

LEGISLATIVE COUNCIL

Wednesday 7 March 2012

The President (The Hon. Donald Thomas Harwin) took the chair at 11.00 a.m.

The President read the Prayers.

MINING LEGISLATION AMENDMENT (URANIUM EXPLORATION) BILL 2012

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Michael Gallacher.

Motion by the Hon. Michael Gallacher agreed to:

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

Second reading set down as an order of the day for a later hour.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Business of the House Notice of Motion No. 2 objected to as being taken as formal business.

Private Members' Business items Nos. 392 and 397 outside the Order of Precedence objected to as being taken as formal business.

INDIAN HERALD

Motion by the Hon. SHAOQUETT MOSELMANE agreed to:

1. That this House notes that:
 - (a) the *Indian Herald* was launched on 15 February 2012 in the Parkes Room of the Parliament of New South Wales,
 - (b) present at the launch were the Hon. Linda Burney, MP, Deputy Leader of the Opposition; the Hon. Victor Dominello, MP, Minister for Citizenship and Communities; the Hon. Shaoquett Moselmane, a number of other members of Parliament, together with the Consul General of India, His Excellency Mr Amit Dasgupta and a number of representatives of Australian Indian community groups,
 - (c) the Sydney-based monthly magazine the *Indian Herald* was founded by Mr Rohit Revo, Editor, and is supported by other young professionals, and
 - (d) the *Indian Herald* covers Australian Indian community news as well as news regarding India and Australia.
2. That this House congratulates the Editor of the *Indian Herald*, Mr Rohit Revo, and all involved with the publication, and wishes them every success in their future endeavours.

ST GEORGE LEBANESE JOINT COMMITTEE

Motion by the Hon. SHAOQUETT MOSELMANE agreed to:

1. That this House notes that:
 - (a) the St George Lebanese Joint Committee was established in 1989 to assist newly arrived Arabic-speaking Australians with their settlement needs,
 - (b) the St George Lebanese Joint Committee is an umbrella organisation, consisting of seven different community organisations representing a significant section of the Arabic-speaking community in the St George region,

- (c) the St George Lebanese Joint Committee is a social, welfare and cultural organisation, committed to the youth, women, family, elderly and new arrivals,
 - (d) the St George Lebanese Joint Committee endeavours to assist the Arabic-speaking community living within the region by providing direct services, referral and advice on a wide range of issues and services, such as providing information on immigration, health, housing, education and training and helping new arrivals with their settlement needs, and
 - (e) the St George Lebanese Joint Committee also aims to promote inter-community relations and partnerships with governments, government departments and non-government organisations.
2. That this House congratulates the St George Lebanese Joint Committee, executive and membership on their community service for the past two decades and wishes them all the best in their future endeavours.

MAHATMA GANDHI SIXTY-FOURTH MARTYRDOM ANNIVERSARY

Motion by the Hon. SHAOQUETT MOSELMANE agreed to:

1. That this House notes that:
- (a) Bhavan Australia held its Interfaith Meeting for 2012 at the Parliament of New South Wales to remember Mahatma Gandhi on his 64th Martyrdom Anniversary,
 - (b) on the evening of 30 January 1948, Mahatma Gandhi met his death after he was shot three times in the chest,
 - (c) in the presence of the Consul General of India, His Excellency Mr Amit Dasgupta, many distinguished members of Parliament and community representatives, the President of Bhavan Australia, Mr Gambhir Watts, asked all to remember Mahatma Gandhi on his 64th Martyrdom Anniversary,
 - (d) Mahatma Gandhi was an extraordinary man, a man considered by millions to be the father of India and a symbol of hope and peace, and
 - (e) Mahatma Gandhi's philosophy of non-violent resistance and peace between faiths remains relevant to millions in this 21st century world.
2. That this House congratulates the President of Bhavan Australia, Mr Gambhir Watts, and all Indian Australians on the occasion of the remembrance of Mahatma Gandhi's 64th Martyrdom Anniversary.

TRIBUTE TO HASSAN GHANEM

Motion by the Hon. SHAOQUETT MOSELMANE agreed to:

1. That this House notes that:
- (a) Mr Hassan Ghanem passed away in Sydney on Wednesday 15 February 2012 at the age of 82 after a battle with cancer,
 - (b) Mr Ghanem has left behind his 80-year-old wife, Mrs Wadad Ghanem, his two children Anis Ghanem and Samir Ghanem, and five grand children, all of whom are high academic and professional achievers,
 - (c) Mr and Mrs Ghanem migrated to Australia in December of 1987 to join their children and live in Australia,
 - (d) Mr Ghanem worked as a tile maker and his son, Mr Anis Ghanem, describes him as an honest individual, a tireless worker and a dedicated family man loved and respected by all,
 - (e) Mr Anis Ghanem, Mr Ghanem's eldest son, served as the Honorary Secretary to the Melkite Catholic Eparchy of Australia and New Zealand and worked closely with His Grace Archbishop Darwich,
 - (f) Mr Anis Ghanem, now an Arabic interpreter in the Supreme Court of New South Wales and the High Court of Australia, is a former Editor in Chief of the Sydney based *El-Telegraph* newspaper and was a broadcaster and journalist for SBS Arabic radio, and
 - (g) prior to his arrival in Sydney from Lebanon in 1984, Mr Anis Ghanem was appointed as media advisor to the Speaker of the Lebanese National Assembly, worked as Editor for two Lebanese daily newspapers, *Anwar* and *Alsafir*, and was Chief Political Correspondent to these papers in the Lebanese National Parliament.
2. That this House express its condolences to Anis, Samir and the Ghanem family on the passing of Mr Hassan Ghanem.

WORKCOVER PROSECUTIONS

Production of Documents: Order

Motion by Mr DAVID SHOEBRIDGE agreed to:

That, under Standing Order 52, there be laid upon the table of the House within seven days of the date of passing of this resolution:

- (a) any document created since 1 January 2011 in the possession, custody or control of the Minister for Finance, the Department of Finance and Services or the WorkCover Authority referring to any directive or memorandum to and or from WorkCover in relation to a review or audit of WorkCover prosecutions, and
- (b) any document which records or refers to the production of documents as a result of this order of the House.

INTERNATIONAL WOMEN'S DAY

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House acknowledges that:
 - (a) on Thursday 8 March 2012, UN Women Australia will celebrate International Women's Day,
 - (b) although women have made significant strides toward greater social and economic equality throughout the world, 70 per cent of the world's poor are women,
 - (c) this year's theme for International Women's Day is economic empowerment,
 - (d) economic empowerment means increasing women's access to quality education, employment and land ownership that can lead to greater gender inclusion, sustainable economic wealth, and lasting prosperity,
 - (e) female market vendors in the Pacific are some of the most marginalised groups in society, working in unsafe and unsanitary conditions,
 - (f) women comprise 85 per cent of all market vendors, of which 75 per cent travel from rural areas to sell their merchandise,
 - (g) many women will also return home after a weekend in a marketplace without enough money to feed their family,
 - (h) a 2012 study conducted by the World Bank shows that eliminating barriers that discriminate against women has the potential to increase a country's productivity by 25 per cent, in addition to enhancing economic efficiency and improving developmental outcomes, and
 - (i) UN Women Australia is working with female market vendors, market operators, and local government to improve marketplace conditions, provide education, and advocate for the rights and safety of women.
2. That this House recognises the fine work undertaken by UN Women Australia in promoting the advancement of women, and thanks them for its commitment to women's rights and the betterment of our society.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 521 outside the Order of Precedence objected to as being taken as formal business.

DOMESTIC VIOLENCE

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes that:
 - (a) on 26 February 2012, the Hon. Graham Annesley, MP, Minister for Sport and Recreation, announced a new partnership with the National Rugby League [NRL] to eliminate domestic violence against women,
 - (b) the campaign against domestic violence will be supported through an informative DVD entitled *Change Your Ways* featuring various prominent sports stars, including Gorden Tallis and Clint Newton,

- (c) this production aims to build on the previous successes of the Government's "Tackling Violence" program, which utilised regional rugby league clubs to provide domestic violence education and training to club players, of which approximately 750 signed a pledge to refrain from domestic violence,
 - (d) the NRL will continue to work closely with the Office of Communities to develop a training program that includes this DVD to be distributed to over 1,300 clubs across the country for their own personalised training program, and
 - (e) domestic violence is a serious epidemic in Australian society that threatens our family culture and way of life.
2. That this House notes that, according to a 2003 study by the Australian Domestic and Family Violence Clearinghouse:
- (a) 23 per cent of women who had ever been married or in a long-term relationship experienced violence by a partner at some time during the relationship,
 - (b) 42 per cent of women who had been in a previous relationship reported violence by a previous partner,
 - (c) half of women experiencing violence by their current partner experienced more than one incident of violence,
 - (d) 12 per cent of women who reported violence by their current partner at some stage during the relationship said they were currently living in fear,
 - (e) women who experienced physical or sexual violence by a partner were increasingly more likely to experience emotional abuse such as manipulation, isolation or intimidation than those who had not experienced violence,
 - (f) 35 per cent of women experienced violence from their partner during periods of separation, and
 - (g) younger women are at a greater risk than older women, with 7.3 per cent of women aged 18 to 24 years having experienced one or more incidents of violence from a current partner in the previous 12-month period, compared to 1.2 per cent of women aged 55 and over.
3. That this House congratulates:
- (a) the NRL, particularly Chief Executive Officer David Gallop, for his leadership in working to bring more attention to domestic violence against women,
 - (b) the Hon. Graham Annesley, MP, Minister for Sport and Recreation, for his commitment to fostering positive community relations with the sports leaders of New South Wales, and
 - (c) Gordon Tallis and Clint Newton for their roles as NRL ambassadors and their community outreach to eliminate domestic violence against women.

TRIBUTE TO FATHER ATANASIO GONELLI

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes with sadness that, on Sunday 26 February 2012, Father Atanasio Gonelli passed away.
2. That this House notes that:
 - (a) over one thousand people, including the Hon. Victor Dominello, MP, Minister for Communities and Citizenship; the Hon. Marie Ficarra, MLC, Parliamentary Secretary to the Premier; and Mrs Franca Arena, AM, former member of the Legislative Council attended Father Atanasio's funeral held at St Fiacre's Church, Leichhardt,
 - (b) Mr Giuseppe Fin, OAM, co-founder of the Italian Committee for Assistance [CO.AS.IT] and the Patron of the Father Atanasio Gonelli Charitable Fund Inc, gave the eulogy which outlined Father Atanasio Gonelli's 61 years of dedication to the Catholic Church and devotion to serving the community,
 - (c) Father Atanasio Gonelli was born in Catognano village in the province of Massa Carrara, Tuscany on 11 February 1923, and was baptized with the name of Luigi,
 - (d) at 12 years of age, Father Atanasio Gonelli entered the diocesan seminary, on 8 September 1940 he joined an order of Capuchins Fathers and on 1 March 1947 he was ordained a priest at Reggio Emilia,
 - (e) for the next two to three years in Italy, Father Atanasio Gonelli conducted welfare activities to help sick people in hospitals,
 - (f) at the end of 1949, Father Atanasio Gonelli left Italy and settled in Australia to start his apostolate work in Sydney helping new young Italian emigrants in Australia,
 - (g) in 1961, Father Atanasio Gonelli started an Italian radio program on Radio 2SM and founded the Italian newspaper *La Fiamma*, holding the position of director for several years,

- (h) in 1964, Father Atanasio Gonelli launched the first course to teach the Italian language to Italian children at Annandale, Brookvale, Liverpool and Blacktown,
 - (i) in 1968, Father Atanasio Gonelli was co-founder of CO.AS.IT and was spiritual director of almost every Italian association of saints, military, regional and cultural arts group in New South Wales,
 - (j) on 8 September 2011, the Father Atanasio Gonelli Charitable Fund Inc. was officially launched by the Hon. Victor Dominello, MP, Minister for Citizenship and Communities, and
 - (k) in 2011, Father Atanasio Gonelli celebrated 61 years of service and was presented with a Papal certificate through the Apostolic Nunzio in Australia commending his service and a congratulatory letter from His Eminence, Cardinal George Pell.
2. That this House acknowledges the enormous contribution Father Atanasio Gonelli made to Australian society and his years of devotion to the Italian Australian community and the Catholic Church.

