced that it confiscated criminal assets that included: real estate, houses, blocks of flats, prestige vehicles, large amounts of cash, boats, motorcycles, jewellery and electrical items such as plasma televisions, and the list goes on. Of particular interest are the prestige vehicles, such as the Maseratis, Ferraris, Bentleys and the other models seen regularly around Kings Cross. One can imagine how many more proceeds of crime will be discovered if the bill is enacted. The New South Wales Crime Commission is currently unable to take formative action against persons about whom there are highly developed suspicions regarding serious criminal activity even though they have a wide accumulation of wealth and assets. Under the new bill, criminals will be forced to prove how they obtained their wealth legitimately, reversing the current onus on the police to prove where the proceeds came from.

At a Federal inquiry in 2008 one of this State's most senior police officers, Deputy Commissioner Nick Kaldas, expressed his concerns about the need for such legislation. He described the current New South Wales Act governing criminal wealth confiscation, the Criminal Assets Recovery Act, as "working pretty well" and said he saw no "need at the moment to revamp the legislation". However, the majority of New South Wales police seem to disagree with the deputy commissioner. Mark Burgess, the chief executive officer of the Police Federation of Australia—an organisation that represents more than 52,000 police officers in Australia—said:

International research clearly identifies unexplained wealth declarations as a new and effective tool against the national and transnational organised crime bosses.

He said further:

There are three very clear objectives from this type of legislation:

- . To deter those who contemplate criminal activity by reducing the possibility of them gaining or keeping profit from that activity;
- . To prevent crime by diminishing the capacity of offenders to finance any future criminal activity that they might engage in; and
- . To remedy the unjust enrichment of criminals who profit at societies' expense.

A spokesperson for the New South Wales Police Force said:

The NSW Police Force is of the view the new amendments will strengthen the legislation to better target organised crime.

Family First is in full agreement with this statement and supports the New South Wales Police Force. The Government proposes that the bill will be an important safeguard so that the court has discretion to decline to make or reduce an order if it considers that it is in the public interest to do so. This, in turn, will enable the court to provide for a dependant so that they do not suffer undue hardship. This is in the best interests of the family who may be affected by these orders.

The Government has also said that 50 per cent of moneys obtained will be directed to the Victims Compensation Fund, which provides payments to those who have suffered injuries through violent crime, including psychological and physical harm. The Government adds that this could mean an additional \$120 million for victims of crime over the next decade. This is a good step towards compensating victims of crime for their intense and lengthy suffering. In most cases, senior organised crime figures who fund and support organised crime seldom carry out the physical elements of crimes so they cannot always be directly linked to specific offences or even to any unexplained wealth because they have either hidden it so well or distributed it smartly among family and friends.

The Australian Capital Territory Government has disagreed with the provisions outlined by the Commonwealth, saying it believes there is an issue of human rights breaches impinging the right of criminals to freedom of association, freedom of assembly, a fair trial, privacy and not to have one's reputation attacked unlawfully. I disagree that there is any breach of civil liberties when retrieving unexplained wealth because, simply put, the wealth has not been obtained legally and morally it must therefore be returned—and, as the saying goes, if you have not done anything wrong then you have nothing to hide.

The introduction of this bill highlights the ever-increasing need for interconnectivity, domestically and internationally, whether in relation to tax laws or other laws, to combat crime in all its guises. Family First supports measures to allow the New South Wales Police Force and associated organisations to readily investigate all persons involved in or associated with organised crime and serious crime related activity based on suspicion. I believe it is important to give accumulated unexplained wealth from criminal activity to families who are suffering from the effects of such crimes. It is noteworthy that the court will have the discretion to provide for a dependant who may be adversely affected by the unexplained wealth provisions, so that they will not suffer undue hardship. We will support the bill.

The Hon. IAN WEST [8.20 p.m.]: I speak in support of the Criminal Assets Recovery Amendment (Unexplained Wealth) Bill 2010. The bill gives the Supreme Court the capacity to make an unexplained wealth order when there is a reasonable suspicion that a person has engaged in a serious crime related activity and that person cannot lawfully account for the sources of their wealth. However, the court has the discretion not to make the order, or to reduce the amount payable to the Crown, if it considers that it is in the public interest to do so. This important safeguard will ensure the court may consider the range of issues that fall under public interest, including, but not limited to, any hardship on dependants or the remoteness in time of the documentation regarding lawful wealth.

The bill adds another string to the bow of New South Wales law enforcement agencies and lets them take aim at the profits of big-time criminals avoiding prosecution under current laws. The bill does so by amending the Criminal Assets Recovery Act 1990 so that the New South Wales Crime Commission can apply to the court for such an order when the commission has reasonable suspicions that a person is involved in serious criminal activity, or when it holds reasonable suspicions that the person's wealth is derived from the serious criminal

activity of another person or persons. The court must be satisfied on the balance of probabilities that the wealth is not, or was not, illegally acquired property. The confiscated wealth will be provided to victims of crime through the Victims Compensation Fund.

At present the New South Wales Crime Commission can usually take no action against persons about whom it holds highly developed suspicions regarding serious criminal activity, against whom only minor offences, if any, can be proved, or if the persons have insufficient lawful sources to justify their wealth, accumulation of assets or expenditure. The new regime will close that loophole. These amendments will be in addition to powers already available to the New South Wales Crime Commission to commence confiscation proceedings relating to restraining orders, assets forfeiture orders, and proceeds assessment orders, which it is not proposed to alter. However, the new unexplained wealth regime will differ in some significant aspects. The threshold about which the court must be satisfied concerning criminal activity in respect of an unexplained wealth order will be changed from a balance of probabilities—that is, the civil burden—to a reasonable suspicion test.

Once the court is satisfied of a reasonable suspicion of crime, the court will then hear evidence from the New South Wales Crime Commission, as well as from the person against whom the order is sought. The burden of proof is clearly on the person against whom the order is sought to prove that their current or previous wealth is not, or was not, illegally acquired property. If the court is not satisfied, on the balance of probabilities, that wealth has been obtained lawfully, the court will be able to make an unexplained wealth order and the amount payable pursuant to the unexplained wealth order will become a debt due to the Crown.

The amending bill provides a broad definition of what constitutes a person's current or previous wealth. It is not proposed to change the definition of "serious criminal activity" already in the Act. These provisions are aimed at the kingpins of criminal enterprise who are one step removed from the crime but direct it and reap the rewards. We must remember that these are serious and often highly complex matters involving criminals with the capacity to hire decent accounting personnel and all the other trappings of our so-called civilised corporate structures. The Crime Commission is careful in its targeting—which in part accounts for the success of the confiscation regime so far—and will not waste its resources chasing the "small fry" of a criminal organisation. Unlike with the existing assets forfeiture orders and proceeds assessment orders, the new unexplained wealth orders will not include a requirement to establish that the serious criminal activity occurred in the past six years. Furthermore, the period over which the unexplained wealth order may be calculated will not be time limited. This is consistent with the recent Commonwealth unexplained wealth legislation.

Our new provisions for unexplained wealth will not affect ordinary citizens who are not criminals and are lucky enough to experience a financial windfall. The proposals are clearly aimed at suspected criminal persons, or their family members and associates, who law enforcement discovers have wealth well in excess of that which their legitimate occupations could explain. The court will only consider wealth about which the Crime Commission has presented evidence. The public interest test includes that the court may reduce the amount payable under the order. For example, the court may provide for the hardship imposed on dependants, such as young children or those with a severe disability, so that they do not suffer unduly.

The last amendments in the bill relate to the allocation of the confiscated wealth. The amendments will provide that 50 per cent of all proceeds assessment confiscations and/or unexplained wealth confiscations, which would otherwise be paid into the confiscated proceeds account, will be allocated to the Victims Compensation Fund. This allocation will occur after all court orders, disbursements or sharing of proceeds with other law enforcement agencies in other jurisdictions have been accounted for. In this way we will ensure that those who endure the worst at the hands of serious and organised criminals—the long-suffering victims—have some way of redressing the balance.

This legislation has been the subject of extensive discussion and development both at the national level through the Standing Committee of Attorneys-General and the Senior Officers Group on Organised Crime, and at the State level through the Parliamentary Counsel's Office, the New South Wales Crime Commission, the Department of Justice and Attorney General, and the Law Enforcement Policy Branch. In answer to the query posed by several members in the other place, the Director of Public Prosecutions in New South Wales was also consulted, and endorsed the principle of unexplained wealth legislation. The new provisions will force a suspected criminal to account for their wealth or expenditure and its sources or face removal of that wealth. I commend the bill to the House.

Reverend the Hon. FRED NILE [8.28 p.m.]: On behalf of the Christian Democratic Party I am very pleased to support the Criminal Assets Recovery Amendment (Unexplained Wealth) Bill 2010. The bill amends

the Criminal Assets Recovery Act 1992 to provide the Supreme Court with the capacity to make a final order when there is reasonable suspicion that a person is involved in serious criminal activity and that person cannot lawfully account for the sources of their wealth. As other speakers have said, it is important to crack down on individuals who profit from organised crime but who are usually clever enough never to have their hand on the gun, so to speak, and who remain behind the scenes, receiving the profits from the criminal activity or enterprise. The bill is one way to crack down on these very clever individuals, who are often known in the public arena and in the media and appear to be untouchable. Indeed, it is very difficult to convict such people of a crime. The bill is one way to hurt them in their hip pockets. It will hit their bank assets and accumulated assets, such as mansions, boats and cars, and all the trimmings that these individuals like to parade around to impress the people who work for them in their various criminal activities.

This bill is the result of long-term discussions that commenced in 2009, and continue to the present. Two Commonwealth parliamentary reports recommended action on unexplained wealth confiscation provisions. There has been a growing impetus to develop unexplained wealth provisions to complement those already passed by the Commonwealth, Western Australia and the Northern Territory. After consideration and consultation with the New South Wales Crime Commission it was decided that amending the current Criminal Assets Recovery Act to incorporate the new unexplained wealth orders would build on the already successful confiscation regime in New South Wales. In this way, the expertise of the New South Wales Crime Commission is used to its best advantage. Those matters currently caught by asset forfeiture orders and proceeds assessment orders will still be dealt with under the Act, together with those matters currently evading confiscation through an unexplained wealth order.

Pursuant to the bill, the New South Wales Crime Commission may make an application for a proceeds assessment order or an unexplained wealth order, or both. However, only one final order will be made, whichever is the greater amount. That seems to be an unnecessary restriction. I encourage the Government to consider a provision whereby the New South Wales Crime Commission must make an application once it becomes aware of a situation. We do not want to see a lack of action on the part of the New South Wales Crime Commission. Over the years the commission at times seemed to be on the ball and achieving results, and at other times dragging the chain and not actively carrying out its duties in the manner expected when it was formed. Although the commission has to operate with a degree of secrecy in gathering information before it finally acts, I would like to see far more upfront action by the New South Wales Crime Commission. I question the restriction in the legislation to one final order. There may be a situation where the commission establishes a great amount of unexplained wealth and applies for an order, then finds later that the individual has concealed further assets overseas or in hidden bank accounts. Does that mean the New South Wales Crime Commission cannot issue another order? I ask the Attorney General to ensure that the New South Wales Crime Commission has flexibility in such situations and is not restricted in doing its job properly.

The unexplained wealth order process makes a number of modifications to the proceeds assessment order. The current six-year time limit that applies to criminal activity will not apply to unexplained wealth orders. I believe that a more open-ended situation should apply. An individual involved in organised crime may be able to conceal his wealth for six years and then action cannot be taken against him due to the time limit. I believe there should not be any time limit. The New South Wales Crime Commission must satisfy the Supreme Court of a reasonable suspicion of a person being involved in serious criminal activity or of having derived the proceeds of the serious crime related activity of another person, rather than the current threshold of a balance of probabilities. The court will still make the order on the balance of probabilities. The New South Wales Crime Commission will place before the court evidence as to the person's assets, expenditure and lifestyle compared with his or her known lawful sources of income or wealth. Item [14] of schedule 1 inserts the following provision:

Despite any rule of law, or any practice, relating to hearsay evidence, the Supreme Court may, for the purposes of an application for a proceeds assessment order or unexplained wealth order, receive evidence of the opinion of:

- (a) a member of the NSW Police Force,

I am pleased that that provision has been inserted in the bill. With all the information gathered by the thousands of police officers and specialised crime units, the New South Wales Commissioner of Police should be given greater powers to initiate action. Although he is a member of the Crime Commission, I would be disappointed if the New South Wales police commissioner wanted to take action and the Crime Commission was tentative or reluctant to do so because of the importance of the individual being investigated for unexplained wealth. For example, the individual may be involved in organised crime but also lead another life as an influential and popular personality in Sydney. The New South Wales Crime Commission and other bodies may be reluctant to

act against such a high-profile person. They should not have any fear in that regard. The law must treat everyone without fear or favour. I again ask the Attorney General to give consideration to the police commissioner having the power to initiate action and whether the police commissioner should have the ability to apply to the court for an order on behalf of the New South Wales Police Force.

There are provisions in the bill that will ensure that, for example, wealth from a bikie gang's criminal enterprise can be confiscated even though it is held in the names of a gang member's wife or children. The simplest way for a person involved in organised crime to protect his wealth is to put it in the name of his wife or, if he has six children, in the name of each child. It must be clear that there is an ability to question persons related to the individual, particularly family members who may be assisting in hiding assets from criminal-related activity. Once the bill is passed, anyone with such assets will act to transfer their wealth to others—if they have not done so already—in order to hide their assets and avoid confiscation. There should be provision for the court to take action against other family members who may be involved in concealing unexplained wealth. I support the bill. I am pleased about the way in which the proceeds will be disbursed, particularly that half the proceeds will be paid to the Victims Compensation Fund to assist victims of crime.

Dr JOHN KAYE [8.38 p.m.]: Silly me, I thought the law and order auction was over. I thought we were not going to play this game any more. I thought there had been an outbreak of peace and we were no longer going to work our way around sacrificing civil liberties in order to look tougher on crime. Sacrificing simple rights, such as innocent until proven guilty, to create the illusion that we are dealing with organised crime goes to the heart of the law and order auction. Yes, of course we need to crack down on the Mr Bigs, of course we need to find the Mr Middle Sizes and maybe even the Mrs Middle Sizes, and we need to work to make sure that such people cannot profit from crime. Nobody is arguing against that. But where we are lowering the standard of proof to reasonable suspicion, where we are doing such violence to the idea of innocent until proven guilty, we are moving towards a set of laws—

The Hon. Michael Gallacher: This is having a go at the Supreme Court's inability to make a decision.