ALAN MCGILVRAY SCHOLARSHIP

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes that:
- (a) on 26 February 2012, the Hon. Graham Annesley, MP, Minister for Sport and Recreation, awarded the 2012 Alan McGilvray Scholarship to Kurtis Patterson and Katie Mack during a reception at the Sydney Cricket Ground,
 - (b) the McGilvray scholarship is a very competitive award honouring the late great broadcaster Alan McGilvray, AM, MBE, former New South Wales Sheffield Shield player and captain,
 - (c) this scholarship is awarded annually to one male and one female cricketer between 17 and 19 years of age from a field of players who compete at the State level,
 - (d) Kurtis Patterson, aged 18 of Hurstville, was selected as the male recipient, and recently became the youngest batsman to score a century in the Sheffield Shield, showing promising signs of a developing into a top order batsman, and
 - (e) Katie Mack, aged 18 of Bankstown, was selected as the female recipient, and was part of the New South Wales team that dominated the Under 18 Female National Championships, and has developed into a formidable right-arm leg spin bowler.
2. That this House congratulates Kurtis Patterson and Katie Mack for their achievement in the sport of cricket, and recognises their commitment to one day represent Australia at the international level.

TABLING OF PAPERS

The Hon. Duncan Gay tabled the following paper:

Annual Reports (Statutory Bodies) Act 1984—Report of Chipping Norton Lake Authority for the year ended 30 June 2011

Ordered to be printed on motion by the Hon. Duncan Gay.

GAMING MACHINES ACT 2001: DISALLOWANCE OF GAMING MACHINES AMENDMENT (LIA EXEMPTION FOR CERTAIN CLUBS) REGULATION 2012

The PRESIDENT: Pursuant to standing orders the question is: That Business of the House Notice of Motion No. 1 proceed as business of the House.

Question resolved in the affirmative.

Motion by Dr John Kaye agreed to:

That the matter proceed forthwith.

Dr JOHN KAYE [11.18 a.m.]: I move:

That, under section 41 of the Interpretation Act 1987, this House disallows the Gaming Machines Amendment (LIA Exemption for Certain Clubs) Regulation 2012, published on the NSW Legislation website on 20 January 2012, and tabled in this House on 14 February 2012.

This motion relates to an exemption that was introduced by the O'Farrell Government from the stringent local impact assessment requirements and forfeiture of gaming machines for new clubs within a one kilometre radius of a new housing estate. We believe that the exemption introduced by this regulation will increase problem gambling and that the impacts it will have on households and communities will simply be unacceptable. The laws governing the transfer and forfeiture of poker machines entitlements were designed in 2001 as a multilateral effort—agreed to by the Coalition, the Labor Party, The Greens, the Christian Democrats and the Shooters Party—to achieve two key outcomes. The first was to reduce the number of gaming machines in New South Wales.

The second was to prevent the concentration of machines in areas with concentrations of residents susceptible to developing problem gambling addictions and problematic behaviours. In particular, it was to stop clubs concentrating their gaming machines in areas with high concentrations of people from non-English-speaking backgrounds and people from low socioeconomic backgrounds, who are known to be more susceptible to problematic behaviours, being recruited into using gaming machines as a form of addictive behaviour. However, in 2008 the former Government introduced a new section 37A into the Gaming Machines Act. That section exempted from the gaming machines entitlements to transfer, clubs that were seeking to locate up to 150 machines.

I too hope those in the public gallery enjoy this erudite debate on gaming machines. I say that anticipating the response from the Government and the Opposition on this matter. The concern was that clubs situated within new housing developments could lodge far less stringent impact assessments for the extra machines and forfeit only 1 in 6 of the first 50 poker machines transferred to it from another club, as against the more usual number of 1 in 3. On 20 January this year the Minister for Tourism, Major Events, Hospitality and Racing, Mr George Souris, published in the *Government Gazette* an amendment by regulation to the Gaming Machines Act 2001. The effect of the amendment was that clubs seeking to situate within one kilometre of a new development area would now be required to submit only a class 1 local impact assessment, rather than a much more stringent class 2 assessment when applying to increase their gaming machine numbers up to a threshold of 150 machines, and they would be required to forfeit only one in six poker machine entitlements in the transfer, rather than one in two or three, the normal ratio.

The PRESIDENT: Order! The level of audible conversation is too high. Members who wish to engage in conversations should leave the Chamber.

Dr JOHN KAYE: The regulation means it will now be much easier for clubs to get approval to operate larger numbers of poker machines in new development and housing estate areas. Clubs in areas with high concentrations of wealth, where there is a lower rate of problematic gambling behaviour will be able to transfer those machines to more profitable locations without the usual forfeiture requirement and without the usual high level of impact assessment. This regulatory change did not happen in a vacuum. The *Sydney Morning Herald* reported on 23 January 2012 that the Eastern Suburbs Leagues Club at Bondi Junction was seeking to build a \$14 million country club at Narellan, in south-western Sydney. However, its 2009 application to what was then known as the Casino, Liquor and Gaming Control Authority, now called the Independent Liquor and Gaming Authority, was withdrawn in November last year because the proposed new club was ineligible under section 37A because it was not situated within the new development but in close proximity to that development. The site is in fact 500 metres from the nearest housing estate.

The new regulation—the one introduced by the Minister in January this year—would allow the Eastern Suburbs Leagues Club to reapply and to be granted approval to transfer 150 poker machines to Narellan from Bondi Junction and have to forfeit only 8 instead of 16 machines. The estimate is that that is a net gain to the club of \$300,000 a year. Over the lifetime of those machines and the club that could be a multimillion-dollar gift to the Eastern Suburbs Leagues Club. What is clear is that the club has recognised that those gaming machines situated in Bondi Junction are less profitable than the machines would be if situated in south-western Sydney, where there is a population that is more susceptible to problematic gambling. On 24 January 2012 the *Sydney Morning Herald* reported that ClubsNSW had written to Minister Souris on 20 September 2011 regarding the Narellan proposal and the inability to access the special benefits. The *Sydney Morning Herald* on that day also reported that the high-profile representatives of the Eastern Suburbs Leagues Club met with Minister Souris on 26 October 2011 to discuss their application. Two weeks after the 26 October meeting with the Minister the Eastern Suburbs Leagues Club withdrew its application, and less than two months later than that date the Minister made the new regulation.

The grave concern of The Greens is that statistics show very clearly that problem gamblers are increasingly concentrated geographically and demographically, and in particular problematic gamblers are much

more likely to be situated in western Sydney or the Riverina-Murray than in any other part of New South Wales. In fact, 2 per cent of all problem gamblers are situated in western New South Wales. That speaks to the vulnerability of that population to an increased number of gaming machines. This amendment will allow not just the Eastern Suburbs Leagues Club to take machines out of a relatively well-off area like Bondi Junction, with comparatively low rates of problem gambling, and shift them into less well-off areas such as south-western Sydney, with potentially higher rates of problem gambling; it will allow all other clubs around New South Wales to identify opportunities to increase the profitability on their gaming machines.

The fundamental problem with increasing profitability on a gaming machine is that it is won at the expense of problem gamblers. The Productivity Commission identified that 40 per cent of all revenue gained through gaming machines comes from people with problematic behaviours with gaming machines, basically people who are addicted and cannot control their behaviours. Increasing the concentration of existing poker machines within New South Wales in areas where there is a possibility to recruit very larger numbers of addicts, while increasing the revenue of the clubs, will exacerbate the impacts on susceptible individuals, their families and households and on the communities in which they live. We have already heard in this House on a number of occasions of the consequences of problem gambling for the individual, the household and the community. This amendment creates yet another way for clubs to take advantage of problematic gambling behaviours in order to maximise their own profits. Such outcomes are simply unacceptable. This policy is bad, and its outcomes will be bad for New South Wales. They are not only bad for individuals in our society but also bad for us economically.

Members will recall that the debate on the Clubs, Liquor and Gaming Machines Legislation Amendment Bill 2011 revealed that a majority of upper House members of Parliament—at least on the first occasion on which the legislation went through—held concerns about the transfer of gaming machines to areas where there were potentially more problem gamblers. While the debate occurred in the context of the transfer of poker machine entitlements in club amalgamations and de-amalgamations, the same objective applies. Increasing concentrations of poker machines has consequences for many households and for all communities.

The Greens encourage members to consider the serious negative community impacts that this regulation could have on new and developing housing areas, particularly those which have few services and newer housing estate areas where there are not such strong community and social bonds, where individuals tend to suffer a greater degree of alienation, where individuals tend to be more on their own and hence are even more susceptible to problematic gambling behaviours. The previous Government's commitment to reducing problem gambling in New South Wales by restricting the number of poker machines and by stopping the concentration of those poker machines where they will do the maximum amount of damage should be upheld and continued. The western suburbs of Sydney are some of the fastest-growing development areas in the State and they have some of the highest statistical representations of problem gamblers in New South Wales.

Allowing the Eastern Suburbs Leagues Club and other clubs around New South Wales increasingly to concentrate their poker machines in those areas with a low standard of local impact assessment and with a reduced number of poker machines forfeited in the transfer is bad news for south-western Sydney, bad news for the Riverina and bad news for anywhere else where there is the potential for concentrations of problematic gambling behaviour. Stopping this happening right now is important because it will reduce the capacity for clubs to recruit new problem gamblers, which is a highly desirable outcome. I commend the disallowance motion to the House.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [11.30 a.m.]: This disallowance motion is opposed by the Government for the following reasons. The regulation merely extends the existing greenfield concessions to clubs that are establishing within one kilometre of a new development area. The principal legislation was amended in 2008 under the former Labor Government—by the Hon. Kevin Greene—to introduce concessions to encourage new clubs to establish within new development areas. *Hansard* shows that the concessions had bipartisan support at the time. However, the former Government's concessions had the unintended consequence of effectively requiring clubs to be built as part of or within the housing development. That is unworkable and this Government has taken action to correct that problem.

In some circumstances the developer's priority is to use the available land for housing sites and not alienate that land for other purposes. Further, the principal legislation does not address the issue of the need for a buffer zone of sporting fields and parklands between the developments, which are associated with the club proper. The one-kilometre concession is a practical change to make the scheme work. The principal legislation

provides for greenfield site concession applicants to prepare a class one local impact assessment instead of a more complex class two local impact assessment when seeking approval for up to 150 poker machines, and that is unchanged.

There is also a forfeiture concession in respect of the transfer of the first 50 poker machine entitlements; the rate is one in six instead of one in three, and that is unchanged. Applications under these arrangements are determined by the Casino, Liquor and Gaming Control Authority, which has undergone a change of name but is an independent body. The concessions are not available in relation to medium-risk band 2 or high-risk band 3 local government areas, and that is unchanged. The authority must also be satisfied that the acquisition of the number of poker machine entitlements will not increase the local government areas' gaming machine ban from a minimum to a high-risk level. That is also unchanged. The regulation is entirely consistent with the principal legislation and addresses the problem that in some circumstances it is not possible to accommodate the much-needed community infrastructure within the development site. The regulation provides flexibility for that to be achieved if within one kilometre of the designated development. For those reasons we will not be supporting this disallowance motion.

The Hon. STEVE WHAN [11.33 a.m.]: The Opposition will not support the disallowance motion. The Opposition shares concerns about problem gambling; indeed, in government we took a number of actions to assist problem gamblers around New South Wales. The former Labor Government put in place a mechanism for reducing the overall number of poker machines in New South Wales. In government, as the Minister just said, we introduced legislation to allow clubs to be established in new development areas, and that was done for good reason. In many new development areas and adjacent to those areas community facilities were lacking, and one of the ways of getting additional facilities was to encourage licensed clubs to go into those areas and provide those facilities.

The Government's amendment to create a radius outside a new development area seems to be a sensible way to ensure that the intent of the original change is maintained. New development areas are not always able to allocate space for a licensed club, and in the case of this new club space was available in the adjacent new development areas. A couple of things need to be made very clear. First, this involves a transfer of machines and the forfeiture of some machines will occur as this transfer takes place. That means that the overall number of poker machine entitlements in New South Wales will reduce as a result of that transfer and the establishment of the new club.