Dr JOHN KAYE: Mr Gallacher, I think you had your chance.

DEPUTY-PRESIDENT (The Hon. Christine Robertson): Order! Interjections are disorderly at all times. The Leader of the Opposition will cease interjecting, and the member with the call will cease responding to interjections.

Dr JOHN KAYE: Thank you, Madam Deputy-President, I appreciate your advice. The Greens of course do not support this bill. The current laws are adequate to the task of confiscating unexplained wealth. The changes in the bill are unnecessary and they impose an unnecessary burden on the civil rights of those engaged in serious crime. Without any known standard of proof, just simply the idea that they are under suspicion means they can have their assets taken. The current objectives of the Criminal Assets Recovery Act include:

- (a) to provide for the confiscation, without requiring conviction, of property of a person if the Supreme Court finds it to be more probable than not that the person has engaged in serious crime related activities.

Section 27 of the current Act allows for the making of a proceeds assessment order. It states:

The Commission may apply to the Supreme Court for a proceeds assessment order requiring a person to pay to the Treasurer an amount assessed by the Court as the value of the proceeds derived by the person from an illegal activity, or illegal activities, of the person or another person that took place not more than 6 years before the making of the application for the order.

The Supreme Court must make a proceeds assessment order if the Court finds it is more probable than not that the person against whom the order is sought was, at any time not more than 6 years before the making of the application for the order, engaged in:

- (a) a serious crime related activity involving an indictable quantity, or
- (b) a serious crime related activity involving an offence punishable by imprisonment for 5 years or more.

The proposed new unexplained wealth provisions differ from the existing provisions because the threshold about which the court must be satisfied concerning criminal activity in respect of an unexplained wealth order will be dramatically lowered from the current balance of probabilities—the standard civil burden—to a test referred to as a "reasonable suspicion".

In addition, the six-year time frame will no longer apply, which means any wealth generated at any time could be seized. The bill does this by inserting sections 28A, 28B and 28C, which introduce a new

unexplained wealth order. It allows this new form of order to be made relating to any time and to situations where the person engaged himself or herself in a serious crime-related activity or derived properties from another person who engaged in a serious crime-related activity, whether or not they knew the person who gave them the property was engaged in a serious crime-related activity. It is enough for the court to hold a reasonable suspicion that some offence or other constituting a serious crime was committed. This allows an enormous degree of latitude and that rides absolutely roughshod over the idea that a person is innocent until proven guilty.

The bill provides prosecutors with a great deal of licence despite two safeguards: first, that the Supreme Court may refuse to make an order when it is in the public interest to do so; and, second, that the Supreme Court may reduce the amount of the order where hardship is involved. Proposed section 28B outlines the process for making an assessment about unexplained wealth. The burden of proof is placed on the accused. The bill defines wealth as current or previous wealth, and there is no time limit as to how far back the court can go when looking at a person's wealth. Furthermore, it is retrospective in application and applies to wealth held inside and outside New South Wales.

The person under suspicion does not need to be convicted of any crime in order for the court to impose such an unexplained wealth order. That is also the case now in relation to the making of a proceeds assessment order. However, there is a key difference: the current proceeds assessment order requires a far higher burden of proof. As the Minister for Police said in the Legislative Assembly:

Unlike existing assets forfeiture orders and proceeds assessment orders, the new unexplained wealth orders will not include a requirement to establish that the serious criminal activity occurred in the past six years. Furthermore, the period over which the unexplained wealth order may be calculated will not be limited in time.

That is setting the bar very low. The six-year limit is reasonable as most people do not keep paper records for more than seven years. The bill imposes an unreasonable burden on those who do not keep their records beyond six years, because they simply will not be able to explain wealth that they accrued some time before the time at which they ceased to keep records.

The bill also, quite outrageously, places the onus of proof on the defendant to prove that his or her wealth is lawful, rather than on those seeking the order to prove it is unlawful. Under the new provisions the person is to be given notice of any application against him or her. However, if that is not done, it does not prevent the Supreme Court from making the order. People who have not received a notice of any application being made against them can still suffer a forfeiture of their wealth. While the Greens certainly do not support organised crime, the current laws seem to be working. One particular example of where the current laws worked extremely well is the case of the *NSW Crime Commission v Antonio Greco* in 2005 in the New South Wales Supreme Court. Mr Michael Greco, the son of Antonio Greco, was charged with cultivating a trafficable amount of cannabis on his farm in Dubbo. It was found that Antonio Greco must have known about the plantation as he carried out works on the property, including building a dam and hiring certain equipment that included an auger that might have been used to plant the cannabis plants.

Reverend the Hon. Dr Gordon Moyes: You have to water them.

Dr JOHN KAYE: Hang on. The member should hear what I am saying. I am fascinated that Reverend Moyes has such a detailed knowledge of marijuana cultivation. Antonio Greco did derive wealth—about half a million dollars—from some source. The number of plants found meant that the crime fitted the definition of "serious crime-related activity". Mr Greco was trying to transfer his assets into his wife's name. The court ordered that Greco senior pay to the Treasury the amount of \$407,084, "being the amount assessed by the Court as the value of the proceeds derived from the illegal activities of the first defendant that took place not more than six years before". Mr Greco was found to have received the proceeds of crime, and those proceeds of crime to the tune of more than \$407,000 were taken from him.

Given that the current law works, the Greens do not see any reason to reduce the level of evidence required for such orders and to extend them ad infinitum beyond the reasonable period where people are expected to keep their paperwork. The burden is being shifted from the accuser to the accused. That is not something we do in a civilised society. The whole concept of innocent until proven guilty is not only being violated; it is being destroyed by this legislation. If we attempt to amend this bill to raise the test to the balance of probabilities and to reintroduce a time limit, that would obviate the Government's entire bill, so there is little point in advancing such amendments. Therefore, we do not support the bill.

The Hon. CHARLIE LYNN [8.50 p.m.]: I support the Criminal Assets Recovery Amendment (Unexplained Wealth) Bill 2010. I will not repeat the matters raised by my colleague the Hon. Michael

Gallacher, Reverend the Hon. Dr Gordon Moyes and Reverend the Hon. Fred Nile in their contributions. I do not know where the Greens live, but it must be in cuckoo-land. We were brought up to believe that crime does not pay. But in New South Wales crime not only pays, criminals also receive dividends from it. In fact, it elevates them to the social pages and ensures star status in the television and film industries.

If members were to walk around my neighbourhood in western Sydney they would see many big houses and valuable properties and they would see how those who lived in such houses and on such properties were able to afford them. They would be told that in some cases, although the owners do not have a job and do not appear to work, they have wealth beyond anything the ordinary person could dream of accumulating even after having worked all his or her life. Reverend the Hon. Dr Gordon Moyes talked about the Maseratis, Bentleys and Ferraris cruising around Kings Cross.

Mr Ian Cohen: What do you drive Charlie?

The Hon. CHARLIE LYNN: I drive a very nice Lexus that I am paying off. Jill and I spent the first two years of our married life without a car because we could not afford one. In fact, the only vehicle we had was a pusher for our daughter Sharon. I have earned everything in my house and every vehicle I have driven. I have saved and paid my way in life. When we were raising our three kids we went without so that we could provide them with a good education. I am very proud of my wife and my daughters and the fact that we have paid our way. I am also proud of the fact that I do not owe anyone anything and that I have never shirked payment on a debt. I get peeved when I see these charlatans living the high life. Everyone knows about them and we all wonder what is being done to deal with them. The system seems oblivious to their activities. When they get into strife they are able to afford the finest lawyers in town because money is no object to them. They rely on other people in the non-productive sector who have never earned a quid in their life.

Dr John Kaye: Who are you talking about, Charlie?

The Hon. CHARLIE LYNN: As Dr John Kaye was quick to suggest to my colleague the Hon. Michael Gallacher: You have had your say! The Greens raised the civil liberties principle of a person being innocent until proven guilty. Of course, we all agree with that principle, but there are people in our society who abuse it. They rely on people like the Greens to protect them. I congratulate the Government on introducing this bill, which shifts the onus of proof with regard to the source of unexplained wealth to those who have accumulated it. If wealth has been accumulated through honest, hard work, those who have it will have nothing to fear. I support the bill.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [8.53 p.m.], in reply: I thank members for their contributions to this debate, including the Hon. Charlie Lynn. Welcome back, Charlie. The Criminal Assets Recovery Amendment (Unexplained Wealth) Bill 2010 amends the Criminal Assets Recovery Act 1990. The bill is designed to capture those serious and, so far, successful criminals who have been able to remove themselves from direct relationship with a criminal act but still garner wealth as a result. I reassure the House that we are debating this bill this week because of the extensive consultation that surrounded the formulation of this important proposed legislation. It takes time to deliberate and to ensure that the safeguards in the bill are correct. The Government wanted to get it right before it introduced the bill.

The national movement towards the adoption of unexplained wealth confiscation regimes to assist in combating organised crime was confirmed by national senior officers meetings on 5 June 2009, 17 July 2009 and 5 February 2010. For 20 years New South Wales has had the best legislative regime of any State in the country to deal with the confiscation of ill-gotten gains. The bill targets serious and cagey criminals and forces them to account for the source of their wealth. If they cannot satisfy the court that the nominated portion of their wealth is from legitimate sources, they will have to forfeit it to the State. A crook who cleverly launders the proceeds of his crime, thereby effectively hiding the money, may still display the result of those crimes by enjoying an extravagant lifestyle. An unexplained wealth order can target that wealth and confiscate that for which the criminal cannot lawfully account. These processes will not target innocent persons who inherit money, win the lottery, are fortunate with investments or do well out of home purchases. All those rapid increases in wealth can clearly be linked to a lawful source and, unless there is something people do not want others to know about them, they are not suspected of being involved in crime-related activities.

The bill does not give unfettered or sweeping powers to the New South Wales Crime Commission or the New South Wales Police Force. In the main, these matters are brought before the court by the Crime Commission. Often the commission is acting on the results of investigations undertaken by the New South

Wales Police Force or joint operations between the two law enforcement agencies. At times they will be the result of larger operations shared with other jurisdictions. In all cases, the New South Wales Crime Commission, which has a proven track record utilising the Criminal Assets Recovery Act to recover successfully the ill-gotten gains of criminals, will have sufficient reason to suspect a person is involved in criminal activity.

The fight against serious and organised crime, drug importation and manufacture, and money laundering and fraud is an ongoing battle facing the entire country. New South Wales needs to keep up with and, indeed, get ahead of the work of criminal enterprises. Criminals are effective entrepreneurs, so we need equally effective measures to counteract and hit them where it hurts—in their bank account and their luxury lifestyles. The bill will allow law enforcement agencies to put paid to the main advantage in criminal activity: the accumulation of large assets and funds. It will then return those funds to the people most affected by crime—the victims.

The Hon. Michael Gallacher raised the issue of the \$500 minimum when pursuing an order under the legislation. Nothing has changed in that regard. The definition of "serious crime-related activity" is unchanged. The reference to a \$500 minimum relates to section 197 of the Crimes Act, which provides for an offence of dishonestly destroying or damaging property for public gain, which attracts a maximum penalty of seven years imprisonment, or during a public disorder, which attracts a maximum penalty of nine years imprisonment. These are serious offences and may include activities such as arson and extortion; they are not minor graffiti offences. It is also important to remember that the purpose of these reforms is to enable the New South Wales Crime Commission to pursue major criminal figures who may be at the top of criminal organisations and who may have isolated themselves from day-to-day criminal activity. The serious criminal activity to which they may be linked may therefore be small scale but still lead to a large amount of unexplained wealth that could be the subject of confiscation.

Reverend the Hon. Fred Nile referred to the New South Wales Crime Commission. I have been advised that the commission can use its powers most effectively when it has the discretion that this bill will provide. In the 2008-09 financial year a total of \$24 million was confiscated. That would indicate that the commission is doing its job. The member also called for a greater role for the Commissioner of Police in confiscation proceedings. I am advised that the Crime Commissioner already works closely with the Commissioner of Police to confiscate assets. Matters that have confiscation potential are referred to the commission by the Assets Confiscation Unit of the New South Wales Police Force, thus giving the commissioner a role in proceedings. More than 400 such matters are referred to the commission each year.

Mention was also made of the six-year time limit. I reiterate that that limit has been removed for the new unexplained wealth orders. That will give the Crime Commission the flexibility and power to pursue orders against people in relation to activity engaged in without a time limit. A good example of that would be a case involving forensic accounting.

Dr John Kaye raised civil liberties concerns. Not only is the legislation quite specific, but also it relates to a particular and insidious type of crime that is not reflected in the activities of the general population. Despite that, the final order of the Supreme Court remains at the highest standard of the balance of probabilities and all the appeal rights and discretions of the court remain. A suspicion presented to the court by the New South Wales Crime Commission must be well founded. Furthermore, these amendments ensure that the Supreme Court may refuse to grant or may reduce an order if it believes it is in the public interest to do so. That gives the court a broad discretion to refuse to make an order if doing so would be unjust. This would include circumstances where there are concerns that an order is being sought for activity that occurred so far in the past that records may not be exact. In that case it may be open to the court to refuse the application.

As was explained at length in the other House, while these are serious amendments with serious consequences, the Government has ensured that there are safeguards to these provisions. Of course, the primary safeguard of the right of appeal is not altered by the amendments. Importantly, the Supreme Court will have the discretion to decline to make an unexplained wealth order or to reduce the amount payable under the order if it considers it is in the public interest to do so. I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee**Clauses 1 and 2 agreed to.**

Dr JOHN KAYE [9.01 p.m.]: I move Greens amendment No. 1:

No. 1 Page 9, schedule 1, lines 17–27. Omit all the words on those lines. Insert instead:

[15] Section 32 Establishment and use of Proceeds Account

Omit section 32 (3) (a) and (c).

[16] Section 32 (3) (e) and (f)

Insert at the end of section 32 (3) (d):

, and

- (e) to the credit of the Victims Compensation Fund established under the *Victims Support and Rehabilitation Act 1996*—half of the proceeds of proceeds assessment orders or unexplained wealth orders paid to the Proceeds Account (calculated after deducting from the proceeds any amounts payable under paragraphs (a1), (b) and (d) or agreed to be paid to the Commonwealth, another State or a Territory or an authority of the Commonwealth, another State or a Territory), and
- (f) to the credit of the NSW Police Death and Disability Scheme—the remainder of the proceeds of proceeds assessment orders or unexplained wealth orders paid to the Proceeds Account (calculated after deducting from the proceeds any amounts payable under paragraphs (a1), (b), (d) and (e)).

The intent of this amendment is to provide a secure source of funding for the Police Death and Disability Scheme. The way the amendment works is by amending the Criminal Assets Recovery Act 1990 by taking the residual amount that remains after funds have been paid to the New South Wales Trustee and Guardian, and any funds paid in accordance with an order from the Supreme Court and any other amounts in aid of law enforcement, victim support programs, crime prevention programs, programs supporting safer communities, and drug rehabilitation or drug education programs as directed by the Treasurer.

As the Act and the bill are written at the moment, half the proceeds would go to the Victims of Crime Compensation Fund and the other half would go to general revenue. The effect of this amendment is to take that second half and direct it into the Police Death and Disability Scheme. I thank the Police Association for providing us with information on this issue. The reason behind this is that there is a shortfall in funding for the Police Death and Disability Scheme that arises from a failure to recognise at the commencement of the scheme that a number of officers had pre-existing conditions, that is, conditions that predate the establishment of the Police Death and Disability Scheme. When the equivalent scheme was set up for the Fire Brigade, specific provision of \$23 million was made for officers who were injured prior to the scheme commencing but who were still serving. The failure to do so in the case of the Police Death and Disability Scheme left that scheme with a shortfall of about \$100 million to cover costs associated with police officers who were carrying pre-existing injuries. The second problem with the scheme was that Treasury outsourced the risk associated with the death and total and permanent incapacity, and that outsourcing incurred a cost of over \$100 million.

The intent of the Greens amendment is to provide a funding source into the Police Death and Disability Scheme that makes up the shortfall of up to \$200 million over a number of years, and it will cause the scheme to have a financial base that is currently lacking. Insurance schemes of this nature need to be properly underpinned to secure their long-term viability. At the moment the scheme exists hand to mouth with no capacity for reserve or investment income to underpin the future of the scheme. The amendment cannot be seen to be anything extraordinary given that the bill and the Act currently hypothecate one-half of the funds, after those other issues have been paid, to the Victims Compensation Fund, and the Greens support that half going to the Victims Compensation Fund. So, there is precedent for hypothecating funds raised going to various special purpose funds.

It seems logical that this is used as a source of funding for the Police Death and Disability Scheme because, after all, police are in the front line of fighting organised crime. They risk their lives not just on organised crime—obviously there is a lot of disorganised crime. So, there is a symmetry in allocating funds from the proceeds of crime into this scheme. I commend the amendment to the Committee.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [9.06 p.m.]: The Government opposes the amendment. The Government is committed to maintaining full funding of the Police Death and Disability

Scheme to ensure injured police officers get appropriate compensation. This commitment was reaffirmed as part of the finalisation of the salary award with the Police Association last year. That agreement was reached on the basis that there would be no change to benefits, entitlements or employee contributions that exist under the current death and disability award for the life of the salary award. It is important that we emphasise that the Government takes very seriously the payment of compensation to police officers who have been injured on the job and who are unable to return to work. That is why we have committed to fully funding the scheme. This commitment has not changed.

Currently, all confiscated assets and proceeds are paid into the confiscated proceeds account. Under the bill, the amount paid into the Victims Compensation Fund will be 50 per cent of all proceeds assessment confiscations and/or unexplained wealth confiscations, an amount that would otherwise be paid into the confiscated proceeds account after any court orders, disbursements or sharing the proceeds with other law enforcement agencies in other jurisdictions has been accounted for. The remaining 50 per cent will still be paid into the confiscated proceeds account. This account is created by the Criminal Assets Recovery Act and administered by the Treasurer and the Minister for Police, who may approve the use of confiscated proceeds account funds for the purpose of administering the Criminal Assets Recovery Act; payments to the Public Trustee; any amount required to be paid in accordance with an order of the Supreme Court under the Criminal Assets Recovery Act; payments to the Victims Compensation Fund; and other amounts in aid of law enforcement, victims support programs, crime prevention programs, programs supporting safer communities, and drug rehabilitation or drug education.

Any amendment that removes the confiscated proceeds account from its current process may place serious limitations on providing funds for projects that are not considered when annual budget submissions are made. This has always been the forte of the confiscated proceeds account, in assisting law enforcement in this State. Funds are primarily used for one-off projects, although there have been law enforcement operations that were provided with ongoing support in the past. Previously, the Middle Eastern Organised Crime Squad, and its predecessor, Taskforce Gain, had been funded from the confiscated proceeds account. CrimTrac also received funding in the past. The ministerial contribution to the Ministerial Council on Drug Strategy and additional funding to the medically supervised injecting centre also came from the confiscated proceeds account. Such ongoing projects may therefore be at risk from reduced funding with a more limited scope.

Confiscated proceeds account funds are also crucial to the recovered assets pool. This money goes towards the funding of New South Wales police investigations and operations. Cash seized from criminals and placed in the recovered assets pool is being used to mount significant operations against serious and organised crime. This money is being used to stop the distribution of illegal drugs, firearms and stolen property. It is vital that the confiscated proceeds account remains with a significant proportion that is not targeted for allocation so that funds may be later granted to a major project, such as Crime Commission references.

The use of confiscated proceeds account funds for victims' initiatives is of course supported. The successful apprehension of offenders remains the key outcome for victims of crime. To prevent the remaining 50 per cent seized by the new unexplained wealth orders from being used for these purposes would restrict the New South Wales Crime Commission from operating to its full and proper potential.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [9.09 p.m.]: On the face of it this would seem a reasonable, if not commendable, amendment moved by the Greens. It has its genesis in the New South Wales Police Association. Like the Parliamentary Secretary representing the Government, the Hon. Michael Veitch, I, too, have received correspondence from the Police Association on it. This is certainly worth looking at but what is also worth considering is the contribution that Dr John Kaye made prior to moving the amendment. Within the last half an hour Dr John Kaye spoke about this legislation and referred to it as outrageous. He said that it rides roughshod over the concept of innocent until proven guilty. He referred to it as a denial of individual civil rights. In effect, he attacked the ability of the Supreme Court to act in a way—

Dr John Kaye: That's not true.

The Hon. MICHAEL GALLACHER: You did say it was a denial of civil rights and the determination is made by the Supreme Court. Within minutes of making these assumptions, he then put forward to the Chamber, "But of course I want to put forward what appears to be a reasonable amendment in relation to legislation that I am fundamentally and vehemently opposed to." This is the worst case of political opportunism I have ever seen. His early contribution was designed—

Dr John Kaye: The Leader of the Opposition has been here for a while. We do not point at each other and we address matters through the Chair.

The Hon. MICHAEL GALLACHER: This is the worst case of political opportunism by someone in this House that I have seen for some time. On the one hand, we hear how disgraceful this legislation is; on the other hand, we hear that somehow it is going to be great for the New South Wales Police Force. I cannot believe that some members would be prepared to underpin a scheme that is important to every member of this Chamber and in the same breath say that they will do so through outrageous legislation that is a denial of civil rights. If it is so important to the Greens, they should introduce legislation that can be debated in its own right. They should not cross over with legislation they regard as a denial of civil rights.

We have heard about the numbers. I make the observation that it is extremely important that we get the death and disability scheme right for our police. The suggestion has been made that we have a \$200 million shortfall, but no actuarial figures have been provided to any member of this Chamber in the context of this debate or any debate about the death of and disability suffered by police officers. Members might recall that a number of Opposition members, including me, have asked a succession of questions about this scheme. However, nowhere have we been shown documentation that says the scheme has a \$200 million shortfall. If we had, I can assure the House that alarm bells would be ringing in this Chamber, in the other Chamber and everywhere else in between. If there is evidence to that effect, the Government should bring it forward now. We cannot have a scheme that does not satisfactorily protect our police. It does not stack up for the Government to suggest that this legislation will somehow underwrite that shortfall.

One should look at the wording of how the Government has come to this position. The Government said it hoped that up to an extra \$120 million over a 10-year period would be available as a result of these amendments to the unexplained wealth legislation. That is \$12 million a year, although \$6 million of that money will go to the Victims Compensation Fund, which leaves up to \$6 million a year. If there is a concern about the death and disability scheme we should not give false hope to people, particularly police, that this bill is somehow the answer. I plead with the Government to bring to light any evidence it has of a shortfall of \$200 million. The legislation should not be put forward as the answer while it is being torn apart by the suggestion that it is outrageous and rides roughshod over civil rights. At the end of the day, it rides roughshod over every member of the community and police officers if it is suggested that civil rights will be denied. It is extremely important that we get this right; we should not mix the two.

There are extremely important issues to consider, particularly when we consider how the money will be divided. Notwithstanding concerns about the long-term viability of the death and disability scheme, consideration should be given to the many ways in which that money could be utilised, such as rehabilitation and training of injured police officers to get them back on their feet. The money could be spent on police accommodation throughout country New South Wales, which is an absolute disgrace. I have seen the children of police officers living in homes with lead paint peeling off the walls because there is no other suitable accommodation in the town. Most of us would not live in such homes in a pink fit, yet we expect our police officers and their families to live in this type of accommodation in country towns. Money could be put into more police resources to target organised crime. In fact, we could utilise this money in many ways. Of course, if police officers are the victims of crime, they, too, will be able to make a claim through the Victims Support and Rehabilitation Act. There will be opportunities for police to get assistance. Nevertheless, it is extremely important not to hold out false hope.

Two weeks ago I was in Canberra. Every time I go to Canberra, irrespective of whether I am there on private or public business, I take the time to visit the National Police Memorial. When one looks at the names of all the officers from around the country who have given their lives in the line of duty, one realises how extremely important it is that all Australian parliaments do everything to protect the families of police officers and ensure that they are properly covered. I make a plea to the Greens and the Government: if they believe there is a shortfall of \$200 million—or anything like it—or there is a question about the viability of the scheme, please bring it forward and, to use the words of Graham Richardson, we will do whatever it takes to fix it up to protect our police and their families. Let us not play games with this legislation and hold out false hope to police officers and their families.

Dr JOHN KAYE [9.17 p.m.]: I respond to the rather impassioned response to the Greens amendment. I was fascinated by the degree of vehemence with which that response was delivered and the amount of personal accusation contained within it, which I found quite surprising, given the nature of it. If the honourable member does not like the amendment, it is open to him and his party to vote against it. I notice that the Leader of the Opposition is about to leave the Chamber but he can read my response in *Hansard* if he wishes.

The first thing to be said is that we oppose the bill. That does not mean we do not have the right to amend and seek to make things better. The amendment has nothing to do with our accusations against the bill

itself, which the Greens stand by quite proudly. That is one issue. The second issue is what happens to the proceeds of crime. It is very clear that this law will go through. That means there will be a fund and that means the funds should be spent. The Leader of the Opposition calls it an act of political opportunism.

I am not sure what the Leader of the Opposition meant by that statement. The Police Association asked the Greens to consider this matter and we did so. We believe this to be an entirely reasonable activity. I do not think the Police Association is trawling for votes. The Greens measured this against what we thought was a reasonable outcome and we supported the amendment. Earlier the Leader of the Opposition referred to an amount of money that he said had been made available for this scheme. I think the Leader of the Opposition misunderstood the amendment. It is not about allocating funds that are generated as a result of changes to this bill. The Leader of the Opposition said that that would comprise a relatively small amount of money compared to the alleged shortfall in the scheme.

The Greens amendment, which seeks to amend section 32 of the Criminal Assets Recovery Act, is about allocating half the residual funds left over from all criminal asset recovery actions, which is a far greater amount than that mentioned by the Leader of the Opposition. The Leader of the Opposition then went on to say that there were better things on which we could spend this money—and I agree with him—or there were other things on which we could consider spending these funds. However it is obvious that he has not read section 32 (d) of the Criminal Assets Recovery Act which we are seeking to amend. The Greens are not seeking to eliminate section 32 (d). The amount that will be allocated to the Police Death and Disability Scheme as a result of this amendment will occur after allocations have been made in accordance with section 32 (d), which states:

- (d) other amounts in aid of law enforcement, victims support programs, crime prevention programs, programs supporting safer communities, drug rehabilitation or drug education as directed by the Treasurer in consultation with the Minister.

In this case, it refers to the Minister for Police. Section 32 (d) already gives the Executive Government that power. The Leader of the Opposition might be a member of such a government in March next year. If he is, the Greens will look forward and watch with great interest to see the innovative ways in which he and a new Coalition Treasurer might use section 32 (d). The Leader of the Opposition made some extremely good points and he suggested better ways of using those funds. The Greens amendment will not interfere with that process. Finally, I refer to the so-called shortfall. I do not think I said that there was a \$100 million shortfall: I said that \$100 million should have been made available for police officers with pre-existing injuries.

The Hon. Michael Gallacher: You said \$200 million.

Dr JOHN KAYE: I will refer in a moment to the \$200 million. I based that figure on a proportional calculation compared with the NSW Fire Brigades scheme. When the NSW Fire Brigades scheme was established it received \$23 million to cover members of fire brigades with pre-existing injuries, which scales up to \$100 million. I said also that \$100 million was associated with risk costs because of Treasury's decision to outsource the management of death, and of officers who were totally and permanently incapacitated. I did not say that there was a \$100 million shortfall. I added \$100 million to \$100 million and, remarkably, I arrived at a figure of \$200 million. I said that \$200 million was available in the associated scheme. I am in no position to say what the shortfall is in that scheme. I then went on to say that it was important to give the scheme a financial base.

The Hon. Michael Gallacher: Hopefully the Government will tell us what the shortfall is.

Dr JOHN KAYE: It would be good if the Government told us what the shortfall is. I do not know what it is. However, I know that the scheme exists on a three-year to three-year basis, with agreements made at each of the police salary agreements. The Greens and I do not approve of that. We do not believe that the financial integrity of an important scheme such as this should be put at risk. This scheme is important as police are public sector workers who are put at risk in their line of duty. A scheme that secures their rights when they are injured, or the rights of their families when they are killed, should not form part of a salary negotiation.