The club will be set up in a band 1 area, which is an area with the lowest density of poker machines of the three band categories provided for in the legislation. It also must be made very clear that even with this concession the club will still have to comply with all local planning and zoning requirements and it will still have to submit a local impact assessment, as is required for any new development in a band 1 area. That is not as stringent as applying to go into a band 2 or a band 3 area but, as we have all agreed in the past in this place, the reason for the banding is so we can ensure that we are addressing areas with a very high density of poker machines.

The Narellan Country Club proposal put forward by the Eastern Suburbs Leagues Club will provide a number of facilities for people in the local area, including a hockey pitch, a sports arena, a gymnasium, a motel—which presumably will be commercially managed—some cycleway-type facilities, tennis courts, dining areas and the other usual facilities one finds in a club. There will also be function spaces catering for various community events. Clubs in most areas of New South Wales are prime locations for community events, providing a place where community associations and groups, including political parties, can hold their meetings. A tenpin bowling alley is also proposed for the club. So there will be a number of facilities that will be quite useful for the local community. I am told—and I am certainly not an expert in this area—that these facilities are much needed in that part of Sydney.

As a means of funding those facilities, the club wants to establish poker machines in the area to bring in revenue. Historically, we have certainly allowed clubs in New South Wales, as not-for-profit entities, to use their revenue. Dr John Kaye said that this was about the Eastern Suburbs Leagues Club moving machines from a less profitable club in eastern Sydney with the aim of raising more money from susceptible populations. While I do not doubt that clubs would certainly regard highly the amount of revenue they can earn from poker machines and from their licensed premises, I think it is unfair to say that that is the only motivation behind this proposal. My experience of clubs in New South Wales is that they are run by people who are genuinely interested in providing community facilities, and most of us who know people who serve on club boards will recognise that. So I think it is particularly uncharitable for The Greens to make that accusation.

The area in question clearly complies with the intent of what the former Government proposed when it made this regulation to allow for new development areas to be treated slightly differently and to have a one-in-six forfeiture rather than a one in three. I acknowledge that the concession is obviously quite valuable to this club because of the amount of revenue involved, but that revenue will go to provide much-needed facilities in that area. That is key for this request.

This regulation change is consistent with the intent of the previous Government. It is restricted to new development areas, which are designated by the State Government. It is not holus-bolus approval for clubs to set up and receive this concession in all parts of New South Wales; it is limited to new development areas. Clubs are also required to go through the assessment processes of the Independent Liquor and Gaming Authority, so there are a number of provisions that will ensure proper planning. Of course there are also provisions that the previous Government introduced to address problem gambling. My experience of small clubs in communities is that they are good at identifying problem gamblers and using mechanisms such as voluntary self-exclusions. They are also consistently working on ways to link those self-exclusions among clubs. Those are just some of the measures that they are undertaking. The Opposition will not support this disallowance motion. The regulation is consistent with measures that Labor introduced in government that were aimed specifically at new development areas. On that basis, we will not support the motion.

Mr DAVID SHOEBRIDGE [11.40 a.m.]: I support the motion moved by my colleague Dr John Kaye. It is a clear example of how this House could address problem gambling if it chose to do so. We hear that it is too hard to do at a national level. We are told that we cannot have any kind of mandatory constraints at a national level to restrain problem gambling, but today this House has a chance to limit the rate of growth of problem gambling in New South Wales. Let us be clear about what this regulation does. It encourages more gambling machines to be put in cheek by jowl with new greenfield developments across New South Wales. That means each new housing estate will come with a ready-built gambling problem courtesy of the O'Farrell Government. This regulation ensures that problem gambling follows development across New South Wales. That is a major breach of faith by any government that wants to step forward and effectively save problem gamblers from their addiction. People might wonder why the Government is moving to give such great largesse to clubs and their gambling interests. The obvious reason is that it is a direct pay back. We know that between October 2010 and June 2011 clubs in New South Wales gave the Coalition \$223,400.

The Hon. Dr Peter Phelps: It's all a conspiracy, isn't it? Ridiculous! You are ridiculous.

Mr DAVID SHOEBRIDGE: I note the interjection from the Government Whip that it is ridiculous and it is a conspiracy. Giving \$223,000 to the Coalition may not have been just a great statement of faith in democracy by the industry. Like most industries, it wants something back for its investment. In return for dropping almost a quarter of a million dollars into the coffers of the Coalition Government, the industry expects a pay back. Its pay back is this Government giving it concessions to continue to prey on some of our most vulnerable citizens—those who are addicted to gambling.

The PRESIDENT: Order! I call the Hon. Dr Peter Phelps to order for the first time.

Mr DAVID SHOEBRIDGE: The Government Whip may protest that a quarter of a million dollars donation to the Coalition means nothing to those opposite. They could easily prove that by returning the money. That is pretty straightforward. The Government may want to hold on to the money for campaigning and overspending in Monaro and other places during an election; however, if those opposite are offended by the concept that the people of New South Wales may think the clubs industry has bought their Government and bought these kinds of concessions, they can easily respond by giving the money back. If they give back the hundreds of thousands of dollars that they have received from the gambling industry maybe the people of New South Wales will not think that this concession is the Coalition Government paying a return for the grubby political donation it received from clubs in New South Wales.

The Hon. Dr PETER PHELPS [11.44 a.m.]: It is interesting that The Greens are talking about grubby political donations. Let us consider the grubby political donation of \$1.7 million that Bob Brown's Greens in the Federal Parliament conveniently accepted. Bob Brown then proceeded to go on a—

Dr John Kaye: Point of order: As interesting as the topics raised by the Government Whip may be, they do not go anywhere near addressing the issue of problem gambling. My colleague Mr David Shoebridge raised the issue of donations to the Government in respect of advancing this policy. It was a direct donation from ClubsNSW. I cannot see the relevance of a donation that never came to New South Wales; none of the money came to New South Wales.

The PRESIDENT: Order! Dr John Kaye should not use points of order to make debating points. I have the gist of his point of order. He will resume his seat.

The Hon. Dr PETER PHELPS: To the point of order: Matters have been raised in relation to money buying predictable outcomes for political activities. I am suggesting that in this instance The Greens may well have received money for their own predictable political outcome. Their concern—I put this hypothetically—might be that people who spend less money on poker machines might go on overseas holidays and book their accommodation through Wotif.

The PRESIDENT: Order! Dr John Kaye and the Hon. Dr Peter Phelps are both aware that points of order are not an opportunity for them to make debating points. While, strictly speaking, donations may not be relevant, to the extent that the Hon. Dr Peter Phelps was responding briefly to earlier comments in the debate he was in order. However, I remind him of the need to be relevant to the motion before the Chair.

The Hon. Dr PETER PHELPS: I always strive to be as relevant to contemporary Australian society as I possibly can. Continuing with the issue of donations, The Greens like to conveniently forget that Senator Bob Brown, after receiving this \$1.7 million donation, then proceeded to embark on a campaign that deliberately sought to undercut the ability of a Tasmanian firm to engage in lawful practices in that State. That firm was subsequently compromised by the person who owned Wotif, after The Greens received their \$1.7 million donation.

Dr John Kaye: Point of order—

The Hon. Dr PETER PHELPS: I have concluded my comments.

Dr John Kaye: The matter raised by the Hon. Dr Peter Phelps clearly relates to Tasmania—it is of great interest to the House nonetheless. However, it is not relevant to the issue of gaming machines in New South Wales.

The PRESIDENT: Order! I thank Dr John Kaye for his point of order but the member had concluded his remarks.

Dr JOHN KAYE [11.48 a.m.], in reply: I thank all members except the Government Whip for their contributions to the debate on this motion. I am concerned that the underpinning assumption of both Government and Opposition members is that it is necessary to have gaming machines. Their contributions make sense only if one accepts the proposition that it is necessary to have gaming machines in order to provide community facilities. Their underlying assumption is that the gaming machines are the only way that new development areas such as Narellan, which was referred to in a *Sydney Morning Herald* article, would get the sporting fields and other community facilities mentioned by the Hon. Steve Whan and the Leader of the Government.

The logical conclusion of those arguments is that in New South Wales we are engaging in the most regressive form of income tax possible. We are taking money from those who can least afford it and allowing clubs to use that money to build community facilities. Surely in the first place that is a complete abrogation of government responsibility. The principle of progressive taxation is that those who can afford to pay, should pay, rather than a government funding sporting facilities by cashing in on the addictions of those who can least afford to pay. The Hon. Steve Whan said that is all okay because we have fantastic mechanisms that are profoundly successful at dealing with problem gamblers. He suggested we should allow greater concentrations of gaming machines because we have mechanisms for dealing with it.

The Hon. Steve Whan: No, it is actually reducing the concentrations, bringing them down.

Dr JOHN KAYE: As far as Narellan and other new areas of development that would be covered by this regulation are concerned, it is increasing concentrations of gaming machines. According to the Hon. Steve Whan, that is okay because we have all these fantastic mechanisms that deal with it. But the harsh reality is that those mechanisms do not work. It is like saying it is okay to allow the spread of an infection because we have some type of antibiotic that will deal with it. That is of course completely silly. The reality is that we must stop the spread of infection in the first place and, similarly, we must stop the spread of poker machines. We must make sure we do not allow the poker machines plague to descend upon new development areas and increase the incidence of problem gambling.

Mr David Shoebridge raised the issue of donations to the Coalition from ClubsNSW. There are similar figures in relation to donations to the Labor Party in previous eras. In New South Wales we have seen repeatedly, including the \$300-million tax deduction that was granted by the current Government shortly after it won the election, gaming machine policy that has been written by ClubsNSW, not by a government that has a genuine concern for outcomes that will impact on communities. The previous Government, under former Premier and now Senator and Minister for Foreign Affairs designate, Bob Carr, eventually began the process of reducing the number of gaming machines in New South Wales, but that was only after a massive community outcry of, "This has gone too far. We have to turn it back."

This motion for disallowance of the regulation is clearly doomed, and that is a great shame. However, The Greens make this commitment to the House: We will be watching very carefully what happens in Narellan when the poker machines are moved there, and we will be reporting back to the House and again asking members to reconsider the section 37A exemptions from stringent local impact assessment and from poker machine forfeiture when gaming machines are moved into areas of new development. I commend the motion for disallowance to the House.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 5

Mr Buckingham
Ms Faehrmann
Dr Kaye

Tellers,
Ms Barham
Mr Shoebridge

Noes, 30

Mr Ajaka	Mr Gay	Mr Searle
Mr Blair	Mr Khan	Mr Secord
Mr Clarke	Mr Lynn	Ms Sharpe
Mr Colless	Mr MacDonald	Mr Veitch
Ms Cotsis	Mrs Maclaren-Jones	Ms Westwood
Ms Cusack	Mr Mason-Cox	Mr Whan
Mr Donnelly	Mrs Mitchell	
Ms Ficarra	Mr Moselmane	
Mr Foley	Mrs Pavey	<i>Tellers,</i>
Mr Gallacher	Mr Primrose	Ms Fazio
Miss Gardiner	Mr Roozendaal	Dr Phelps

Question resolved in the negative.

Motion negatived.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

The Hon. STEVE WHAN [12.02 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 522 outside the Order of Precedence, relating to an order for papers regarding The Star casino, be called on forthwith.

I gave notice of this motion yesterday. It calls for all correspondence and all records of phone conversations—including text messages between Ministers, ministerial staff and their agencies—relating to The Star casino and any document that records or refers to the production of the documents as a result of this order of the House to be produced within 14 days. There is a great deal of interest in this issue. It is the subject of the Furness inquiry.

The Opposition would like to proceed with this issue today so that within 14 days we can scrutinise any papers provided as a result of this order and provide the Furness inquiry with relevant information, which will help that inquiry.

I want to make it clear that this motion does not involve releasing the names of people who might have made allegations of sexual harassment. The names of potential victims can be blotted out. As members know, under the Standing Order 52 there is a way to deal with confidential information. We want to ensure that we have full information for this debate. We need to make a judgement as to whether there have been any further breaches of the ministerial code of conduct and whether other issues need to be investigated by the Furness inquiry. I urge members to support my motion.

Question—That the motion be agreed to—put and resolved in the affirmative.

Motion agreed to.

Order of Business

Motion by the Hon. Steve Whan agreed to:

That Private Members' Business item No. 522 outside the Order of Precedence be called on forthwith.

THE STAR CASINO

Production of Documents: Order

The Hon. STEVE WHAN [12.07 p.m.]: I move:

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of passing of this resolution the following documents, created since 26 March 2011, in the possession, custody or control of the Premier, the Department of Premier and Cabinet, the Minister for Gaming, Racing, Hospitality and the Arts, the NSW Office of Liquor, Gaming and Racing or the Independent Liquor and Gaming Authority:

- (a) all correspondence relating to The Star casino,
- (b) all records of phone conversations, including text messages between Ministers, ministerial staff and their agencies relating to The Star casino, and
- (c) any document which records or refers to the production of documents as a result of this order of the House.

This is an important call for papers. During the last few weeks a number of disturbing events have occurred in this Government's relationship with The Star casino. The controversial involvement of members of the Premier's staff and potentially Ministers in this issue has raised the potential for such things to take away from proper investigation of sexual harassment claims at The Star casino. It should be of utmost concern to all of us that claims such as those be properly investigated and resolved, and that all workplaces are free of sexual harassment.

My concern is that there has been direct involvement—inappropriate involvement—and communication between people who are effectively the ultimate regulators of that casino's licence and members of the Premier's office staff. It raises questions about the breach of the ministerial codes of conduct by a Minister of this Government during this process. In the last few weeks we have seen a number of leaked records of text messages and emails, which suggest that a member of the Premier's staff, who has now been stood down, had a longstanding campaign against The Star casino. It is important for people who believe that they have been treated inappropriately at work and who believe that they are victims of sexual harassment to be able to make proper complaints through the proper authorities and to have them investigated. That process is put in doubt when the people who are the ultimate regulators of the casino are being engaged in what could be seen by some to be a campaign against that body.

The Opposition is concerned that Mr Grimshaw—who has been stood down from the Premier's office while this is investigated—forwarded emails to his partner. Those emails revealed information that should have been confidential. Those emails forwarded information that the Premier had provided to Mr Grimshaw. More worryingly, we have seen information that suggests the Minister responsible—and his office, potentially—has had conversations or exchanges with Mr Grimshaw and they agreed that certain information about personal

involvement was going to be withheld from the Premier. We have the clear impression from some of this correspondence that the Minister concerned, Minister Souris, seems to feel that he owes some sort of loyalty to Mr Grimshaw.

We heard some strange answers in question time yesterday in the other place when the Minister suggested, "Look, it's all okay because I've known this bloke for a long time and he is a confidante." I believe that was the word he used. Before the election the then Coalition Opposition said that one of its key aims was to try to make sure that mates and relationships and those sorts of things did not influence policy decisions. It is questionable whether that approach has been upheld in this case and this motion calling for documents to be produced will help us to ascertain whether there has been any transgression. From what we have seen already, it is clear that two items under "General Obligations" of the ministerial code of conduct have been breached. Paragraph 1.2 states:

Ministers should avoid situations in which they have or might reasonably be thought to have a private interest which conflicts with their public duty.

From comments we heard yesterday in the other place, it is quite obvious that personal relationships influenced the handling of this matter by the Minister's office. Certainly that should cause great concern to the Premier, if he is interested in upholding his ministerial code of conduct, and to the Minister. I am surprised that the Minister allowed that situation to occur. Paragraph 1.5 of General Obligations in the ministerial code of conduct states:

A Minister shall be frank and honest in official dealings with colleagues.

Clearly, from the exchanges that were leaked and not denied by the Minister involved, we have a breach of that openness and honesty. The text exchange between the Minister and Peter Grimshaw is along the following lines:

Don't worry I've told Barry about Sid but not mentioned (Miss M). And (Miss M's) name is not in the matter in my office—not with Matt, Frank or Norm. I know exactly how she feels. Don't worry, you've been a friend for years and were supportive of me last year and you will never lose my loyalty. G

I will not speculate on what the item was last year. My concern is with the clear decision that certain important elements of the involvement and engagement of members of the Premier's staff, including a very trusted staff member, and the Minister's office have not been passed on to the Premier. So he was not in complete control, nor did he have complete knowledge of the facts about personal involvements in this process. This matter is a serious breach of the ministerial code of conduct. It is unacceptable for the Premier to make the correct decision to stand down a member of his staff because he clearly has breached elements of his obligations to the Premier, but not to stand down the Minister who, on the same basis, breached the ministerial code of conduct.

These are serious matters. Some media suggested that had the Speaker not stepped in during question time yesterday in the other place the Minister was probably going to dig his own grave as he answered questions. Quite frankly, talking about his confidante over many years simply raised more questions about this matter—questions that need to be answered. This motion calling for the production of papers can go some way towards answering those questions. This is a serious matter for this Government. Today Government members in this place can make the decision to adhere to their pre-election rhetoric of openness, accountability and honesty or they can decide to vote against this motion to hide these matters. They are the only two available options. If Government members do not support this motion today, clearly they are trying to protect information that they believe would damage the Government.

This morning I was appalled to hear a Minister suggest that the Opposition was trying to expose the names of those who had made allegations of sexual harassment. It is absolutely clear in this process of producing the documents requested that the names of anybody concerned can be blanked out or information can be provided in confidence to members of this place in the same way it has been done in many other calls for papers. The Minister's comments were nothing more than a grubby attempt to suggest improper motivations by the Opposition to hide the fact that the Government did not want to release information. I call on Government members and, indeed, crossbench members, to back up their claims of openness, honesty and accountability with action in this place today.

The only acceptable action is to vote for this motion. I point out also the importance of the 14-day time frame and passing this motion today. The Furness inquiry is underway. It is vital that that inquiry have access to any relevant information. This motion certainly calls for information that the Opposition does not believe the

Furness inquiry would or could be able to call for. It is critical that we are able to provide this information to that inquiry. That is the Opposition's intent during this process. I call on Government members to vote with the Opposition and live up to their claims of openness and accountability.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [12.15 p.m.]: I was not expecting to commence my contribution to this debate regarding Standing Order 52 on this point, but the member concluded his remarks by stating that we can provide the Furness inquiry with information that it otherwise cannot get access to. The Casino, Liquor and Gaming Control Authority release dated 16 February states:

Ms Furness has the powers and authorities conferred on a commissioner by Division 2 of Part 2 of the *Royal Commissions Act 1923* ...

The inquiry is not bound by the rules or practice of evidence and the presiding person may inform herself on any matter in such manner as she considers appropriate.

The comments of the member again underlie the Opposition's lack of scrutiny in preparing this motion. This motion is more about politics than transparency. Sadly, the member made those concluding comments when, quite simply, they probably were not part of the notice of motion he was given. His comments lay at the core of why the Government opposes this request under Standing Order 52. The motion potentially could prejudice the inquiry by Ms Furness, SC, on behalf of the Independent Liquor and Gaming Authority—not on behalf of the Government, not on behalf of the Minister and certainly not on behalf of those opposite.

The first inquiry under section 31 of the Casino Control Act has reported, but a number of confidential interviews conducted by Gail Furness may be the subject of further consideration in the second inquiry under section 143, which is due to report on 5 April 2012. Consideration of these matters by the Independent Commission Against Corruption [ICAC] may potentially be prejudiced. Of course, members know from public debate that the matter has been referred for the attention of the Independent Commission Against Corruption. But members know also that the Independent Commission Against Corruption does not make a habit of publicly revealing which inquiries or complaints it is investigating. The Leader of the Opposition in another place called for the matter to be referred to the Independent Commission Against Corruption. I understand that that has taken place.

An independent inquiry is being conducted by Ms Furness, SC. I do not hear from the Opposition any concerns about the probity or integrity of that investigation. I am sure Opposition members are not saying that. Therefore, they would be satisfied with Ms Furness' independence to conduct that inquiry. Now that I have informed the member of the quite extensive powers conferred on that inquiry under the Royal Commissions Act, I am sure he understands that the normal rules applying to investigations, to which I alluded earlier, do not apply in this matter.

Now that the Hon. Steve Whan has been informed of that—for what I am sure is the first time this morning—he is probably wondering how he can withdraw his motion. The independent authority does have extraordinary powers that outstrip the powers that the honourable member has in relation to this House. The disclosure of such information may prejudice the ability of the Independent Liquor and Gaming Authority to share confidential information nationally and internationally with law enforcement agencies and regulators. Law enforcement agencies and regulators would be disinclined to provide sensitive information if it cannot be guaranteed to be secure.

Part 3, section 17, of the Gaming and Liquor Administration Act 2007 prohibits the disclosure of certain information: information concerning the business, commercial, professional or financial affairs of an applicant for a casino licence; information obtained in the course of an investigation of an application for a casino licence; and information concerning the system of internal controls and administrative and accounting procedures for a casino. Clearly, there are substantial reasons for us to oppose the motion that seeks the production of documents under Standing Order 52. It is essential that Gail Furness, SC, and the Independent Commission Against Corruption undertake their responsibilities without distraction.

In my concluding comments I shall refer to the Furness inquiry. It is to inquire into and report upon the following matters: the circumstances surrounding the cessation of employment with Echo Entertainment Group of Mr Sid Vaikunta as managing director of The Star casino, including in relation to Echo Entertainment's obligation under the Casino Control Act 1992, and otherwise, to inform the authority of relevant information. In addition—this is an important part for those ill-informed members opposite to consider—it is to inquire into any

issues relevant to the authority's responsibilities under the Casino Control Act 1992 that arise from information received by the authority or the inquiry in relation to The Star casino since 2 December 2011 and any matters relevant to the above.

What power does Ms Furness, SC, have to conduct these inquiries? She has powers under the Royal Commissions Act and is not bound by the rules or practice of evidence in this State. On 16 February the terms of reference spelt out that the inquiry was calling for confidential submissions to be made directly to it. The email address and the phone numbers in relation to those confidential submissions were provided. Quite simply, in the Government's view, the Opposition is asking for something that has the potential to severely prejudice the inquiry being conducted by Gail Furness, SC. Ms Furness should be allowed to continue with her inquiry. The Opposition should recognise that Ms Furness has extraordinary powers in conducting this inquiry. This inquiry has a broad terms of reference. They allow examination of any matter raised as a result of inquiries she has made or will continue to make in regard to this matter. The Government strongly opposes this motion.

The Hon. AMANDA FAZIO [12.23 p.m.]: I support the motion moved by the Hon. Steve Whan, which calls for papers under Standing Order 52 in relation to The Star casino affair. In doing so, this matter goes well beyond just the terms of reference of the Furness inquiry. This matter goes to the basis of the operation of this Government, the relationships that it has with the private sector and the way in which we expect it to honour its commitment to be open, transparent and accountable to the people of New South Wales. That is what the Government promised but is not putting into practice in relation to this matter.

This call for papers motion should be passed because it goes to the integrity of the Premier, the Minister for Tourism, Major Events, Hospitality and Racing, and Minister for the Arts and the Premier's senior staff. Yesterday the Minister's performance during question time in the other place was quite astounding. It showed that he is not prepared to be honest with members in the other place. It showed a Minister who does not understand the difference between personal and professional relationships. It goes to the question of what is expected in respect of accountability from this Government.

The Echo Entertainment Group is now the sole owner of The Star casino. The public is asking whether the whole mess about revoking the Echo Entertainment Group's licence is for the benefit of other casino operators who may want to take over that licence. That is certainly an issue that has been publicly discussed. It is an issue that production of the papers would help to answer. There is talk of a proposed second casino, a Packer Crown casino, at Barangaroo and a transfer of the high rollers room from The Star casino to that casino. How could that happen when Echo Entertainment Group is now the sole owner of The Star casino? People are starting to ask: Is the multibillion dollar investment that Echo Entertainment Group made in The Star casino really the prize involved in this whole scandal?

A tangled web needs to be untangled so the public, Echo Entertainment Group and other licence holders who bid for licences in New South Wales can be sure that this matter is dealt with on facts and merit, not on the basis of friendship and favours. At present it would be reasonable for any person to draw the conclusion that elements within the Government are colluding against Echo Entertainment Group and The Star casino over the multimillion dollar licence and the billion dollar investment in the casino. The only way to clear up this stinking mess is to agree to the call for papers under Standing Order 52 as moved by the Hon. Steve Whan. The time line is astounding. There is so much material here, some of which would be covered by Ms Furness' inquiry and some of which would not. It goes to the heart of the way in which the Government operates. That may be a peripheral issue in terms of Ms Furness' inquiry, but it is not one to be avoided by the Parliament. This whole stinking mess has to be clarified.