I probably should have spelt this out more clearly but I do remember stating that it needs proper underpinning for long-term viability. Having a three-year to three-year agreement does not afford long-term viability in a scheme such as this. It does not provide long-term security. I take on board what the Parliamentary Secretary said earlier. He is correct when he said that an agreement was entered into on the last occasion. It is important to decouple these kinds of schemes from pay and condition schemes. I am sure that members of the Government and members of the Opposition will not support the Greens amendment which was moved at the suggestion of the Police Association of New South Wales. However, at least it will go some way towards

creating a secure base for this scheme, which must be taken out of that three-year cycle. However, the amendment could result in salary costs to police, and it could mean that the future of the scheme is not secure beyond three years. I again commend the Greens amendment to the House.

Reverend the Hon. FRED NILE [9.25 p.m.]: The Christian Democratic Party does not support the amendment moved by the Greens. It would be better if the elected Government, which has a mandate to govern, allocated all funds. All these schemes should be adequately funded and police officers should receive adequate funding to carry out their duties on behalf of the citizens of this State.

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

The Committee divided.

Ayes, 2

Tellers,
Mr Cohen
Dr Kaye

Noes, 24

Mr Ajaka
Mr Catanzariti
Mr Clarke
Mr Colless
Ms Fazio
Ms Ficarra
Mr Foley
Mr Gallacher
Mr Gay

Mr Khan
Mr Lynn
Mr Mason-Cox
Reverend Dr Moyes
Reverend Nile
Ms Parker
Mr Primrose
Ms Robertson
Ms Sharpe

Mr Veitch
Ms Voltz
Mr West
Ms Westwood

Tellers,
Mr Donnelly
Mr Harwin

Question resolved in the negative.

Greens amendment No. 1 negatived.

Schedule 1 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Michael Veitch agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Michael Veitch agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly without amendment.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 2 to 8 postponed on motion by the Hon. Michael Veitch.

CRIMES AMENDMENT (TERRORISM) BILL 2010**Second Reading**

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [9.36 p.m.], on behalf of the Hon. John Hatzistergos: 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 *Crimes Amendment (Terrorism) Bill 2010*.

This bill extends the operation of the sunset clause for the offence of being a member of a terrorist organisation contained in section 310L of the Crimes Act 1900.

The offence of being a member of a terrorist organisation was enacted in 2005 to ensure the constitutional validity of covert search warrants in NSW.

The sunset clause was included as the introduction of the offence was intended to be a temporary measure only pending the introduction by the Commonwealth of a national covert search warrant regime.

However the Commonwealth has not yet enacted a national regime and we are now in the position where the sunset clause will expire in just a few days on 13 September 2010, which would risk the validity of any covert search warrants issued to investigate terrorist organisations.

While the Commonwealth had a national regime under consideration, the review was not completed before the recent Federal election. Clearly, it is not now possible for a national scheme to be implemented before 13 September 2010.

The extension of the provision is essential as New South Wales cannot run the risk of being without these powers to properly investigate terrorist organisations.

The only amendment to the Crimes Act 1900 required to carry this into effect as contained in the bill is to omit 13 September 2010 as the date on which the terrorism membership offence is repealed and provide instead that the offence will be repealed on 13 September 2013.

This extension is timely as it coincides with the introduction of the *Terrorism (Police Powers) Amendment Bill 2010*, which the House has just this morning debated.

As the House has heard, that bill gives effect to recommendations made in a recent statutory review of the *Terrorism (Police Powers) Act 2002*, in which the covert search warrant powers are contained. The statutory review took into consideration the recommendations made by the Ombudsman in his 2008 review of the Act and the covert search warrant powers.

Without rehashing in detail the provisions of the statutory review, following consideration of the Ombudsman's review and submissions made, the review found the policy and objectives of the Act, including those surrounding covert search warrants, remain valid and made 15 recommendations to improve the operation of its provisions, all of which are being implemented, mostly by inclusion in the bill.

This review and the implementation of its recommendations provides particular comfort to members and the people of New South Wales that the extension of these powers is justified and that these powers do not unduly encroach upon civil liberties.

Indeed, as the House heard this morning, while no terrorist attack has taken place in Australia in the years since September 11, the terrorist threat remains a very real one.

Nothing demonstrates this more than the recent arrests made in NSW as part of Operation Pendennis, and the subsequent conviction of five men of conspiring to do an act in preparation for a terrorist attack.

These events continue to remind us that while unfortunate these powers are needed to ensure the safety and security of our people.

The NSW Government will write to the new Commonwealth Government, once appointed, to pursue the enactment of a national scheme. The extension of the sunset clause to 2013 will allow time for this to occur and for a national scheme to be enacted but will not enable the Commonwealth to defer its enactment past another election.

I commend the bill to the House.

The Hon. DAVID CLARKE [9.37 p.m.]: The Coalition does not oppose the Crimes Amendment (Terrorism) Bill 2010. The purpose of the bill is to amend the Crimes Act 1900 in order to extend the date until which membership of a terrorist organisation is an offence under the Act from 13 September 2010—the date when the current sunset clause expires—to 13 September 2013. The offence of being a member of a terrorist

organisation contained in the Crimes Act 1900 is similar to that contained in the criminal code set out in the schedule to the Commonwealth Criminal Code Act 1995. As this bill confirms, it was inserted into the Crimes Act by schedule 4 to the Terrorism Legislation Amendment (Warrants) Act 2005 in order to provide for the issue of covert search warrants under New South Wales law relating to membership of a terrorist organisation in anticipation of the Commonwealth Parliament enacting a national covert search warrant scheme. A national covert search warrant scheme has not yet been enacted. Accordingly, the additional three years before the repeal of the offence is proposed to ensure that covert search warrants can continue to be granted until a national scheme is adopted.

This bill deals with the important issue of the ongoing fight against terrorism, and the use of covert search warrants is part of that fight. The Crimes Act provides that knowingly being a member of a terrorist organisation is an offence, punishable by a maximum of 10 years imprisonment. If this bill is not passed then that provision will expire on 13 September 2010.

Clearly, this bill is to be passed as a matter of urgency to ensure that covert search warrants continue to be granted until a national scheme is adopted. The question that needs to be asked is: What has happened to the Federal Government's promised national covert search warrant scheme? Its failure to deliver on its promise necessitates this bill. That is a shameful situation.

Reverend the Hon. FRED NILE [9.39 p.m.]: On behalf of the Christian Democratic Party I am pleased to support the Crimes Amendment (Terrorism) Bill 2010. The main purpose of the bill is to amend the Crimes Act 1900 to extend the date until which membership of a terrorist organisation is an offence—that is, the sunset clause—from 13 September 2010 to 13 September 2013. The use of covert search warrants remains an essential part of the New South Wales counterterrorism strategy, which I fully support—particularly as some organisations encourage terrorism, as evidenced recently at a conference in Lakemba. A few weeks ago a group of about 500, comprising mostly men, made provocative statements that, in my view, would place that organisation in the category outlined in the legislation. That step has not yet been taken, but I trust that it will be considered. Concerns about any threat to the New South Wales covert search warrant regime thought to impose on the privacy and liberty of people in New South Wales can be put to rest as the NSW Ombudsman keeps the regime under constant review. In fact, the Ombudsman's most recent report evidences no abuse of the powers. In paragraph 4.1.2 the NSW Ombudsman states:

... we are satisfied the use of covert search powers during the review period achieved an appropriate balance between the operational requirements of law enforcement, and the privacy and other interests of occupiers of premises.

I appreciate that some people feel that this type of legislation is a threat to—

The Hon. Ian Cohen: Civil liberties.

Reverend the Hon. FRED NILE: —civil liberties, but I do not believe that is the case. The Ombudsman pointed that out in his report when he said:

Scrutiny of covert searches has not identified any problems with the particular powers exercised during the searches.

We must have these types of powers to deal with terrorism, otherwise we will be placed at a severe disadvantage. It should be noted also that the New South Wales Police Force and the Crime Commission are required to report annually to the Minister for Police and the Attorney General about the exercise of the powers under the legislation. There is evidence that they go to great lengths to ensure that the protections in the legislation are working. In recognition of their extraordinary nature, the powers are confined to a set of limited circumstances and contain significant protections. In the first instance, only the Commissioner of Police, the Crime Commission or a proper delegate can authorise a police officer to apply for a covert search warrant. Only an eligible judge of the Supreme Court can issue the warrant and only if there are reasonable grounds for suspecting or believing that a terrorist act is likely to occur, or has occurred, and only for the purpose of responding to or preventing the terrorist act. Even then the judge must be satisfied that it would substantially assist in responding to or preventing the act and that it is necessary to conduct the entry and search without the knowledge of the occupier of the premises. This test of necessity is a central protection, which the Supreme Court said "sets the bar at a high level before authorisation may be given for such a warrant to issue".

Obviously, when applying for these warrants there is always the danger of some leak that would alert the suspect terrorist organisation or individuals to this activity. The protections and strict rules in the legislation are necessary, otherwise the whole exercise would be futile and would not identify any future terrorist acts.

Thank God our police and security agencies have been successful and Sydney has not been subjected to a successful terrorist attack—several have been prevented. The provisions in the Act do not stop with these protections. The Act contains measures to moderate the power during its exercise to ensure that it is properly monitored. In respect of general limitations, a covert search warrant must describe the kinds of things that may be searched for, seized, substituted, copied, photographed, operated or tested. A police officer is not given the power to do anything he pleases.

Within 10 days of the execution of the warrant the officer must provide the judge with a written report detailing whether the execution of the warrant assisted in preventing or responding to the terrorist act and, if so, how it assisted. This back-end protection has the effect of helping to ensure that officers apply only for warrants that are able to satisfy this limited aim and that the warrants are executed properly. In the interests of fairness and due process, the Act requires a notice to be served on the occupier that they have been subject to a covert search warrant. The notice must be provided to the issuing judge for approval within six months of conducting the search and then to the occupier as soon as practical thereafter. No doubt this legislation contains sufficient protection to ensure that there is no erosion of the privacy or civil rights of the citizens of New South Wales. The legislation has outstanding benefits, and I fully support it.

The Hon. IAN COHEN [9.46 p.m.]: From the outset I indicate that the Greens do not support the Crimes Amendment (Terrorism) Bill 2010. The bill is designed to maintain section 310J of the Crimes Act 1900 "Membership of terrorist organisation", which states:

- (1) A person commits an offence if:
 - (a) the person intentionally is a member of a terrorist organisation, and
 - (b) the organisation is a terrorist organisation, and
 - (c) the person knows the organisation is a terrorist organisation.Maximum penalty: Imprisonment for 10 years.
- (2) Subsection (1) does not apply if the person proves that he or she took all reasonable steps to cease to be a member of the organisation as soon as practicable after the person knew that the organisation was a terrorist organisation.

The Greens are not averse to acknowledging some of the terrible things that are occurring internationally—and in Australia on occasion because terrorist organisations also exist here. Our concern is that this type of legislation is open to terrible abuse. The bill, if passed, will extend the sunset clause, section 310L, in order to extend the provisions of section 310J for another three years, until 13 September 2013. The Minister in the other place explained the reason for this as follows:

The offence of being a member of a terrorist organisation was enacted in 2005 to ensure the constitutional validity of covert search warrants in New South Wales. The sunset clause was included as the introduction of the offence was intended to be a temporary measure only, pending the introduction by the Commonwealth of a national covert search warrant regime. However, the Commonwealth has not yet enacted a national regime, and we are now in the position where the sunset clause will expire in just a few days, on 13 September 2010, which would risk the validity of any covert search warrants issued to investigate terrorist organisations.

Are we somehow bereft of Federal protection? Is the Commonwealth lacking in its ability to protect citizens from such organisations because it does not have a terrorist Act in place? There are already laws in place that adequately protect this country's citizenry from such organisations. The bill will allow the covert search warrant regime to continue for those deemed to knowingly be a member of a terrorist organisation. The Legislation Review Committee commented:

... when these powers were first conferred, the Committee noted in its Legislation Review Digest No 8 of 2005 that covert search warrants were likely to trespass on affected persons' privacy and property. In particular, the Committee raised its concern with the provision that provided for the covert entry of premises of occupiers not suspected of any criminal activity in order to access adjoining premises, thereby infringing on the rights of innocent people.

As the current bill seeks to extend the timeframe in which covert search warrants can be executed under the parameters set out in the Terrorism (Police Powers) Act, the Committee reiterates the view it raised in its earlier digest that these powers may adversely affect the privacy of innocent individuals.

That is something that is often overlooked in this House. Many members, including Government, Opposition and crossbench members, are keen to beat their chests about law and order campaigns. But often there are innocent victims in these circumstances. We need to strike a balance in this type of legislative regime—but we

often fail to do so—and temper measures in order to protect innocent people. It is also important to protect our democracy in Australia. When people are discovered in the commission of grave transgressions against the laws of this land, no-one would argue with their being caught and locked up.

Let us not forget that the Government adopted covert search powers in 2005 in relation to suspected terrorism offences, and it subsequently promised that the powers would not be extended. But then in 2009 the Law Enforcement (Powers and Responsibilities) Amendment (Search Powers) Bill was introduced in this Parliament—a bill that did exactly that, even though the Government assured us that it would not happen. In other words, we have seen a tightening of powers. I suppose I have a different perspective on the matter from many other members of the House. I have been involved in demonstrations, I have been vilified by authorities, and laws have been used against me. In some cases people are simply found guilty by association. Some members of this House have labelled greenies terrorists because they defend the forests. Yet subsequently, after we have been vilified for a long period, the Government legislates to protect those forests. These sorts of things occur. It is a frustrating situation.

We also need to look at the funny side of it. I recall attending a demonstration by people who were living in squats near Glebe Point Road, in Glebe. A move had been made to redevelop the area, and people wanted to lock themselves up and hold onto the houses they cherished even though they did not own them. One person begged me to do something really effective. So I got a fantastic chain and locked her to the gas meter in the house. I thought she would be snug there. They could not cut through the gas meter, and they certainly would not use equipment that created sparks. They would not bring in a gas axe or an acetylene torch to cut the gas meter.

The Hon. David Clarke: They were in homes they didn't own?

The Hon. IAN COHEN: That is right. They were living there; they were squatters. It all points to the shortage of public housing. The homes belonged to the Government and there was clearance of these areas. In the case I have referred to, the person was removed from the premises with the gas meter still attached, which was amusing. Another incident occurred during that demonstration. I am not judging what was right or wrong with regard to the demonstration; it is an expression of people's rights that they were able to have a say and have a go.

The Hon. David Clarke: To break the law?

The Hon. IAN COHEN: Let me finish what I am explaining before you come out with your narrow-minded, ultraconservative perspective on my comments in the House.