I refer to what the Leader of the Government said in his rejection of the call for papers. It seemed to me that the only basis of his rejection was the scope of the Furness inquiry. That inquiry will not inquire into the web of favours and relationships that exist between Ministers, current Government staffers, staffers who were former staff of Echo Entertainment Group and those working against the licence holders of The Star casino and Echo Entertainment Group. Is it appropriate that a government is caught up in what appears to be personal vendettas between former staff members at Echo Entertainment Group, who are now senior Government advisers, in a campaign to get rid of the former managing director of The Star casino? No, it simply is not appropriate.

I know that there will be howls from Government members who will say that this call for papers is about naming the people who have made sexual harassment allegations. It is shameful for them to suggest that during the week in which we celebrate International Women's Day. The Labor Opposition has been strong in

supporting the right of victims of sexual harassment in the workplace to have their claims dealt with honestly and independently. We have no intention of having the names of the women who work or formerly worked at The Star casino released to the public. That is not the intention of this call for papers. It is common knowledge that that would not be the outcome in a call for papers. People who look at the responses to calls for papers know that certain in confidence sections are redacted. That is how such things are done.

The papers called for by the motion would have the usual protections of commercial-in-confidence provisions, which refutes the concerns expressed by the Leader of the Government about possible follow-on from the call for papers. The provisions regarding commercial-in-confidence offer the usual protections, so those arguments are absolutely false. The fact that the Leader of the Government makes two false statements in his argument to reject the call for papers—firstly, that the Furness inquiry can deal with all of the matters, including internal government matters, and, secondly, issues of commercial-in-confidence—shows that the Government really does not have any good basis for rejecting the call, apart from politically trying to protect a Minister in the other place who has shown that he is completely out of his depth. That is the only reason that Government members do not want this call for papers granted. That is a shameful position to take.

We must be mindful that the Furness inquiry terms of reference will not enable that inquiry to go into issues such as the longstanding and long-term relationship between Peter Grimshaw and Minister George Souris. What was the nature of the assistance that Peter Grimshaw gave the Minister last year? As has been said, this issue has caused Minister Souris to show allegiance first to Mr Grimshaw rather than to the Premier. There is something very rotten in a government where this sort of thing happens. This will not be the subject of the inquiry undertaken by Ms Furness.

She is looking at licensing issues and the behaviour within The Star casino. She is looking at whether its management procedures are appropriate. She is looking at whether the people who hold the licence are sufficiently reputable to hold the licence. Ms Furness will not be looking at these other issues. These are issues on which the public wants answers. These are issues that we will find out about only if the call for papers is granted. I know Government members will be bound to do whatever they can to try to protect yet another of their hapless and incompetent Ministers, but I urge crossbenchers to support the Opposition's call for papers, because this is the only way we will find out the root cause of this stinking mess that has developed over The Star casino affair.

Dr JOHN KAYE [12.32 p.m.]: I speak on behalf of the Greens in addressing this call for papers under Standing Order 52 on the motion of the Hon. Steve Whan. I agree with a number of statements made by speakers from both sides, but in particular I agree with the term just used by the Hon. Amanda Fazio, "stinking mess". There is no question that the whole casino debate not only has dragged the O'Farrell Government into a quagmire but also has engaged the people of Sydney in the spectacle of the possibility of a second casino. There are no white hats in this debate. It cannot be said that either Minister Souris or the staff member involved, Mr Grimshaw, behaved in a way that brought credit to the O'Farrell Government.

Similarly, it cannot be said that either side in the battle within Echo Entertainment has behaved perfectly. In fact, one would have to say that the behaviour of Echo Entertainment, and warnings about a company that is based in New Jersey and imports into Sydney the behaviours that are typical of Atlantic City, suggest a very bad outcome for Sydney, given the tradition of corrupt behaviour in Atlantic City and the way in which that corrupt behaviour has time and again dragged both the city and the State government in New Jersey and Atlantic City respectively into the quagmire created by the behaviours of those casinos.

Here we are seeing a battle inside Echo Entertainment between the different factions of its senior management. We are also seeing the way in which the O'Farrell Government, because of appointments from Echo Entertainment into the O'Farrell Government, is being caught up in that battle. But we are also seeing a much greater play, a play by James Packer to create a casino at Barangaroo. When the request was merely floated in public Premier O'Farrell did not delay in jumping on board and saying what a great idea it was, without debating whether it is appropriate for Sydney to have a second casino. Within all of that mess is the issue of the leaked emails, leaked correspondence and leaked text messages which suggest there was within the O'Farrell Government behaviour which was pointing towards playing out for individual benefit, rather than for the benefit of the community.

That brings me to the issue of the call for papers. I find the call problematic, and I have a number of questions to put to both sides. I hope I can get answers to those questions. Clearly there is a right to know. There

is no doubt that the community has a right to know what happened within the O'Farrell Government and between the O'Farrell Government and various aspects of Echo Entertainment. I will come back to that later because that, to me, becomes a dividing—

The Hon. Walt Secord: Are you going to vote for it?

Dr JOHN KAYE: If you keep harassing me you will never find out, because I will run out of time. But I have 11 minutes and I expect to get there. I do not think this is a straightforward issue; there are other real issues. The first issue is the public's right to know. It is an important issue. Where the issue involves a matter of public administration and there are substantial allegations against public administration it is the valid role of the Opposition and the crossbenchers to ensure that the public gets access to those documents and is engaged in that debate. That brings me to the two inquiries that have been mentioned. The first is the Furness inquiry, being conducted by what was the Casino, Liquor and Gaming Control Authority but is now called the Independent Liquor and Gaming Authority, conducted under the Casino Control Act. There are two questions about that inquiry. The first is: What will this call for papers deliver that the inquiry will not deliver?

I think the answer is to be found in the terms of reference. The first is "to inquire into the circumstances surrounding the cessation of the employment with Echo Entertainment Group of Mr Sid Vaikunta as Managing Director of The Star casino, including in relation to Echo Entertainment's obligations under the Casino Control Act 1992 and otherwise to inform the Authority of relevant information." That is specifically directed to what happens inside Echo Entertainment. The second term of reference is to inquire into "any issues relevant to the Authority's responsibility under the Casino Control Act that arise from information received by the Authority or the inquiry in relation to The Star casino since 2 December 2011."

On my reading of the Casino Control Act, that would not encompass matters relating to what happened within the O'Farrell Government. My reading of the Casino Control Act is that the terms would relate only to decisions made and activities undertaken by the Echo Entertainment Group and by Mr Sid Vaikunta and the other people involved within that particular debate. But, on my reading of it, that would not give Ms Furness the capacity to ask questions about what activities were engaged in by the O'Farrell Government. To that extent, I do not accept that the Furness inquiry will uncover the full details of what happened here.

The second, counterfactual question is: Would this call for papers undermine the Furness inquiry? If the call for papers would undermine the Furness inquiry then the call for papers should at least be suspended until after that inquiry reports in early April. However, the existence or otherwise of these papers in the public domain will not stop the debate about Echo Entertainment. A number of debates will continue. It is fairly clear that there are sides battling out the casino matter, and I do not think the call for papers will stop the flow of information. However, the call for papers will create a comprehensive and reliable record of what is going on, rather than what we are getting at the moment, which seems to be a flow of biased information being fed to the *Daily Telegraph* or to News Limited newspapers to produce one particular outcome.

If we put these papers into the public domain we will see a comprehensive record, and there will be better opportunity to understand what happened. But it has not been explained—and the Government may want to throw another speaker into this debate—why this call for papers will undermine the Furness inquiry. The public debate will go on. Furness has the powers of a royal commission, and that is appropriate, but she does not have the powers to silence debate in the newspapers and she does not have the capacity to stop the media continuing to explore this issue in accordance with their fit and proper role in society. The question then is how this call for papers would undermine the Furness inquiry.

The second issue is the possibility of an Independent Commission Against Corruption inquiry. The nature of the commission—and I think it is totally appropriate and I raise no objection to it—is that we do not know what goes on in its inquiries, and there are good reasons why we do not. It is appropriate that the commission conducts these inquiries behind closed doors without necessarily telling the Parliament or the people of New South Wales what it is doing. But what this Parliament should not do is prejudice its decisions on the basis of the potentiality of an Independent Commission Against Corruption inquiry.

The Hon. Steve Whan: Or dodge openness.

Dr JOHN KAYE: Or dodge openness—or anything. In creating an open record we should not be in a position where we are second-guessing whether or not there will be a commission inquiry to determine our outcomes. There is an argument for the commission to communicate with the Parliament as to whether it is

conducting an inquiry, but that is a separate issue. I appreciate the Government's arguments on this but the terms of reference of the Furness inquiry do not cover all the matters raised in the call for papers. It would be possible for Ms Furness to pursue all of these issues if she wanted but she would be largely outside her terms of reference and so she would be very unlikely to do so. That is not how royal commissions tend to behave, although there have been examples where they have, but that is a story for another day.

I do not see how this call for papers will undermine the Furness inquiry. We do not know what is happening with the Independent Commission Against Corruption, and whether the Leader of the Opposition raised a matter with the commission is irrelevant. What is relevant is what would be the implications of what we do, and we simply do not know. So we cannot stop the process on the basis that there is a risk of a commission inquiry—which is an argument that could be used against almost any call for papers. On balance of the assessments, The Greens believe that it is in the public interest for these documents to be in the public domain and therefore we will support the call for papers.

The Hon. PENNY SHARPE [12.42 p.m.]: I too support the call for papers under Standing Order 52. The call for papers requests that the Premier, the Office of the Premier, the Department of Premier and Cabinet and the Minister for Tourism, Major Events, Hospitality and Racing, and Minister for the Arts, and the NSW Office of Liquor, Gaming and Racing or the Independent Liquor and Gaming Authority provide all correspondence relating to The Star casino; all records of phone conversations including text messages between Ministers, ministerial staff and their agencies relating to The Star casino; and any document which records or refers to the production of documents as a result of the order of the House.

The Opposition moved this motion not on a political whim but because the matters that have been revealed over previous weeks are very serious matters that go to the heart of the way in which government is conducted in this State. They go to the heart of the way in which ministerial staff interact with Ministers and they raise concern about the protections of the integrity and transparency around those interactions. We have heard a string of claims and counterclaims in relation to this matter but it is clear that the Premier's staff have been involved in matters where clearly there is some suggestion of orchestration behind the scenes of what is going on in relation to The Star casino. I note that the Leader of the Government indicated that the Furness review will deal with everything that happened post 2 December. Some of the text messages that have been revealed were sent prior to that date and they will fall clearly outside the scope of the inquiry that he is trying to hide behind in not supporting the call for papers.

A range of issues clearly relate to the way in which government is conducted and the way in which information is dealt with across this Government. It is outrageous that the Premier of this State can send emails to his staff that are then forwarded to people who are not within the Government. It undermines the security of information, which we should all be concerned about and which this Parliament should take very seriously. We all know that some information has to be handled delicately and sensitively but we should be concerned about the cavalier attitude that seems to have been adopted by the Premier's office around information exchange between the Premier and his staff. I am surprised that those opposite are not more concerned about it.

There are also concerns around the relationship between a Minister and staff because they have previously been friends. All of us carry long-term relationships with us when we take on our parliamentary roles. It is ludicrous for a Minister of the Crown to try to credibly suggest that because he has a personal relationship with the communications director from the Premier's office when they are speaking about issues directly involved with his portfolio somehow those are private matters that do not relate to that portfolio. This call for papers is about trying to get to the bottom of this. The Opposition sought honestly and openly to get information from the Minister yesterday and the Minister refused under some sort of smokescreen that they were private conversations that have nothing to do with the matter. He is the Minister for Gaming and Racing, he is having direct communication with the Premier's chief of communications around issues relating to his portfolio, yet he does not believe that those communications should be in the public domain. The Parliament and the Government should reject that. The Government should come clean by supporting this call for papers.