Reverend the Hon. Fred Nile: Versus your ultra-liberal contribution.

The Hon. IAN COHEN: Indeed it is, compared with yours. The riot squad enthusiastically came on the scene to break into one of the squats and get rid of these "vermin". The officers enthusiastically smashed down the door with sledgehammers and axes, and then found they had entered the wrong house. The house belonged to a bunch of law-abiding citizens, who lived there. They had spent a lot of time fixing up the house, and the next thing they knew they came home to find their front door smashed in and the house ransacked. I am simply saying that these things happen. Mistakes occur, and innocent people may suffer when a regime has a legal imprimatur to look for terrorists. In these circumstances, the enthusiasm of governments to proceed with this type of legislation often tramples on the rights and civil liberties of innocent people.

The regime begun in 2005 is now being extended, even though the Commonwealth has not enacted similar legislation. This is explained as being due to the Federal election. However, the Labor Government had time to enact such legislation before the election. Quite simply, as former member Ms Sylvia Hale said in relation to the 2009 bill, we have heard it all before when the Government seeks to reassure us that powers will not be extended. If we examine the record of legislation that is chipping away at civil liberties in New South Wales, we can see that that is simply not true.

The Greens opposed the covert search warrant regime in the Terrorism Legislation Amendment (Warrants) Bill 2005 and the Law Enforcement (Powers and Responsibilities) Amendment (Search Powers) Bill 2009 on the following grounds—and the same points can be made in relation to the current bill. The covert search warrant regime allows the breaking into and usage of adjacent properties in the course of carrying out

covert searches. It also allows subterfuge and disguise to be used to gain access to the target property or adjacent properties in the course of a search. Therefore, innocent people will inevitably be caught up in such searches. There is also the possibility of accident or misadventure if someone stumbles across an undercover police operation and thinks that burglars are breaking into their property. There is the risk of injury, heart attack or some other mishap befalling an innocent third person. Innocent persons may also be subject to police surveillance to see when they are out, in order that the police can gain access to adjacent premises.

There is no necessity to ask permission of the owner or occupants of adjacent premises. In addition, we question whether covert searches are efficacious. Criminals, including potential terrorists, are also onto the police covert search powers. Anyone who can buy equipment in an electronics store can detect a covert break-in. We recently saw on the *Four Corners* "Crime Incorporated" program, about organised crime, the report about a case of a person under suspicion, Hakan Ayik, who had rigged up an alarm system in his home. I quote from the transcript:

It was an act of mere suspicion that first alerted a Sydney businessman that he was a possible police target. After a tip-off about the purchase of a large money-counting machine, the NSW police secretly entered a flat in Rockdale in Sydney. The flat was wired, not by police, but by its owner. The police doing the snooping were now, themselves, being watched.

They had triggered a motion sensor camera which had sent pictures to a mobile phone belonging to the flat's owner who at the time was at Sydney Airport.

Within a matter of minutes, this mysterious man had sent his response team to confront the police in his apartment, a squad of Comanchero bikies in their preferred mode of transport, a black Bentley.

For all the reasons outlined above, the Greens do not support the extension of the sunset clause, and therefore we do not support the bill.

The Hon. LUKE FOLEY [9.58 p.m.]: In my maiden speech last week I stated my belief that governments everywhere have a profound duty to protect their citizens from the threat of extremist Islamist terrorism. For that reason, I am glad to participate in this debate and to speak in support of the Crimes Amendment (Terrorism) Bill 2010. At the outset I note that covert search warrants have been in place in New South Wales since 2005. They came about in 2005 as a result of a Council of Australian Governments meeting after the 7 July bombings in London. I remember those bombings very well. I was married on 8 July 2005 in my wife's home village in Ireland. On the day prior, 7 July, a number of Australians were passing through London en route to Ireland to attend my wedding. One of the Australians was held up because the entire London transport system had been shut down as a result of a terrorist attack that morning on the tube system in London, which caused untold human misery and the tragic loss of many lives.

I acknowledge that most of the victims of extremist Islamist terror are Muslims. The overwhelming majority of Muslims who do not share the extremists' sick and perverted version of Islam are denounced by those extremists as apostates and are defined as legitimate targets for execution. The reign of terror by this worldwide reactionary extremist movement has involved attacks in many countries whose population consists of a majority of Muslims, but it is also undeniably the case that attacks have been launched in Western democracies: on New York on September 11 2001, on London, and on trains in Madrid.

It does not require a massive leap of the imagination to realise that Australia's only global city, Sydney, may be a target for that movement. Indeed, Osama bin Laden singled out Australia as, in his view, a legitimate target for Islamist terrorist attacks. Why? Because in his view Australia was guilty of sending troops to East Timor to assist in the process of East Timorese independence. As bin Laden argued, East Timor was incorporated into the nation of Indonesia and was part of a Muslim nation. Therefore Australia was guilty of a great offence by participating in a process that resulted in the independence of East Timor.

There were not too many things done by John Howard's Government of which I was a great fan, but one of them was Australia's participation in assisting the independence of East Timor. Osama bin Laden condemned Australia for that and stated explicitly that Australia ought to be singled out for terrorist attacks on our people because of the action taken by the Australian Government.

In my view there is a problem here. A great example of that problem is the Hon. Ian Cohen's comparison of the targets of the bill with those who engage in direct action campaigns to save forests. I have a great deal of respect for some of the actions engaged in by the Hon. Ian Cohen over the years in defence of

wilderness, but in my view it is preposterous to draw a comparison between forest campaigners and Islamist terror cells. There is no comparison. Too many progressives are in denial about what is going on in the world today when it comes to the reality of Islamist terrorism. That denial is as wrongheaded as is climate change denial to the reality of global warming.

There is a worldwide movement whose disciples advocate, and carry out, stoning of adulterers, execution of schoolteachers for the crime of educating girls, and the throwing of acid in the faces of unveiled women. In my view it is without doubt the most reactionary political force on the globe. The Greens should face up to that. These people are not some sort of doughty anti-imperialists who protest against Uncle Sam; this is the most reactionary political movement on the globe. If the Hon. Ian Cohen wants to engage in direct action campaigns to save forests, or in defence of squatters' rights, or other campaigns like that, he had better live in a free and fair democracy where he is able to engage in those actions. He certainly would not be able to engage in those actions in a nation that is under the control of Osama bin Laden and his fans.

In May this year I was pleased to participate in the British general election. While I am naturally saddened by the overall results of that election, I was delighted to campaign in the East End of London for Jim Fitzpatrick, the successful Labour candidate, against George Galloway, the sole member of Parliament for Respect, which is a coalition of the Trotskyite Socialist Workers Party and Islamic fundamentalists. It is a horrible, putrid, rancid coalition of aficionados of the one-party state and of the one-god state. We must face up to that. The goal of people targeted by the bill is the creation of an illiberal theocracy and we ought to throw the book at them. We ought to do what we can to ensure that they cannot bomb their way to destabilising an Australian democracy or to slaughtering Australians, because Osama bin Laden says that our nation is guilty of the liberation of East Timor.

Covert search warrants have existed since 2005. They were introduced in the aftermath of the 7 July London bombings. The recent statutory review of the Terrorism (Police Powers) Act found covert search warrants remained valid and necessary. There is ongoing review of the legislation by the Ombudsman. Of course there is a need to balance respect for civil liberties with the need to protect our citizens from terrorism. The statutory review confirms that the balance has been struck. The bill simply seeks to amend the Crimes Act to extend the operation of the offence of being a member of a terrorist organisation. Until such time as the Commonwealth can enact legislation to provide for covert search warrants at a national level we need New South Wales legislation to cover the field. I commend the bill to the House.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [10.08 p.m.], in reply: I thank all members who contributed to debate on the bill. New South Wales must remain able to prevent and respond to terrorist acts. Covert search warrants provide us with that particular ability. The warrants are not an unrestrained assault on privacy and liberty. They have been enacted according to the strictest safeguards and are subject to strong and effective oversight. It is unfortunate that the Commonwealth has not yet enacted a national scheme. The New South Wales Government will pursue vigorously with the new Gillard Commonwealth Government the creation of a national scheme. In the meantime New South Wales remains committed to ensuring that our Police Force has the requisite powers to keep us safe. Statements by the Greens that the powers are overextended clearly are misplaced. I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Leave granted to proceed to the third reading of the bill forthwith.

Third Reading

Motion by the Hon. Michael Veitch agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly without amendment.

CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT (CHILDREN'S SERVICES) BILL 2010**Second Reading**

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [10.10 p.m.], on behalf of the Hon. Eric Roozendaal: 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.

As the members of this Chamber are acutely aware, access to quality child care is a clear and pressing priority for many parents across New South Wales.

Parents rely on child care services for a myriad of reasons: they may work or be engaged in study and not have other family support available; parents may utilise care to enable them to contribute to their community or to attend to their family. Moreover, many parents simply value the role that quality care can provide in the social, emotional and intellectual development of their child.

Children's services play a critical role in supporting not only parents but families and communities across New South Wales. It has also become clear to this Government that families need to be able to better assess the quality of care their children receive.

Further, the last decade has witnessed an exponential expansion of the children's services sector and consequently its growth and structure now demands a contemporary approach to regulation.

Because of the significance of child care service provision in this State, I am very pleased to be able to introduce into the House this important legislative reform package. This bill is clear evidence that quality child care is a priority for this Government.

The key aspects of the bill can be summarised as follows:

Firstly, the bill's provisions build upon the children's services principles set out in the enabling Act. New principles emphasise the role of services in meeting the developmental and educational needs of children, recognition of community diversity and promoting the rights and responsibilities of parents;

Secondly, the bill significantly streamlines the licensing process, reducing the administrative burden on providers of children's services and on Community Services as the regulator;

Further, the bill expands Community Services investigation powers and provides new mechanisms to address non-compliance with the Act and the regulations; and

Finally, it provides parents and indeed the community with information about children's services, which will allow parents to make informed choices about which service their children should attend.

The result is regulatory reform which will reduce the administrative burden on the children's services industry while maintaining the confidence of families in and meeting broad community expectations for quality standards of early childhood education and care.

Further, and what will not be apparent on the face of this bill, is that these amendments will lay the foundation for the application of national legislation to the majority of children's services in New South Wales in 2012. The Council of Australian Governments [COAG] has been working hard to develop a national quality framework for early childhood education and care and Community Services has been involved in these processes.

I will now outline the key proposals in greater detail.

Definitions

Firstly, the bill provides for the updating of and addition to the Act's definitions with respect to children's services. The new licensing scheme, in particular, requires the development of new and clear definitions to reflect the new approval processes.

Principles underlying the provision of children's services in NSW

Significantly, the bill extends the principles underlying the provision of children's services contained in the *Children and Young Persons (Care and Protection) Act 1998* to recognise the responsibility of children's services to assist with the development and education of the children who attend their service.

The amendment acknowledges that the experience of children attending care is not a passive one and that services do have a responsibility to provide for the needs of their very special clients. Most children attend care two or more days per week, some five days. It is critical that on every day a child is in care the children's service they attend actively provides for their social, physical and educational development.

Secondly, the principles governing children's services in New South Wales will require children's services to holistically reflect the communities they serve and recognise the diversity of children attending these services.

The importance of a child's cultural development is referenced in the current children's services' principles.

Finally, the children's services principles will explicitly provide for the right of parents to have information about the services their children attend. One application of this principle in practice, which I will outline in further detail below, is the establishment of a children's services register for New South Wales. This new and important principle will ensure transparency and consistency in the information available to parents making decisions about where they place their children.

A new licensing scheme for New South Wales

The most important change to the children's services provisions proposed by this bill, it is fair to say, is the introduction of a new children's services licensing scheme for New South Wales.

This scheme will reduce, as far as is practical, the administrative burden for both licensees and Community Services whilst ensuring sufficient controls to maintain or improve minimum standards that are in the best interests of children.

Currently in New South Wales, approval of a centre, the centre's licensee and the centre's authorised supervisor are rolled into a single process.

As a result, when one aspect of a licence needs to be varied the whole licence must be remade.

Similarly, where a licensee seeks to open a new service or take over an existing one he or she must begin the licensing process anew, applying as if an entirely new licensee operating a new service with a new authorised supervisor.

The bill supports a scheme significantly streamlined based on the three pillars fundamental to running a children's service, that being (1) the primary duty holder (the licensee), (2) children's service (the premises and other various types of services), and (3) the authorised supervisor (an experienced and qualified on site manager).

Under the new licensing model the approval process is streamlined, and separated out by the introduction of:

- a service provider licence, being a single provider licence for each licensee regardless of the number of children's service they provide. On a person being granted a service provider licence they will be authorised to provide any children's service of a specified type in New South Wales.
- separate approvals for children service premises and for authorised supervisors. The issuing of children's service approval will authorise the operation of a particular children service. The approved children's service can then be provided by any licensed service provider. While the granting of a supervisor approval will authorise a person to be able to supervise the operation of any children's service. So, for example, a person authorised to supervise a particular type of service such as centre-based children's services will be able to apply for authorised supervisor positions with any centre based children's services in New South Wales.

The new approach will significantly reduce the administrative burden by removing duplication of paperwork for many licensees, making licence approval processes more flexible and removing the need for a children's service to be relicensed when a new provider takes over a children's service or an authorised supervisor changes. Importantly, the new model will also enable Community Services to focus its resources more intensively on the operation of services rather than licensing administration.

The bill also contains another significant feature, that being that licences and approvals will be able to be issued indefinitely. Currently the maximum term of a licence is five years and at the end of this period licensees are required to apply for a further licence. Under the new system, licences, children's service approvals and supervisor approvals will be able to be issued for either a fixed term or without a fixed term. Where a licence is granted without a fixed term, licensees will not have to reapply for their licence thus reducing their administrative burden in complying with the regulatory scheme.

Compliance and enforcement methods

The bill's provisions expand on the current compliance methods and extend the existing investigative options available to Community Services to assist in the regulation and monitoring of children's services.

The intention of these amendments is to establish a more effective enforcement regime by enabling Community Services to pursue industry compliance by using the most appropriate response from a wider set of enforcement options and, of course, to deter non-compliance with the regulation's standards through tailored deterrence approaches for different types of non-compliance.

The bill will provide Community Services with greater flexibility to differentiate between minor and more serious safety offences, between unintentional offences and offences that are committed negligently or with intent, between individual and corporate bodies or between first-time and repeat offenders.

Currently the compliance and enforcement methods available to Community Services include licence suspension, cancellation or variation and prosecution.

These options, on the whole, are suitable in situations where serious breaches have occurred. However, as one can imagine, they would be heavy-handed and inappropriate in the case of minor breaches.

Compliance notices and enforceable undertakings

The bill establishes two new forms of compliance mechanisms. These are compliance notices and enforceable undertakings. These mechanisms will allow Community Services the flexibility to use appropriate compliance and enforcement approaches depending on the nature of the matter concerned.

Compliance notices may be issued by the Director General in instances where a person is contravening a licence condition and will require the person to remedy the contravention within a certain time frame.

The bill requires the Director General to provide details of the particular contravention and information about the person's right to have the allegation reviewed. Further, the Director General has the discretion to vary the notice which includes the power to extend the time required for response.

However, failure to comply with a compliance notice without a reasonable excuse will attract a maximum penalty of 100 penalty units, or \$11,000.

The bill will also enable the Director General to accept a written undertaking from persons involved in the provision of children's services to address matters of non-compliance.

In circumstances where the Director General considers that the undertaking has not been complied with the Director General may apply to the District Court, which can make a number of different orders including the payment of compensation.

Penalty Infringement Notices

Finally, the bill also provides for the issuing of penalty notices for offences against the Act or the regulations.

Investigation Powers and the provision of documents

The bill gives the Director General's more extensive investigation powers. In particular, the bill enables the Director General:

- To require any person involved in the provision of a children's service to provide records kept in the connection with the children's service;
- To require any person involved in the provision of a children's service to answer questions about matters in respect to the information that is required.

Failure to comply with these requirements or to give false or misleading information in purported compliance with a requirement will be an offence that carries a maximum penalty of 200 penalty units (equivalent to \$22,000).

Access to Information by parents

The bill remakes and extends the existing provisions in the Act concerning access to information to parents.

The bill confers on the Director General the additional power of being able to require a licensee to provide information to parents about the safety, welfare or wellbeing of children attending the service. The provision will enable parents to receive information about such matters as health alerts, details of Community Service actions or investigations, or other matters that directly affect the wellbeing of children in the service.

Children's Services Register

Significantly, the bill will bring about the much anticipated Children's Services Register. The Register will be an invaluable tool for all parents seeking children's services in New South Wales.

Details to be included in the register include:

- the licensee's name and business address;
- the particulars of the children's service approval;
- the name of the authorised supervisor and details about their approval;
- the particulars of any enforcement action taken against the licensee or an authorised supervisor of the approved children's service.

The register will provide for more transparent reporting of the compliance activities of Community Services and make public information that is a matter of broader public interest, or should be a matter of public record.

The Children's Services Regulation 2004

Many of the amendments proposed in the bill will support future amendment of the Children's Services Regulation 2004. The Regulation sets out the licence conditions for an approved children service.

Section 220 of the bill sets out those matters that will be developed through regulation, providing certainty, transparency and clarity for the children's services industry.

Consultation

Many of the changes featured in this bill are the result of Children's Services Regulation 2004 Discussion Paper, circulated to the public and industry for comment in September 2008.

Community Services consulted with the Children's Services Review Industry Reference Group in 2009 regarding the proposed changes. The Industry Reference Group is comprised of representatives from leading stakeholders, including service providers, peak groups and major sectoral interests. The group's role is to provide expertise and industry knowledge to inform the review of the regulation.

The Community Services has also undertaken consultation with relevant government agencies including: the New South Wales Department of Education and Training, New South Wales Health, the New South Wales Food Authority and the New South Wales Department of Justice and Attorney General.

Conclusion

In essence, this bill is about ensuring that the experiences of children attending child care services in New South Wales are positive ones, ones that enrich a child's life in the immediate term and are reflected in their long term social, emotional and educational development.

The bill proclaimed will provide families with more access to information and strengthen the system of compliance and enforcement to which children's services in New South Wales are subject.

For the providers of a children's service it will streamline licensing and approval processes. It will cut red tape for the regulator and the provider alike and prepare foundations for the transition to the COAG national quality framework.

The bill will undoubtedly offer new opportunities for partnership between Community Services, children's services, parents and communities in the delivery of quality services to the children of New South Wales.

I commend the bill to the House.

The Hon. ROBYN PARKER [10.10 p.m.]: I speak on behalf of the Liberal-Nationals Coalition on the Children and Young Persons (Care and Protection) Amendment (Children's Services) Bill 2010. At the outset I state that the Coalition does not oppose the bill. Today we heard in the House a great deal about the rights of the child. In children's services and child care our paramount concern is good quality child care and children's services. It is our responsibility as leaders to make regulations and put in place checks and balances to ensure quality child care. We are unable to guarantee quality across the board. It is difficult to define quality child care because it differs from one person to another. Quality is also based on supply and demand. There is no standard of quality child care across New South Wales.

Children's services are much in demand as differing circumstances apply in people's lives. Nuclear families with one parent at home and one in the workforce are not the norm these days. Children's services play an important role in the care of our children. We have a responsibility to ensure the adequate provision of children's services. Having established some of the first childcare centres in Victoria in the late 1970s, I know a great deal about the regulations and standards that are required for good quality child care. It requires adequate staffing in child-care centres and children's services and a good physical environment both internally and externally. It requires an appropriate ratio of adults to children, a quality curriculum and program and a good internal and external environment. The people who care for children must have the appropriate qualifications and experience and checks on their background. By imposing these standards we can offer a service that meets the guidelines and benchmarks. It is up to parents to choose the service that suits them, if they can, in a locality close to their work or home or close to public transport, depending on their travel needs and required hours of care.

I have visited many childcare centres over the years. Children's services staff have told me that regulations and red tape are the bane of their existence. This legislation goes towards removing some of the red tape. I know that the children's services sector will be pleased about that. I recall visiting one childcare centre where they had three door knobs on one door. The regulations had changed three times and the height of the doorknob from the floor needed to be changed three times. They could not anticipate the changes so they decided to leave the door knobs there. I do not think that sort of thing happens as much now. However, some changes are needed to streamline licensing process for children's services. The bill seeks to extend the statement of principles underlying the provision of children's services, particularly in respect of those relating to early childhood education and the rights of parents to be informed. The bill provides a greater range of investigative and enforcement powers in connection with the regulation of children's services and improves access to information about childcare services.

The childcare sector is a critical family service sector. Access to quality child care is one of the most important considerations in the minds of parents with young children in New South Wales. Given that it is now

the norm for both parents to be engaged in full-time or part-time work or study, it is more necessary than ever to ensure that New South Wales childcare services are provided for these parents and, in particular, they are provided with the best information about which childcare service their children should attend. The Coalition supports any measures that are aimed at improving the quality of childcare services both for parents and their children. In seeking to improve childcare services for parents and their children the bill recognises that the system of regulation for childcare services is extremely onerous and clumsy. For example, to approve a childcare centre in New South Wales under the current legislation the centre's licensee and its authorised supervisor are dealt with in a single process.

Consequently, if an aspect of a licence needs to be varied the whole licence has to be remade. Similarly, if a licensee chooses to open a new childcare service or take over an existing one they must apply as a new licensee operating a new service with a new authorised office. The bill aims to significantly streamline these requirements by introducing a service provider licence, a single provider licence for each licensee, regardless of the number of children's services they provide. The bill also aims to extend the life of a licence. Currently the onerous requirements I have described must be repeated upon the expiration of licences every five years. The bill seeks to allow licensees to hold their licences indefinitely. These amendments no doubt will be welcomed by the childcare sector. It is the Liberal-Nationals belief that the less time spent on paperwork and red tape the more time providers can spend on improving and strengthening the quality of their childcare services.

Under these amendments two more forms of compliance mechanisms will be introduced. At present only one compliance and enforcement mechanism is available to the community services sector, which includes the suspension, cancellation or variation of licences and prosecution. Whilst appropriate for serious offences, for lesser offences these measures are unnecessarily draconian. For lesser breaches the bill will introduce compliance notices and enforceable undertakings that would allow for appropriate compliance and enforcement action, depending on the nature of the offence concerned. I have said that the Coalition will support this legislation. However, we are concerned that, whilst these amendments will result in a lesser number of public servants being involved in the process of licensing childcare service providers, a significant amount more will be required to ensure that lesser breaches of the Act do not occur and to manage the issue of compliance notices and enforceable undertakings when they do.

The Coalition appreciates the Government's concern that the current legislation takes a sledgehammer approach to minor offences, which certainly has the potential to disrupt childcare services. But we are concerned that these compliance notices and enforceable undertakings will be hugely onerous on small for-profit childcare services and community-based childcare centres, leading to an expansion of the regulatory role of the department, with a heavy reliance on public service manpower and perhaps the need to increase public service numbers. We hold concerns about an explosion of red tape and regulations resulting from new section 219 of the bill and the development of compliance notices and enforceable undertakings.

As such, if this bill is passed and enacted, the Coalition will strongly urge the Government to review the legislation in 12 months time. I know that the shadow Minister, Pru Goward, spoke about this in the other place. Perhaps the Government has had time to think about whether it will accept that suggestion. It makes a lot of sense to review the legislation within 12 months to ensure that it is operating well and that both compliance notices and enforceable undertakings have not been overly onerous for childcare providers in the public service. That review would address not only our concerns but the concerns of the childcare sector. Perhaps the Parliamentary Secretary will be able to come back with a response in relation to that. If not, we will certainly be watching, as will the childcare sector, to see whether it is operating smoothly, with the hope that within 12 months we will see an evaluation of progress.

A number of other issues cause concern for the Coalition. No mention is made in the bill of the qualifications that are required to be an authorised supervisor. Given the important and direct role that authorised supervisors have in the provision of childcare services, we would urge the Government to reconsider its omission of these requirements. Concern has also been expressed by some groups—most specifically, Child Care New South Wales—that the bill does not provide any avenues for appeal against contraventions of the Act or its regulations that are identified by the director general of the department. Such avenues for the provision of natural justice are an important element in any regulatory scheme.

Nevertheless, despite these concerns, through our consultations with the childcare industry we believe that there is significant support for many of the measures taken in the bill. It takes away the heavy-handed approach to licensing that current childcare providers are forced to grapple with; it acknowledges, as does the childcare sector, the right of parents to gain more information about childcare services so that they may make

informed choices; and it offers an alternative to the sanctions contained in the current legislation that should more appropriately be reserved for serious offences under the Act. Aside from encouraging the Government to undertake a review of the legislation in 12 months time, the Liberal-Nationals Coalition does not oppose the bill, which I commend to the House.

The Hon. IAN COHEN [10.22 p.m.]: I indicate that the Greens are generally supportive of the Children and Young Persons (Care and Protection) Amendment (Children's Services) Bill 2010. Quality child care has come to play an essential role in our society. There are more than 700,000 approved childcare places across Australia provided by more than 12,000 service providers. In New South Wales there are 3,447 licensed children's services with a maximum licence capacity of 152,109 places per day. Many parents across New South Wales rely on childcare services so that they can continue to participate in the workforce and in their community. While a small minority dispute the value of child care to childhood development, the general consensus is that quality child care can contribute to the social and intellectual development of children at a critical stage of their development. This begs the question of why we do not invest as much in early childhood education and child care compared with primary, secondary and tertiary education. Given that important foundations for future learning are developed at this stage of a child's life, many in the sector and within the Government have called for greater quality assurance, funding and support.

The bill principally arises from five statutory reviews of the Children's Services Regulation 2004 completed towards the end of 2008. However, the bill has a deeper context and history than just a statutory review. Child care stepped onto the policy centre stage in 2008 for all the wrong reasons. This was the year that ABC Learning—Australia's largest childcare provider—collapsed, revealing a gaping hole in child care and competition policy in Australia. The collapse of ABC Learning and intergovernmental agreements raise a fundamental question about how to best regulate childcare services in order to ensure that they deliver developmental outcomes for children, and this bill is part of that ongoing process. I think it is helpful that we examine this bill in the context of ABC Learning's collapse and governmental responses to childcare regulation in the aftermath of the collapse.

At the end of last year the Senate Standing Committee on Education, Employment and Workplace Relations delivered its report on the provision of child care and its recommendations for reworking funding models for childcare services. The inquiry established by Senator Hanson-Young made strong recommendations on the need for diversity in service providers and to increase support for community and not-for-profit providers. Importantly, the inquiry questioned the appropriateness of corporate sector participation in childcare provision. Many submissions to the inquiry questioned whether the delivery of quality childcare services was compatible with the maximisation of shareholder dividends by childcare operators listed on the Australian Stock Exchange. The current management of ABC Learning even acknowledged in its submission to the inquiry that:

Those experienced in the childcare industry knew, given the regulatory requirements, it was not possible to produce the kind of returns being reported unless quality of care was being compromised.

Government policy levers had clearly created a heavy reliance on ABC Learning to deliver childcare services to Australian families by allowing the company to corner approximately 30 per cent of the long day care market. However, the company's business model appeared to be geared more towards securing prime real estate childcare centres and extracting a strong flow of profits in the form of childcare rebates than providing quality childcare services. An Australian Institute report by Emma Rush and Christian Downie, which surveyed staff perceptions of childcare centres, revealed that ABC Learning staff witnessed an alarming disregard for childcare service quality. The report from 2006 should have put Federal and State regulators on notice, particularly State governments in the eastern States, which have a higher reliance on large private chain childcare services. There must have been a concern that child development and health and safety were being compromised by poor company governance and an obsession with extracting unsustainable profits. The committee, made up of three Liberal members, two Labor members and one Greens member, revealed that the corporatist approach to childcare support in Australia had stripped \$56 million in taxpayer dollars from consolidated revenue to prop up more than 1,000 loss-making ABC Learning centres across the country. Importantly, the committee stated;

The committee recognises the difficulty in determining policy in regard to the control and ownership of childcare centres when the only source of government support comes to centres indirectly through Child Care Benefit payments. The committee believes that the provision of services is best provided by small-scale or individual independent operators and by not-for-profit and community-based organisations.

One key theme of the inquiry was how to improve and maintain the quality of childcare services. Evidence provided to the committee made a strong case that the simple provision of the childcare rebate to parents was not enough to ensure quality child care. Parents do not always have the capacity to be gatekeepers on childcare

quality through the use of their rebate. In other words, we had both policy and market failure because parents were using their rebate on services that in hindsight have been shown to be substandard. Handing out rebates to parents did not guarantee that unsatisfactory services went out of business. By setting clearer quality assurance frameworks, including staff ratios and staff qualifications, which is being rolled out now, the Federal Government can both enhance the quality of child care and push certain operators out of the sector who compromise quality standards to maximise profit generation.