This is a matter that questions the integrity of Ministers. Ministers of the Crown have very important roles. Their roles require that they act with utmost integrity. They cannot hide behind longstanding relationships; they have to be able to draw the line and say, "I cannot speak to you about this as I am the regulator and you have to come in the front door to speak to me." This is not about wink-wink, nod-nod text messages in the middle of the night saying, "No worries, mate. You've been good to me in the past so I will look after you this time." The people of this State do not believe that that is good enough and the Government should not believe that that is good enough either. The Opposition is not moving this call for papers lightly. We believe that there is information that falls well beyond—

The Hon. Dr Peter Phelps: It is prurience and political voyeurism. That's what it is about.

The Hon. PENNY SHARPE: You want to keep covering up for your Minister. You are trying to put a smokescreen around this. Some of the comments of Minister Hartcher on radio this morning are an absolute outrage in relation to our motivations. You have tried to muddy the waters in relation to this matter and have suggested that this side of the House does not care about sexual harassment allegations. It is offensive in the extreme. You are trying to muddy the waters so that your Government is not held to account for what are clearly significant problems in dealing with information as regulators of the casino. The handling of confidential information and the integrity of Ministers in understanding their role as Ministers of the Crown have come into question. If you guys are going to cover that up, you can vote against this call for papers. But I urge all members of this House to support this call for papers. This matter relates to the integrity of all governments. Hiding behind the excuses put forward puts shame on us all.

The Hon. STEVE WHAN [12.48 p.m.], in reply: I thank Dr John Kaye, who made an excellent contribution, and also the Hon. Amanda Fazio and the Hon. Penny Sharpe, who both put the Opposition's case very strongly. However, the Minister for Police and Emergency Services was very revealing in his comments in that he only addressed one aspect of this motion. He spent his time addressing the issue of the Furness report, and I think Dr John Kaye revealed the limitations of that in his comments.

The Hon. Michael Gallacher: That was only his view.

The Hon. STEVE WHAN: I think his view was probably right. The Minister was notable in his failure to address the issues about ministerial obligations under the code of conduct for Ministers of the Crown. His failure to address issues about the proper conduct and relationships between staff and Ministers was also notable. Most notable was his failure to address clear potential conflicts of interest between the Government—the ultimate regulators and the people who should be independent in this process—and personal interests. He has revealed most strongly this Government's critical inability to deal with these issues and why this motion must be agreed to. Minister Gallacher did not make a single comment in defence of the actions of his Government colleague.

Yesterday in question time Minister Souris was revealing in his comments about his relationship with a staff member whom he described as a confidant. He said the relationship was strong enough for him not to reveal to the Premier the full information he knew about personal involvements in matters to do with The Star. As I said earlier, that is a direct breach of the Minister's obligations. The general obligations of the Code of Conduct for Ministers of the Crown provide that:

Ministers should avoid situations in which they have or might reasonably be thought to have a private interest which conflicts with their public duty.

The code further provides:

A Minister shall be frank and honest in official dealings with colleagues.

Minister Souris has clearly breached that code of conduct. Yesterday in question time he was unable to explain those breaches. In fact, he raised questions about potentially more breaches. It is revealing that in his comments today Minister Gallacher made not one attempt to defend his ministerial colleague. That shows that he—if no-one else in the Cabinet and the Government—knows that Minister Souris is in trouble: he could not bring himself to defend him. I find that very revealing.

We need the information to be made available so that we can understand what further breaches of the code of conduct may have occurred. The Premier has been completely unbalanced in addressing this issue. He properly stood down his employee but failed to take action against the Minister. The Premier did not say he has an issue that he needs to deal with; instead he launched an attack on The Star casino, throwing away any semblance of dealing with this issue in an unbiased way. This occurred in the same week or so that he enthusiastically endorsed an alternative casino without even seeing the proposal from the providers, which raises questions in itself. Many questions are to be answered. The Government will be condemned by all reasonable people if it votes against this motion today because it will be seen to be hiding a Minister from proper scrutiny. I urge members to support this motion.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 19

Ms Barham	Mr Moselmane	Mr Veitch
Mr Buckingham	Mr Primrose	Ms Westwood
Ms Cotsis	Mr Roozendaal	Mr Whan
Mr Donnelly	Mr Searle	
Ms Faehrmann	Mr Secord	<i>Tellers,</i>
Mr Foley	Ms Sharpe	Ms Fazio
Dr Kaye	Mr Shoebridge	Ms Voltz

Noes, 20

Mr Ajaka	Mr Gallacher	Mr Mason-Cox
Mr Blair	Miss Gardiner	Mrs Mitchell
Mr Borsak	Mr Gay	Mrs Pavey
Mr Brown	Mr Khan	Mr Pearce
Mr Clarke	Mr Lynn	<i>Tellers,</i>
Ms Cusack	Mr MacDonald	Mr Colless
Ms Ficarra	Mrs Maclaren-Jones	Dr Phelps

Question resolved in the negative.

Motion negatived.

MARINE POLLUTION BILL 2011

Message received from the Legislative Assembly returning the bill without amendment.

UNPROCLAIMED LEGISLATION

The Hon. Michael Gallacher tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 6 March 2012.

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

Pursuant to sessional orders business interrupted at 2.30 p.m. for questions.

QUESTIONS WITHOUT NOTICE

HUNTERS HILL RADIOACTIVE WASTE

The Hon. LUKE FOLEY: My question is directed to the Minister for Finance and Services. Will he advise the House of the timetable for transportation of 5,000 tonnes of radioactive waste from Hunters Hill to Kemps Creek?

The Hon. GREG PEARCE: No, because there is no 5,000 tonnes of radioactive waste.

FLOODS

The Hon. NIAL BLAIR: My question is directed to the Minister for Police and Emergency Services. Will he update the House on the current relief efforts for flood-affected areas throughout New South Wales?

The Hon. MICHAEL GALLACHER: I am deeply grateful to the tens of thousands of volunteers who have dedicated their time to assisting communities that have been impacted by natural disasters that are hitting our State. From the Tweed to Broken Hill, from Albury to the Hawkesbury, towns and communities across the State wake each day to water surrounding their homes and businesses. Every single one of us knows

the critical contribution made by volunteer emergency service personnel. They form a major part of the workforce of the State Emergency Service and the Rural Fire Service. Volunteers also work in other emergency service organisations.

Large numbers of volunteers have been working across the State in extended flood operations that have been running since February, and which we predict will continue to run for some time. Yesterday they were working hard to assist residents of Wagga Wagga to hope for the best while preparing for the worst. Today the focus moves to Forbes and Griffith. The Government is acting to protect those amazing volunteers. The Premier has signed an order that will support emergency service volunteers to continue to do their work. The effect of the order is that those who participate in operations relating to the current floods will be protected from victimisation by their employers. This Government recognises that employers of full-time employees have wholeheartedly supported their employees in undertaking relief work. The order will protect the small minority of volunteers who may be subject to victimisation through the loss of their employment or some other penalty, such as a financial penalty.

We thank the employers who have come to the party and who have allowed their workers to fulfil their commitments with the New South Wales Police Force, Fire and Rescue NSW, the State Emergency Service, the Rural Fire Service, New South Wales Ambulance and various other volunteer rescue units. Employers have showed great generosity and community spirit by allowing their staff to participate in emergency operations. However, it is occasionally the case that volunteers experience some negative impact from their employers owing to the service they render during emergencies. For that reason, yesterday the Premier made an order under the State Emergency and Rescue Management Act to protect our volunteers in rare cases in which employers seek to take some action against volunteers while they are deployed in emergency service work.

The order triggers an offence with a maximum penalty of \$3,300 when an employer is found to have taken negative action in such cases. The order also allows a court to make directions, including reinstatement of a sacked worker. The order will be in force until it is rescinded. It will extend across the bulk of the State, which is a timely reminder of how extensive the floods are, and the importance of contributions made by our volunteers, full-time staff, and community organisations.

HUNTERS HILL RADIOACTIVE WASTE

The Hon. ADAM SEARLE: My question is directed to the Minister for Finance and Services. Is the Minister aware that last Sunday the executive director of the State Property Authority, Simon Furness, stated, "The answer is absolutely clear that the 5,000 tonnes of waste will go to Kemps Creek"? Does the Minister stand by his answer given earlier in question time today that there is no 5,000 tonnes of waste going to Kemps Creek, or was he misleading the House?

The Hon. Dr Peter Phelps: Luke said "radioactive".

The Hon. GREG PEARCE: That is right.

The Hon. Dr Peter Phelps: Why are you changing the question? Why are you verballing your own leader?

The Hon. GREG PEARCE: The Hon. Dr Peter Phelps has caught the Opposition out again: "Little tactics, distorting things—let's just try to trick him, verbal him." The Leader of the Opposition, Mr Scare Tactics, will go out and twist, turn and distort. Sometimes he overtly tells lies to make sure that he can get his dirty little scare campaigns out there.

The Hon. Steve Whan: Point of order: The Minister is casting aspersions on another member of this House that are unjustified. I ask you to draw him back to answering the specific question he was asked.

The PRESIDENT: Order! The Minister was making imputations against another member. The Minister should not make such imputations during his answer.

The Hon. GREG PEARCE: Out comes the Leader of the Opposition who asks a question about radioactive waste—restricted solid waste or radioactive waste—and what does his little second do? His little second pops up and says, "Ooh, you won't notice that the question I asked you wasn't about radioactive waste."

We're now asking you about waste. Ooh, and you'll fall for it, and you'll say, 'Ooh, you've caught me out. Ooh, you've caught me out.'" I now know that the Opposition has taken the advice of the Hon. Duncan Gay and has a question time committee.

The Hon. Michael Gallacher: Who is on it?

The Hon. GREG PEARCE: Obviously there is a bunch of dubbos on the question time committee because Opposition members are so dumb.

The Hon. Duncan Gay: Point of order: Dubbo is a fantastic place with fabulous people.

The Hon. GREG PEARCE: I withdraw any aspersion on Dubbo.

The PRESIDENT: Order! I note the Minister has withdrawn the reflection on Dubbo. Has the Minister concluded his answer?

The Hon. GREG PEARCE: Much as I would love to go on, I have concluded my answer.

COAL AND COAL SEAM GAS EXPLORATION

The Hon. JEREMY BUCKINGHAM: My question is directed to the Minister for Roads and Ports, representing the Minister for Primary Industries. How does the Minister reconcile his statement made during last year's election campaign that, "The NSW Liberals and Nationals believe that agricultural land and other sensitive areas exist in NSW where mining and coal seam gas extraction should not occur", with yesterday's announcement by the Government that no areas will be ruled out from coal and gas development? Have The Nationals sold out the farmers to the mining industry?

The Hon. DUNCAN GAY: I thank the member for his question. I have been waiting two days for a question on this issue. The Government has introduced the best legislation that not only this State has seen but also the country has seen. The Labor Opposition could not give a damn, nor did it give a damn when it was in government.

The Hon. Jeremy Buckingham: Point of order: This is an important question. I cannot hear the Minister.

The PRESIDENT: Order! I uphold the point of order. There is far too much audible conversation.

The Hon. DUNCAN GAY: It was disappointing for me to sit here yesterday and not receive praise from the Labor Opposition for something that we could do but that it could not, and would not, do. Of course, it is predictable for The Greens to be critical of this because they have been caught out. They just cannot deliver anything in this area. They promise everything to everyone, yet they cannot deliver.

[Interruption]

Well, here he is—the loser on the losers' lounge. The bloke who lacks ticker went to Katrina Hodgkinson's electorate office the day she was away because he could not face up to her. He and his little mate have no ticker whatsoever. This is the best policy that has ever been developed for farmers in this State and in this country. How dare Opposition members laugh. When they were in office, supported by their mates The Greens, they did absolutely nothing about this issue.

A policy that I developed in Opposition as the shadow Minister has been implemented. It has bells and whistles. It mirrors what we had in place, and it has gone a whole lot further. Stringent measures have been put in place—the aquifer interference policy and the strategic lands policy will ensure that agricultural land that should not be mined will be protected. The former Labor Government wanted to base it on a set of rules. Under those rules Caroonna would have been the first mine. Do not talk to me about The Greens policy. The Greens were telling everyone that there would not be mining at Caroonna. Mr Shenhau said that himself. As I said, it would have been the first mine under the previous Government's policy. They are absolute hypocrites. Yesterday not one Opposition member came forward to congratulate us on this great policy.