As the committee recommended, we need to find alternative ways to secure quality children's services rather than allow unabated market concentration through government rebates. Rebates cannot remain the sole means of government contribution to children's services. As an essential service, a significant proportion of the sector needs to be composed of not-for profit and community services to ensure continuity of service. We need sector composition to be closer to the community, private and government splits in South Australia, Tasmania, the Australian Capital Territory and the Northern Territory. Rebates need to be balanced with capital grants to services in the sector that have demonstrated their ability to deliver on quality criteria and indicators.

One gets the impression that replacing the childcare rebate with capital grants and financial support for not-for-profit and community childcare centres would be seen to be contrary to populist support for the childcare rebate. It is important to note that altering the funding model of child care nationally would not increase childcare costs. Childcare services that demonstrate compliance with quality assurance standards and offer child supportive education and development opportunities would receive financial support and capital grants from the Federal Government. This would be a highly effective way to secure sector compliance with quality assurance standards. Instead, we are continuing the sole use of childcare rebates to drive compliance based on the assumption that substandard operators will be forced out of the sector by parents using their rebates only at childcare centres that meet all quality assurance standards.

This is the context in which the Council of Australian Governments is moving ahead with the intergovernmental agreement on a national approach to quality assurance and regulation of early childhood education. In the other place the member for Lane Cove, Anthony Roberts, appeared to suggest that moving ahead with the National Early Childhood Education Agreement will simply drive up childcare costs, citing concerns of the New South Wales childcare sector. While there will be financial impacts for both operators and parents, we need to be much more sophisticated in our analysis rather than simply drawing a line between raising quality assurance and rising childcare costs. Certainly, imposing lower child-to-staff ratios means higher operating costs for childcare licensees. But let us take the debate a bit further and question the value of improving childcare services and the development outcomes we achieve for children by providing quality child care.

The New South Wales Government's immediate response—or, to be more precise, the Treasurer's response—to this challenge was to introduce licensing fees. Towards the end of 2008 the Hon. Eric Roozendaal sought to introduce licensing fees for all childcare facilities. The State Revenue and Other Legislation Amendment (Budget Measures) Bill 2008 allowed the New South Wales Government to raise \$7.2 million annually, starting in January this year, from child services licensing fees. The mini-budget licence fee meant childcare services would pay an additional licence fee of up to \$1,100. The imposition of the licence fee for childcare providers was justified by the Treasurer as simply cost recovery.

During the passage of the bill I moved an amendment that sought to remove the power of the Department of Community Services to impose additional licensing fees. In the debate I acknowledged the importance of the compliance work of the Department of Community Services in regulating child service licence holders and the principle of cost recovery. However, the Greens were concerned about the potential inequity of the fee formula to be created by the Department of Community Services and the lack of clarity about how the additional fees would be imposed. We were particularly concerned about the impact of licence fees on the community, on not-for-profit childcare providers and on childcare providers in rural and regional areas at a time when the Goliath of corporatised child care was going to the wall. Only the Greens and the Opposition stood up for young families and parents and attempted to prevent the deleterious impact on our community and not-for-profit childcare centres.

The mini-budget licence fee was quietly flagged as a potential option in the discussion paper, but the sector had an expectation that the Treasurer would not act upon this without full consultation. I do not know why the review of the regulation did not indicate that the Treasurer had already made a decision to implement a cost recovery for licence fees, but one can assume that the Treasurer, in his fiscal policy coyness, did not have the mettle to consult and engage with the children's services providers. Then again, how could the Treasurer face the childcare sector and the parents of children in child care and tell them they would face higher childcare

costs and in the same breath dole out record budgets to Events New South Wales for events that appeared primarily geared to feather a few rich nests? This is an example of the tough policy decisions the Treasurer has had to make: whether to provide greater access to and lower costs for child care that aids fundamentally important early childhood development or to subsidise V8s roaring around Homebush. A very tough decision. Give \$26.5 million to V8 Supercars Australia, not including agency costs or funding, and approximately \$11 million for compliance regulation of the child services sector. Somehow I think early childhood development might be a bit more important than subsidising V8 supercar races.

The bill's creation of an online register is an implicit acknowledgement that substandard childcare centres, including some ABC Learning centres, were not put out of business by parents choosing to claim rebates only for quality childcare services. The childcare rebate, as an instrument guided by parental instincts and parents seeking the best for their children, has not guaranteed quality childcare services. While community and not-for-profit centres have generally demonstrated strong compliance and commitment to quality, far too many rebates have bankrolled substandard childcare services. In 2005-06 approximately \$206 million in childcare rebates were indirectly provided to ABC Learning. One interpretation of the bill is that it is focused on providing parents information about standards and compliance through an online register. With more information parents will be able to make informed decisions about the quality of a childcare facility and only use the childcare rebate to fund childcare expenses where a quality service is achieved. Or so goes the theory. In this way parents will steer away from large chain childcare providers that do not meet regulatory standards, and such businesses will become unviable unless they demonstrate quality in childcare service. I will deal with this aspect of the bill shortly.

A broader evaluation of the Children and Young Persons (Care and Protection) Amendment (Children's Service) Bill 2010 should reflect upon the 2008 discussion paper on the Children's Services Regulation 2004. The discussion paper posed questions about regulatory coverage of child services; staff qualifications; health; safety and development of children; compliance and enforcement; licensing models; and, most importantly, staff-to-child ratios. The department sought the opinion of the sector on a number of regulatory options, some of which are reflected in the amendments contained in this bill. However, not all the issues identified in the discussion paper have been taken up in the bill. This is in part due to the impending finalisation and implementation of a national quality framework for early childhood education and care. The aim of the bill appears more to lay the framework for amending the regulation to reflect new national quality assurance principles.

One issue that is not picked up directly in the bill is the question of staff-to-child ratios. A significant proportion of the discussion paper is focused on the connection between quality childcare service, development outcomes for children and staff ratios. Currently clause 53 of the regulation establishes that in New South Wales the applicable staff-to-child ratios are birth to two years, 1:5; two to three years, 1:8; and three to six years, 1:10. The discussion paper highlights that other States have a 1:4 ratio for birth to under two-year-olds and that staff-to-child ratios for this age group are particularly relevant to better quality outcomes for children, particularly children from disadvantaged backgrounds. As I have highlighted, some of the comments by members of the Opposition in the other place could be construed as displaying dissatisfaction with lowering the ratio, on the basis that it will increase childcare costs and discourage childcare use. Respectfully, I have to disagree with that analysis in that it fails to characterise the actual benefits of lower staff-to-child ratios as a worthy trade-off for higher childcare costs. How can we support the proposed principles in the bill in relation to the developmental and educational potential of child care and then in the same breath not support the sector living up to this ideal through lower staff-to-child ratios?

The bill inserts three new principles into section 202 of the Act. Section 202 outlines the principles underlying the provision of children's services. The three new principles, paragraphs (c), (d) and (e), direct that children's services should assist in the development and education of children, be operated in a way that recognises the diversity of children that attend childcare services and should acknowledge the right of parents to information about children's services. The first new principle that children's services should play a role in early development and education is an important acknowledgement that we have overcome the irrational fear that child care is detrimental to children's development. Empirical studies have shown repeatedly positive education and development outcomes for children who attend quality childcare facilities. We are now at a stage at which the majority of society realises the beneficial development and education outcomes for young children of quality childcare services. While there are some groups that continue to reject the concept of child care and allege that it has negative outcomes for children in later life, in many instances the political rejection of child care is a veiled attack on parents who want to return to the workforce, and the financial support of child care by governments. Paragraph (c) is a reflection of our community's expectation of children's services that should guide the formulation of future changes to the Children's Services Regulation.

Our commitment to this principle must be supported by provisions in the regulation and broader government support for the sector, particularly community and not-for-profit centres. New principle (d) seeks to acknowledge the need for children's services to cater for the diversity of children that attend them. Evidence cited in the discussion paper indicates that children from disadvantaged backgrounds are most responsive to the positive effects of quality childcare services and that children can experience significant benefits from interacting with children from different social backgrounds. New principle (e) seeks to highlight the importance of parents having access to information about a children's service in order to make an informed decision about whether a particular service is providing a safe and positive environment for their child. This principle is reflected in the reform contained in this bill relating to the Children's Services Register.

Debate adjourned on motion by the Hon. Ian Cohen and set down as an order of the day for a future day.

ADJOURNMENT

The Hon. MICHAEL VEITCH [10.42 p.m.]: I move:

That this House do now adjourn.

TRIBUTE TO MEGAN CLAFFEY AND MICHELLE FAIRWEATHER

The Hon. MARIE FICARRA [10.42 p.m.]: I advise the House of the passing of two extraordinary women after courageous battles with cancer. Megan Claffey and Michelle Fairweather were both nurses, Megan a midwife in the postnatal care unit of Royal North Shore Private Hospital and Michelle with the Bulgarr Ngaru Aboriginal Medical Service in Grafton. Megan Claffey was born on 13 May 1955 in Cabarita and lived in the inner west of Sydney for most of her life. Married to Michael for 35 years, she gave birth to four wonderful children: James, Beth, Alex and Emily. Megan completed her nursing at St Vincent's Hospital, Darlinghurst, and went on to be a midwife at St Margaret's Hospital, Darlinghurst. During her career, Megan also studied to become a lactation consultant. Megan endeared herself to all those who had the privilege of coming into contact with her, particularly those she helped while in the postnatal unit of North Shore Private Hospital.

Megan's friends tell me lovingly that she will be best remembered for her tenacity and determination for any pursuit she undertook. One of her dear friends, another courageous cancer survivor and someone who is making a difference in raising awareness and money for cancer research, Diane Langmack, told me that Megan was an advocate for family and family values. She was quoted as saying, "You should love your family, not in spite of who they are, but because of who they are." Sadly, Megan was diagnosed with stage three ovarian cancer seven years ago. Megan was referred to a dear friend and former colleague of mine, who is a bastion in working for women's health, Professor Neville Hacker at the Royal Women's Hospital. Megan was also under the care of an oncologist, Professor Michael Friedlander. Megan underwent surgery on several occasions, as well as chemotherapy and radiotherapy regimes. While in remission for certain periods, she was a patient in Royal Women's Hospital regularly from 2003. I thank those wonderful people at the Royal Women's Hospital for their care and dedication. She passed away at home with her family and other loved ones on 20 August 2010 aged 55 years. May she rest in peace.

Michelle Fairweather was born in Sydney in 1962 and lived in the Sutherland shire until her late teenage years. She attended Mary Immaculate College in the shire and at 17 commenced her nursing career at the Royal Prince Alfred Hospital in Camperdown, where she completed training as a nurse and went on to study midwifery and work at King George V Hospital, Camperdown. She later completed child and family health studies. Michelle worked for 30 years as a registered nurse and was known as a loving, caring and compassionate lady, loved and respected by all she touched in all walks of life. Michelle married Terry Creagh and had two beautiful children, Isaac, 13, and Jemima, 12.

Michelle spent time working on Palm Island in Queensland where premature death and disease were common occurrences amongst the Aboriginal community. Michelle observed the problems of drug and alcohol abuse, as well as the high rates of violence and suicide. She was determined to work with the community to address these tragic problems. Michelle, Terry and the kids moved to the North Coast 10 years ago to give the children a better life in rural Australia. On arrival on the North Coast Michelle joined the staff of the Acmena Juvenile Detention Centre as a nurse, and then subsequently went on to work for the Clarence Valley Mental Health Service.

Michelle lost her brother Peter to suicide in March 2000. He was only 34. In the memory of her brother's name, Michelle strongly developed her knowledge of mental health. For the past seven years Michelle

served with distinction at the Bulgarr Ngaru Aboriginal Medical Service in Grafton, initially as a nurse in drug, alcohol and mental health services, and later setting up the Healthy for Life Early Childhood project. Nothing was ever a problem for Michelle to deal with. She gave much love and support to many, visiting her patients and friends at home, in gaol or on the streets. The support she also gave to their respective families was respected and much appreciated.

Michelle was diagnosed with malignant melanoma in February 2010. Following extensive head and neck surgery and radiotherapy at the Royal Prince Alfred Hospital, and chemotherapy at the Royal North Shore Hospital she passed away peacefully in Grafton Hospital on 29 August 2010. The Fairweather family thank the doctors and nurses of Royal Prince Alfred Hospital, Royal North Shore, the Melanoma Clinic in North Sydney and Grafton Hospital for their care and compassion, with a special thank you to Dr Angela Hong and the nurses of the radiotherapy department at Royal Prince Alfred Hospital. Michelle will always be remembered for her selflessness and great care for her fellow human beings. I pass on thanks from the families to all the doctors and nurses who cared for her. [*Time expired.*]

KORAN BURNING PROPOSAL

Reverend the Hon. FRED NILE [10.47 p.m.]: I have just received a report of a very disturbing event described as International Burn a Koran Day, a provocative activity designed to arouse the Muslim world, organised by the Dove Christian World Outreach Centre, Florida, to which I express my total opposition and condemnation. The centre's publicity statements have reached various Muslim centres around the world. The organisers may believe it to be a publicity stunt but it is a most dangerous and provocative act. The centre has declared it will burn the Muslim Holy Book the *Koran* on 11 September 2010 on Burn a Koran Day. In response, Muslim groups throughout the world have warned that this event will result in extreme reactions. Would-be martyrs have already declared their readiness to die in bombing the Dove Church. Radical groups such as Hizbut Tahrir and the Muslim Brotherhood have warned about uncontrollably violent reactions. For example, a statement posted by the Muslim Brotherhood states:

Dr. Diah Rashwan, Islamic movements' expert at Egypt's Al-Ahram Centre for Political and Strategic Studies, described the intended burnings of the Quran [as] unreasonable and exceedingly dangerous going beyond all reason and sensibility. He maintained that a serious crisis will arise and extremism will be initiated in the Muslim world stressing that it is imperative that the US administration and United Nations interfere before a vicious circle of violence and extremism is initiated. He added that the burning of the Quran was not freedom of expression but a clear violation of the rights of nearly one and a half billion Muslims worldwide.

In his interview with Terry Jones, Rick Sanchez of CNN asked why he would burn the sacred book of Muslims and how he would feel if Muslims burnt a *Bible*. Jones said that he would not like it, but that would be their right. He is obviously a strange and unbalanced person. Another interviewer suggested to Jones that he would have the blood of American soldiers on his hands, but that did not trouble him. Reverend Dr Mark Durie, who sent me this information, has indicated his deep concern about this proposed activity. I hope that he and others can convince this minister and his group to behave more sensibly. A document entitled "Love for All, Hatred for None—A Peaceful Message to the World Burning Scriptures—A Biblical Teaching?" produced by the Ahmadiyyah Muslims quotes Jesus' words from the Sermon on the Mount:

But I say unto you, love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you, and persecute you; that ye may be the children of your Father, which is in heaven. (Matthew 5:4-45)

[*Time expired.*]

PORNOGRAPHY

The Hon. GREG DONNELLY [10.52 p.m.]: I will speak about a matter that as a result of pure coincidence has touched the Parliament over the past week and a half: pornography. I did the research for this speech towards the end of the winter recess and this is my first opportunity to make it. This is a serious issue that in the main our parliaments and legislatures are ignoring. It is true that some individuals belled the cat on this issue a while ago and have regularly spoken out about it, including Reverend the Hon. Fred Nile and a handful of other people in this country.

I well appreciate that many, both inside and outside this House, do not want to address this issue. For example, the adult industry, led by the Eros Association, has in the past taken great pleasure beating up on members of Parliament who have spoken out about pornography and calling into question its serious impact on individuals and our community. Such individuals have been characterised as God botherers or John Howard

1950s white picket fencers. They have been depicted as uptight and in dire need of a prescription for those little blue tablets. All this carry-on is nothing but diversionary activity; that is, it is designed to distract. The time has come for the pornography industry to give a full account of what it is doing and how much damage it is inflicting on individuals in our society.

Tonight I direct the attention of members to a book review entitled "The truth about the porn industry" by Julie Bindel that appeared in the *Guardian Weekly* on 2 July 2010. I warn members that the material it discusses is both confronting and disturbing—indeed, one could describe its content as shocking, and that would not be an exaggeration. The book is entitled *Pornland: How Porn Has Hijacked Our Sexuality*. The author is the well-known and well-regarded academic and activist Professor Gail Dines. She is Professor of Sociology and Women's Studies at Wheelock College in Boston. As the reviewer notes, Professor Dines has been at Wheelock College since 1986 and is seen by some as a lone voice in academia speaking out about this issue. However, that is changing as she takes her research and publications into the public domain for debate and discussion.

To be honest, the book review turned my stomach and prompted me to ask myself: Where is this material taking us? After thinking about the issue for a few days, I decided to buy the book. Yes, it was purchased from Amazon on a computer in my parliamentary office. I have read the book—it is only about 200 pages long—but doing so has made me feel pretty numb and I do not intend to refer to the content. If any member of Parliament would like to borrow it to get a detailed insight into the modern pornography industry, I am willing to lend it. However, I repeat my warning that it is distressing and disturbing.

Where to go from here is a question that society cannot continue to ignore. Gail Dines is playing her part and I congratulate her on that. The final chapter of the book is entitled "Fighting Back". It contains a number of interesting proposals that are worth discussing and exploring. Professor Dines helped to establish an activist group called Stop Porn Culture that has chapters throughout the United States of America, Canada, Scotland and England. A slide show that has been developed to raise public awareness about the significance of this daunting social problem can be obtained free of charge at stoppornculture@gmail.com. I encourage members to take some time to look at the site.

QUEANBEYAN FIRE STATION INCIDENT

The Hon. MELINDA PAVEY [10.57 p.m.]: I raise an important issue to the Monaro electorate that also corresponds neatly with my shadow ministerial responsibility for emergency services. On Saturday 14 August I received a phone call from a Queanbeyan firefighter describing a shocking incident that occurred on the front lawn of the Queanbeyan fire station on Friday 13 August. At the outset, I make the point that I have not taken sides on this issue and I understand that many conflicting accounts of the incident have been reported. As the shadow Minister, I am merely a conduit for the information that I have received, and I believe that it is important to put that information on the public record.

It reveals a dysfunctional situation in the electorate of the Minister for Emergency Services. I support the thousands of men and women involved in the New South Wales Fire Brigades, who work tirelessly on behalf of our community to keep us all safe from fire and misadventure. I also make this speech in the shadow that falls over the New South Wales Fire Brigades. That shadow includes an imminent Independent Commission Against Corruption report that will provide details about extensive problems within New South Wales Fire Brigades and a court case involving bullying and harassment which occurred many years ago but which is still having repercussions for many people.

The shameful incident that occurred on 13 August has generated great concern in the local community. Two firefighters engaged in a brawl on the lawn outside the fire station. Two police vehicles were sent from the streets of Queanbeyan to attend the incident in response to a 000 call. The police officers concerned should have been doing what one would expect of them on a Friday night. I believe that this incident is the result of a lack of leadership at both the local and ministerial levels. It has been brought to my attention that one of the station's fire trucks is out of service for about 90 per cent of the time and that that triggered the brawl. The people who have spoken to me, both on and off the record, have told me about their fear and a culture of bullying and harassment that has not been resolved. The major problem is that this has gone on under the nose of the local member, the Hon. Steve Whan, who is also the Minister.

The Hon. Greg Donnelly: Point of order: I take this point of order with great reluctance. The member is making a reflection on a member of another House. The member knows that that is not something that ought to be done. I think she has done it twice already in her speech. I can continue to talk and interrupt, if she wishes, for another minute and 12 seconds—

The Hon. MELINDA PAVEY: If you would like to cover up for the Minister, go ahead.

The Hon. Greg Donnelly: No, you ought to participate in accordance with the standing orders in this style of debate. If you choose not to, I will take a point of order.

DEPUTY-PRESIDENT (The Hon. Helen Westwood): Order! A member can make imputations against another member only by way of substantive motion.

The Hon. MELINDA PAVEY: In any case, the firefighters that have come to me and asked me to draw this matter to the public's attention have said that this has gone on since 2002. One of those firefighters stood beside me at a media conference outside the Queanbeyan fire station. Frank Bresnik was brave enough, because he is no longer a firefighter—he gave up, he had had enough—and he stood and spoke with me on behalf of concerned members of the Queanbeyan Fire Brigade. They feel that they are being ignored and that they put their community at risk. They feel that they rely on the services of the ACT Fire Brigade to provide a second tanker to the Queanbeyan community. I think it is relevant to raise these issues. But now my time has been cut short by the Hon. Greg Donnelly taking a point of order and I will have to raise this issue at another time. *[Time expired.]*

KARELLE LIFE ENRICHMENT SERVICE

Reverend the Hon. Dr GORDON MOYES [11.02 p.m.]: As Parliamentary Leader of Family First in New South Wales I speak of an amazing photography program called Life's Journey in Pictures, which is facilitated by the Karelle Life Enrichment Service. Those here might remember a similar adjournment speech on 23 June this year when I spoke of the Karelle Life Enrichment Service. This organisation is located in Mount Druitt and was founded in 2003 for the purpose of developing the potential in people who have an intellectual disability and helping families in crisis. Karelle provides innovative and creative programs for the total life enrichment of a community member with an intellectual disability.

The exhibition, aptly named Life's Journey in Pictures, was displayed at Penrith Panthers on 27 August 2010 and showcased the talents of Karelle clients who had participated in a 12-week study of photography program. Special guests at the exhibition included me as guest host and my close friend Ken Duncan, who accepted my invitation to attend and judge. Ken Duncan, Australia's foremost landscape photographer, interacted with each client, much to their delight, and discussed the inspiration for their work as well as their photographic techniques. He also gave many of them some clues about how to improve their competencies. Ken Duncan has published more than 50 books of Australian landscapes and his large-scale photographs are favourites with corporate headquarters.

The aim of the program was to enable photographers to capture and express elements of their own lives through pictures. The program taught participants the fundamentals of photography. Some participants had never used a camera before. The instructors wanted their students to understand what they saw in a scene that took their interest, to be able to focus on that, so the image showed what was their interest rather than a quick snap of a whole scene with little or no subject for the viewer to focus upon. To this end they included moving in close to a subject and filling the frame. During the course participants used the preset functions in the camera, such as macro, landscape and portrait, to learn ways to manipulate the settings to get the photograph they wanted. I was absolutely amazed by the quality of their work.

Outings were planned that were enjoyable and consolidated the subjects that had been taught in class. Inspiration for this photography was captured during visits to Jenolan Caves, the local community and so on. Each class member learned at his or her own pace and utilised the knowledge in his or her own individual way. The goal of this photographic program for people with intellectual disabilities was to help participants express their feelings about the world and their experiences in a creative approach, allowing them to share with the community the essence of who they are. I have seen severely disabled people who have been able to respond to music in the most incredible way. These people were responding to photographs.

I will list the seven amazing Karelle clients who displayed their work. They are: Xandra Clavan, Douglas Boyter, Elissa Bassett Narelle Roberts, Emma Tasik, Dennis Gale and Karl Martin. I also thank those who sponsored the event, being St Marys Rugby League Club, which makes this program possible each year through funding; Margaret Fagg and Alia Naughton for their generosity of

time and talent as instructors; the clients of Karelle who became the artists for the exhibition; the team at Karelle for their commitment to making the lives of those with an intellectual disability one worth living to the max; the generous companies that supported the exhibition through donations of products and financial donations; and Penrith Panthers for allowing Karelle to exhibit in the magnificent large foyer of its club where the work of the disabled people was seen by thousands. I think members would have been delighted with the amazingly expressive work of these talented photographers who strive to showcase their immense strength and perseverance. Karelle highlights their abilities and provides them with opportunities to experience life to its fullest. I conclude with a comment made by the Karelle photographic instructor, who said:

When I agreed to help out at Karelle and run the class, I did not realise how much the students would engage me and the emotional rewards I would have through conducting the class.

YOUTH REPRESENTATIVE TO THE UNITED NATIONS

The Hon. HELEN WESTWOOD [11.07 p.m.]: Recently I had the pleasure of attending an event organised by the Muslim Women's Association to support a remarkable young woman, Samah Hadid. I first met Samah during my years as Mayor of the City of Bankstown. She impressed me then as someone who would make a real difference as an advocate for young people and a future leader. Since the age of 15 Samah has been passionate about championing the issues and concerns of young people. Samah is particularly interested in representing and airing the concerns of youth from a culturally and religiously diverse and indigenous background. She was selected to attend the Prime Minister's 2020 Summit and was also a member of the youth 2020 summit where she represented young people from Bankstown and raised the issue of improving migrant and refugee resettlement.

Her community work started in 2003 as co-editor for the magazine *Reflections*, a youth magazine providing young Muslim women with a platform for social commentary and voice for their views on issues of social justice, allowing them to contribute to wider community debate. Samah also participated in Oxfam International's youth engagement program in 2007. This program aimed at engaging young Australians with global issues of poverty, human rights and climate change. As a result of volunteering with Oxfam, Samah has become an advocate of anti-poverty movements and promotes the need for global citizenship. She began her community work with the Muslim Women's Association where she volunteered as a youth team leader and assistant researcher. Her work with the association included a six-year role as mentor and team leader at youth camps, contributing to the self-development of young women from culturally diverse backgrounds.

Samah has contributed to promote intercommunity, intercultural and interfaith dialogue through her community service work, speaking at churches and schools. She has also written in various publications, such as several books including *The Future By Us: Chapter on multiculturalism* and *New Waves of Feminism*. She was an active member of the Bankstown Youth Advisory Committee for more than three years. Through this role she co-chaired and organised the Youth of Western Sydney conference in 2007. This was the inaugural gathering and network of youth advisory committees in western Sydney. She also served as a member of the cultural identity team on the national youth roundtable where she developed research, exploring youth perspectives on national values and identity. She worked with young people from indigenous, refugee and migrant backgrounds during this process. This role was used to develop youth engagement strategies for culturally diverse and indigenous young people. Samah has also been a finalist for Young Muslim of the Year and the recipient of the Community Relations Commission Young Volunteer of the Year 2008, as well as receiving a Human Rights Commendation Award from the Australian Human Rights Commission.

In 2009 Samah was selected as the first Australian to complete a minority rights fellowship with the United Nations Office of the High Commissioner for Human Rights. This program brought together human rights leaders from across the world to represent their communities and work toward greater advocacy for human rights. Currently Samah is the 2010 Australian Youth Representative to the United Nations. This role is allocated by the Department of Foreign Affairs and Trade and the United Nations Association of Australia to one young Australian every year. Samah will be representing the views of young Australians at the United Nations, where she will give an address to the United Nations General Assembly this month.

In order to do this effectively, Samah has embarked on a national listening tour to understand the experiences and concerns of young people across Australia. This self-funded national tour has seen Samah visit every State and Territory in Australia, visiting rural, regional and metropolitan areas, conducting more than 100 consultations and speaking to approximately 10,000 young Australians. Her national listening tour also involved

connecting with vulnerable young people from indigenous, refugee and disabilities communities. Through this role Samah has advocated for the rights and needs of young Australians who are at the margins of our society, young people who rarely get a voice in the wider community.

At the United Nations General Assembly Samah will highlight the plight of indigenous young people. She intends to bring the diverse voices of indigenous young Australians to the fore of human rights discussions at the United Nations. Of particular urgency for Samah is the over-representation of indigenous youth in the justice system. This is a characteristic of juvenile justice systems across Australia, including New South Wales. She believes it is an area in need of significant reform. Samah also hopes to highlight discrimination faced by other sexual, refugee and religious minorities in the community.

Upon return from the General Assembly, Samah will report back to communities she visited during her national tour on her experiences working at the United Nations General Assembly. Most importantly, Samah has come across positive youth-driven initiatives that are making a real difference for young people and their communities. She is most excited to highlight programs like Headspace, RISE, a coalition of refugee advocacy groups, and AIME indigenous mentoring programs. She hopes that through this role she is able to illuminate the powerful stories of young Australians on the international stage. The Youth Representative position was created in 1999 when the United Nations Youth Association of Australia presented a proposal to the Department of Foreign Affairs and Trade outlining the need for a Youth Representative. This proposal was based on numerous resolutions of the General Assembly. As the 2010 Youth Representative, Samah will be the thirteenth Youth Representative who has travelled to New York, and she is the second young person from Bankstown to fulfil this role.

Question—That this House do now adjourn—put and resolved in the affirmative.

Motion agreed to.

The House adjourned at 11.12 p.m. until Thursday 9 September 2010 at 11.00 a.m.