The Hon. Cate Faehrmann: Point of order: The question was about the Government's strategic regional land use policy; it had nothing to do with The Greens. I ask you to ask the Minister to be relevant to the question.

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

The Hon. DUNCAN GAY: I am proud to say that high-quality agricultural land and its water sources will be protected from inappropriate mining of coal seam gas projects under these historic New South Wales Government's plans, which were launched yesterday. They were fantastic.

CENTRAL SYDNEY TRAFFIC AND TRANSPORT COMMITTEE

The Hon. JOHN AJAKA: My question is addressed to the Minister for Roads and Ports. Will the Minister update the House on the Premier's establishment of a central Sydney Traffic and Transport Committee?

The Hon. DUNCAN GAY: What a great question and what a great day. What a sensible outcome for the city and the State.

The PRESIDENT: Order! Opposition members will cease interjecting.

The Hon. DUNCAN GAY: The Premier, Barry O'Farrell, has announced a new initiative today. I am pleased to say that it will finally enable the New South Wales Government and the City of Sydney to develop plans for the Sydney central business district in collaboration with each other. The two are actually talking to each other.

The PRESIDENT: Order! The Hon. Penny Sharpe and the Hon. Sophie Cotsis will discontinue their stream of abuse and listen to the Minister in silence.

The Hon. DUNCAN GAY: They will learn something. The New South Wales Government will legislate for a joint State-City of Sydney committee to take control of transport and traffic planning in Sydney's central business district. We are establishing a Central Sydney Traffic and Transport Committee to be responsible for developing joint plans and policies for public transport and traffic within central Sydney and making decisions on major transport issues. I note that the Lord Mayor has questioned how the proposal will differ from the current working arrangements.

Let me make it quite clear: This proposal will ensure that major transport decisions are properly coordinated between the New South Wales Government and the City of Sydney Council. There will be no more piecemeal transport planning that has adverse impacts on particular groups of transport users. We will not be pandering to minority sectional interests under the guise of the City of Sydney's local transport committee or, as the Lord Mayor Clover Moore had it renamed, the local pedestrian cycling and traffic calming committee—which sums up her war on motorists.

The PRESIDENT: Order! Government members will contain their enthusiasm.

The Hon. DUNCAN GAY: We will have a system in place that ensures proposals consider the overall impact on the total transport system. Our Government is determined to see an end to the days that the Lord Mayor's thought bubbles result in mud baths in Sussex Place, cruise ships that are unable to be replenished and bike lanes that are more akin to a bowl of spaghetti thrown over the city's streets than an integrated proper network. To be frank, it is about time someone stood up for the central business district workers, businesses, residents and visitors—and we are doing it. The former Government would not do it and The Greens would not do it. Sydney is a global city and it cannot be planned in isolation by one party or another. It deserves a first-rate and properly functioning roads and transport system.

The former Labor Government could not grasp what the New South Wales Liberal-Nationals Government has known all along—the transport issues in the Sydney central business district have a far broader impact on the State's economic activity than just the city. Currently the Government and the council share transport and roads responsibilities, and there is an ad hoc coordination between the two levels of government. For the first time, the Central Sydney Traffic and Transport Committee will bring all traffic and transport decision-making under the one umbrella. [*Time expired.*]

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

The Hon. DUNCAN GAY: I acknowledge the noise from Opposition members; they just hate good news. This really is good news. I know the Hon. Eric Roozendaal quietly supports this. The New South Wales

Government has been in disagreement with the City of Sydney Council on a number of issues since we came to Government, including speed limits, car access to the central business district, the provision of layover space for buses, the extension of the network and location of bikeways, and the extension of low-speed shared zones.

When we were elected in March last year we said that one of our top priorities was to ensure that transport services in this State are integrated. This takes the next step in that process. The Central Sydney Traffic and Transport Committee will be chaired by the Director General of Transport NSW, Mr Les Wielinga, and will include three additional members nominated by the New South Wales Government and three nominated by Sydney City Council. This is a step in the right direction and acknowledges that Sydney is a global city, the capital of our State and the major centre for New South Wales. It acknowledges also that businesses operate in this State and people have to work together. Gone are the days when people would read in emails and on the web about transport changes put in place by the Lord Mayor.

CENTRAL BUSINESS DISTRICT CYCLEWAYS

The Hon. CATE FAEHRMANN: My question is directed to the Minister for Roads and Ports. Regarding the joint Government and City of Sydney transport committee, about which the Minister just informed the House, will the Government rule out removing any of the current central business district cycleways?

The Hon. DUNCAN GAY: Despite the excitement from everyone, this State needs a properly integrated cycleway complex. Had there been proper consultation, at least two of Sydney's streets would not have cycleways: King Street and College Street. Alternatives are available to properly integrate transport. The Central Sydney Traffic and Transport Committee will decide for the future. I am not a member of the committee. We must be quite clear: those who have done more harm to cycleways than anyone else in this State are Clover Moore and her supporters from The Greens who bull-headedly and pig-headedly put cycleways in the wrong places. Sydney has a place for cycleways but not where it is totally inappropriate. Do not blame us for the cycleways; The Greens and their mates have alienated those who are natural supporters of cycleways and acknowledge their necessity. The Greens should stop whinging and weeping. The fact is that the problem with cycleways is Clover Moore. This independent committee will add cycleways properly; I will not make that decision.

HUNTERS HILL RADIOACTIVE WASTE

The Hon. PENNY SHARPE: My question is directed to the Minister for Finance and Services. Given that the Minister's leader, Mr O'Farrell, stated four months prior to the March 2011 election that "to dump it in western Sydney is stupid; it's a threat", why will the Government now send 5,000 tonnes of radioactive waste to western Sydney?

The Hon. GREG PEARCE: I will just try to educate them. When those opposite were in government they had extensive testing done of the contaminated soil at Hunters Hill and discovered that it was suitable for disposal at the waste disposal site at Kemps Creek, which operated under their control for most of their time in government.

The PRESIDENT: Order! The Leader of the Opposition will come to order.

The Hon. GREG PEARCE: Opposition members do not seem to be able to get it clear. I suppose that is understandable because their modus operandi is to twist, distort, lie and try to scare people.

The Hon. Charlie Lynn: Don't forget Walt's spin.

The Hon. GREG PEARCE: Yes, a lot of spin. Someone on their benches or in their staff probably is competent to read.

The Hon. Dr Peter Phelps: Name them.

The Hon. GREG PEARCE: I am making an assumption, I admit. If they do not have anyone who is competent, I am sure my Parliamentary Secretary, the Hon. Matthew Mason-Cox, would be prepared to assist them.

The Hon. Penny Sharpe: Point of order: My point of order is relevance. Hearing from the Minister about what his Parliamentary Secretary does or does not do does not answer the question. The question asked what the Government is doing about 5,000 tonnes of radioactive waste going to Kemps Creek, which it said it was not going to do.

The PRESIDENT: Order! I remind all Ministers of the need for them to be generally relevant in their answers during question time.

The Hon. GREG PEARCE: Those opposite think that by continually asserting lies it becomes the truth. That is not the case. The Hon. Penny Sharpe is remotely intelligent. I suggest she look at the definition of "restricted solid waste" and "hazardous radioactive material". She then might be able to form a question that is capable of being answered and is not simply part of scare tactics.

WORKCOVER

The Hon. SCOT MacDONALD: My question is addressed to the Minister for Finance and Services. Will the Minister inform the House about the impact of work injury damages claims on the financial performance of the workers compensation scheme?

The Hon. GREG PEARCE: I can inform the House that the New South Wales WorkCover scheme is not financially sustainable in its current form. The scheme deficit increased by almost \$1 billion in the six months to June 2011, and preliminary indications are that an even larger increase will be incurred when the December 2011 result is finalised. One issue significantly hampering optimal scheme performance is that lump sum compensation, particularly fault-based, is expensive and wasteful and results in inferior health and return-to-work outcomes for workers. I refer to common law claims as opposed to statutory claims. Common law claims are provided for under the legislation in cases where the whole person impairment of the person involved is over 15 per cent. However, work injury damages claims are fault-based claims insured in a system that provides for no-fault insurance.

Work injury damages claims cost around one-third more than statutory benefits claims of similar type and severity. These types of claims emerge slowly over time and are finalised even more slowly, increasing costs to the scheme. Recently, the scheme's actuary increased the projection of work injury damages claims from about 400 per half year to about 490. The cumulative deterioration in work injury damages liability in the New South Wales scheme over the last three years was \$934 million, making it the fastest growing scheme liability. As a proportion of total liabilities, work injury damages liability has almost doubled in less than three years from 6.3 per cent as at 31 December 2008 to over 12 per cent as at 30 June 2011.

This increase in liability is driven by an increase in the proportion of claims that pursue a work injury damages claim and the failure of legislated thresholds intended to limit access to work injury damages. In particular, the negligence of the employer is rarely tested or adequately demonstrated, claims are made many years out of time with the court accepting these claims in nearly all instances, and inappropriate strategies are used to satisfy the impairment threshold. The scheme actuary has observed that with many accident compensation schemes in Australia, increasing the propensity to claim negligence-based damages has led to significant destabilising and unsustainable costs escalation. I have made it clear that action is needed to bring the scheme back into the black.

The Government considers that improved management of the scheme is vital and of the highest priority. I call on the Opposition to play a constructive role in working with the Government to solve the problems it left for us. I also call upon The Greens to stop harping from the sidelines and come up with some positive suggestions for how some of these problems can be solved. I recommend to the Labor Party that they put some time and effort into considering some of the issues in the WorkCover scheme instead of the scare campaigns they are intent on running.

ASBESTOS AND NOXIOUS WEEDS DISPOSAL

The Hon. PAUL GREEN: My question is addressed to the Minister for Finance and Services, representing the Minister for the Environment. Given the recent announcement of the section 88 waste levy review and given that safe and legal disposal of asbestos and noxious weeds is in the best interest of the community and the local environment, will the Minister ensure that the disposal of asbestos and noxious weeds is exempt from the levy?

The Hon. Luke Foley: He will send it to Kemps Creek.

The Hon. GREG PEARCE: The member could have said that the safe and secure disposal of contaminated soil is not a bad thing to do either. The Leader of the Opposition seems to now be accepting that the Kemps Creek facility that his Government operated for so many years is the appropriate place for the disposal of contaminated soil. As to the other parts of the question, I will take them on notice.

KEMPS CREEK RADIOACTIVE WASTE SITE

The Hon. SOPHIE COTSIS: My question is directed to the Minister for Finance and Services. Where was the Minister on Sunday that was more important than fronting up to a public meeting of western Sydney residents to discuss the dumping of radioactive waste in their local area?

The Hon. GREG PEARCE: Last year I was happy to organise a camping trip with the Hon. Sophie Cotsis and we have agreed that it will be in aid of a charity—

The Hon. Sophie Cotsis: Point of order: My point of order relates to relevance. The Minister should answer the question: Where was he on Sunday?

The Hon. John Ajaka: To the point of order: The Minister is being generally relevant. The question asked, "Where was the Minister on Sunday?" The Minister has to explain in his answer what was happening, so how can the Minister not be relevant?

The PRESIDENT: Order! I thank the Hon. John Ajaka for his assistance. There is no point of order.

The Hon. GREG PEARCE: Yes, members of the Opposition had their stunt on Sunday. All of the western Sydney Labor members of Parliament who remain in office at State and Federal level attended that meeting—I think there were three of them there. It was a good crowd of about 100-and-something people; a very nice crowd. I note that some doctors were in attendance. I do not think they were medical doctors, however; I think they were doctors with all sorts of degrees.

The Hon. Steve Whan: Like Dr Phelps.

The Hon. GREG PEARCE: Yes, like Dr Phelps. I was invited a couple of weeks ago to attend the meeting but I had other engagements, and that was indicated by my office to those who extended the invitation. The invitation asked in the event that I could not make it whether I could nominate someone to attend on behalf of the Government. So guess what I did? As I was asked to do by the organisers, I nominated someone from my department to attend and that person duly attended. There was no follow-up call from the organisers to say, "We really want you to come, please come along." No-one made further contact; no-one indicated there was a concern or an issue. That full Opposition, Labor Party, action-man team effort got a little bit of coverage on ABC television—but none of the commercial channels were interested in it. And most of the coverage on ABC television—and I do not watch ABC television, and I do not know of anyone who does—was of the Government representative. I know: I have seen a copy of the clip.

The Hon. Steve Whan: Point of order: I draw attention to the lack of relevance in the Minister's answer. I want to know what happened to the big newspaper picture of the Minister.

The PRESIDENT: Order! There is no point of order. The Minister's time for answering the question has expired.

SOCIAL MEDIA AND EMERGENCY SERVICES

The Hon. NATASHA MACLAREN-JONES: My question is directed to the Minister for Police and Emergency Services. Can the Minister inform the House about the use of social media during emergency services operations?

The Hon. MICHAEL GALLACHER: I thank the honourable member for her question. Media plays a vital role in providing safety and preparedness information to communities affected by floods and other natural disasters. Governments need to be ready to respond in times of disaster and crisis. A fast and effective operational response is critical, and part of that response needs to be providing speedy and accurate information

to the public. I am pleased to inform the Chamber that our police and emergency services are embracing both older forms of media as well as social media tools to keep the public informed about disasters and emergency incidents.

During these devastating and tragic floods currently affecting New South Wales the State Emergency Service has used a wide range of media to ensure that the risks to communities are minimised, that communities are safe and well-prepared and that the public is informed of flooding risks and updates. I am advised that the on-site media studio located in the State Emergency Service headquarters has conducted more than 100 live-to-air interviews since 1 March 2012. In addition to using these traditional types of media, the State Emergency Service has recorded in excess of 60,000 visits to its web—an unprecedented increase from its average of 1,200 visits per day. The State Emergency Service also received over 11,000 "likes" on its Facebook page with tens of thousands of "views" daily.

The State Emergency Service uses its Facebook page to answer questions directly from the community enabling it to convey personal and accurate information as well as enabling community members to share information. All Facebook posts are disseminated also via Twitter. Given the complexity and enormity of the flood campaign, the State Emergency Service has deployed a number of media volunteer officers to at-risk regions to liaise with local media in the field. Emergency service agencies are working together with media support being provided by the New South Wales Rural Fire Service as well as other agencies. Fire and Rescue NSW has also had great success in using a range of social media tools to communicate with and inform the public.

In the last week of February Fire and Rescue NSW responded to two of the biggest fires that we have encountered in New South Wales over the past 12 months. I am advised that in both cases social and online media proved crucial in keeping the public informed about the incident. The first of these was a major fire on 24 February at the Harvey Norman superstore at Jamieson. Whilst firefighters got on with the very important business of battling the blaze Fire and Rescue NSW made sure that the community was kept abreast of its efforts. Fire and Rescue's Twitter and Facebook pages, as well as the website, were updated regularly with operational information and traffic updates so that motorists knew which routes were clear to drive through.

I am advised that an astounding 10,487 visitors clicked through the Facebook site to view posts about the incident, and that many of them commented on or shared the information that they read. In addition, many media outlets relied heavily on Fire and Rescue's social media messaging in their reporting on the fire, which was quickly and effectively brought under control by the responding firefighters. Similarly, four days later, on 28 February, firefighters responded to a fire at a factory at Northmead. During the incident Fire and Rescue's Twitter user name, firerescuensw, was trending as one of the top Twitter accounts in Sydney. It is not only the emergency service agencies that are using social media; the Police Force also uses Facebook, Twitter and YouTube to provide information about policing activities. The New South Wales Police Force's Facebook page has received more than 86,000 "likes" and provides crime information, warnings and crime prevention tips that are of major assistance to the community, particularly regarding statewide events.

CENTRAL SCHOOLS

Dr JOHN KAYE: My question without notice is directed to the Minister for Roads and Ports, representing the Minister for Education. What steps has the Minister for Education taken to fulfil his promise to the March 2011 State council meeting of the New South Wales Teachers Federation that an O'Farrell Government would implement a unique staffing and funding formula that caters for central schools?

The Hon. DUNCAN GAY: The Minister for Education would like to acknowledge the uniqueness and importance of central schools, a number of which are in his region. As a person educated in a rural school, the precursor of central schools, the Crookwell District Rural School—

[Interruption]

Labor Party members deride central schools and rural schools. They have no idea what they are talking about. They have no roots in the area that they deride. This is an important question, and I will answer it. Central schools have existed for more than 140 years, one of the oldest being Barraba Central School, which was established in 1863—the same year as Newington was established. Central schools meet the needs of isolated populations and provide education in the local setting, so that students do not have to travel long distances to the local high school. The skills and expertise of staff teaching kindergarten to year 12 are drawn on to address students' learning needs, and this also provides professional learning for all teaching staff in central schools.

The combination of teaching backgrounds of principals, both primary and secondary, is also a great strength for central schools, as they bring a diversity and depth of expertise in a kindergarten to year 12 setting. Central schools know their students well, providing a community of students, staff and parents and caregivers. From the benchmarking of Best Start right through to the Higher School Certificate, the continuum of learning is there to support the central school student.

The Hon. Amanda Fazio: That is a big word for you.

The Hon. DUNCAN GAY: It is a big word, but I was well taught at a rural school before I went on. On 11 August 2011 the Minister for Education announced that the New South Wales Government would be seeking to make changes to empower schools to make more locally based decisions to help them better meet the needs of their students. The Minister for Education released a list of 11 key reform directions and asked the Department of Education and Communities to engage in consultation with principals, teachers, parents and the broader educational community about how to implement those changes. The Minister has asked me to advise the House that the consultation period and analysis of responses for Local Schools, Local Decisions recently concluded. The next steps in this important educational reform will be announced in due course.

Dr JOHN KAYE: I ask a supplementary question. Can the Minister further elucidate his answer by making reference to the March 2011 New South Wales Teachers Federation council meeting at which the Minister made a number of promises?

The Hon. DUNCAN GAY: I am sure I answered the question. As I and other members of this House know, if the Minister for Education gives a commitment, he sticks to it.

BLUE MOUNTAINS SEWERAGE TUNNEL

The Hon. HELEN WESTWOOD: My question is directed to the Minister for Finance and Services. Is the Minister aware that the 39-kilometre long Blue Mountains sewerage tunnel is now considered vulnerable to catastrophic failure during heavy rain events?

The PRESIDENT: Order! I cannot hear the Hon. Helen Westwood. If I cannot hear the question, I will be unable to rule on points of order that might be taken. The question should be heard in silence. If Dr John Kaye needs to have a conversation with a member, he should do so outside the Chamber.

The Hon. HELEN WESTWOOD: What is being done to address this situation?

The Hon. GREG PEARCE: I think the member should read the newspapers or watch television because, unfortunately, infrastructure around the world is vulnerable to catastrophic events. I need go no further than the tragic and terrible earthquake in Christchurch and the earthquake and tsunami in Japan.

[Interruption]

Opposition members do not treat anything like this seriously. They are not interested in this matter. They are interested in their little scare campaigns. Where is this scare campaign going? They will have a couple of their cronies—the remaining three members of the Blue Mountains Labor Party branch—wheeled out somewhere up there in the mountains and get a couple of compliant young and inexperienced journalists to come along and take their photos and hear what they have to say.

The Hon. Luke Foley: Point of order: The Minister does lead with his chin.

The PRESIDENT: Order! The Leader of the Opposition should make his point of order.

The Hon. Luke Foley: My point of order relates to relevance. An attack on members of the Labor Party in the Blue Mountains is in no way generally relevant to the specific question asked by the Hon. Helen Westwood, which was about the Blue Mountains sewerage tunnel.

The PRESIDENT: Order! I uphold the point of order. I ask the Minister to note that by following a line of argument on where the question is heading he is clearly debating the question. If the Minister has relevant information to provide, he should provide it; otherwise, he should resume his seat.

The Hon. Luke Foley: But keep attacking journalists. Keep going—it's terrific!

The Hon. GREG PEARCE: I love journalists. Indeed, just today Sean Nicholls reported how the State Business Chamber has given the Government 7½ out of 10 for its first year, and specifically praised the Premier, the Treasurer and me. I appreciate the efforts of the media.

The Hon. Luke Foley: Point of order: Once again the point is relevance. The Minister is flouting your earlier ruling. If the Minister does not know the answer he should resume his seat, and obtain a reply to give to the House in due course.

The PRESIDENT: Order! I uphold the point of order. Does the Minister have any further information to provide at this point?

The Hon. GREG PEARCE: I have answered the question.

The Hon. HELEN WESTWOOD: I ask a supplementary question. Will the Minister elucidate his answer by taking the question on notice?

The Hon. GREG PEARCE: One cannot elucidate by taking the question on notice.

The PRESIDENT: Order! Though a point of order was not taken, the supplementary question was not in the correct form. I rule it out of order.

QUEEN MARY 2 SYDNEY VISIT

The Hon. MARIE FICARRA: My question is directed to the Minister for Roads and Ports. Can the Minister update the House on the *Queen Mary 2* visit to Sydney?

[*Interruption*]

The Hon. DUNCAN GAY: There they go again. This classless group wants to bag the poor people who use the Neutral Bay wharf.

The PRESIDENT: Order! I call the Hon. Sophie Cotsis to order for the first time.

The Hon. DUNCAN GAY: Today is an important day and I take this opportunity on behalf of the House to welcome the arrival of the *Queen Mary 2* to Sydney and to the Overseas Passenger Terminal. If members have a moment today I encourage them to take a walk down to Circular Quay, where they will witness the majestic sight of the biggest cruise ship to ever tie up at the Overseas Passenger Terminal. The berthing of the *Queen Mary 2* at the Overseas Passenger Terminal symbolises the huge growth in the cruise industry and the determination by this Government to provide the infrastructure needed to maintain and enhance that growth. That is something those members on the other side of the Chamber did not do and why they do not want to listen.

The Hon. Steve Whan: This is its second visit.

The Hon. DUNCAN GAY: I did not say it was its first visit. If the dope from the south had been listening and if he had read the papers he would have known that this is its first visit to the Overseas Passenger Terminal. That is why he lost his seat.

The Hon. Luke Foley: Point of order: It is unparliamentary to refer to the Hon. Steve Whan in the terms in which the Leader of the House has and I ask that he withdraw them.

The PRESIDENT: Order! In the past Presidents have found the following words to be offensive and have required members to withdraw them: idiot, buffoon, grub and dunderhead. Under the standing orders I am required to decide whether I find a word offensive. "Offensive" is a strong word, and while the word "dope" may be unparliamentary, I do not know that it is offensive. To assist me in my ruling, I ask the Hon. Steve Whan to indicate whether he finds the term offensive.

The Hon. Steve Whan: I did not actually hear him say it.

The PRESIDENT: Order! In order to require a member to withdraw a word I am required to find it offensive. I am disinclined to do that on this occasion. The Minister knows the forms of the House and he will follow them.

The Hon. DUNCAN GAY: Thank you, Mr President, for your ruling. Had the honourable member found the term offensive, I would have withdrawn it. [*Time expired.*]

The Hon. MARIE FICARRA: I ask the Minister for Roads and Ports a supplementary question. Will the Minister elucidate his answer?

The Hon. DUNCAN GAY: I am disappointed that my time was taken up earlier. To ensure that the 345-metre ship can berth safely, Sydney Ports has sunk a special heavy-duty anchor into the seabed at Campbell Cove. Sydney Ports has brought forward this interim solution by several months—

The PRESIDENT: Order! I call the Hon. Amanda Fazio to order for the first time.

The Hon. DUNCAN GAY: —at the request of Carnival Australia, to allow the berthing of large cruise ships such as the *Queen Mary 2* at the Overseas Passenger Terminal. I am pleased to report that the investment of \$5 million in mooring improvements at the Overseas Passenger Terminal as part of an \$87 million infrastructure program launched by Sydney Ports is intended to support the cruise industry over this growth phase. The 151,400-tonnes *Queen Mary 2* berthed at 6.30 a.m. today and will leave at about 8.30 p.m. on Thursday. I encourage anyone wanting to see the *Queen Mary 2* to catch public transport such as a train, bus or ferry to Circular Quay and then walk to the Overseas Passenger Terminal. This is the second visit by the *Queen Mary 2* to Sydney Harbour in a short space of time and it cements Sydney's reputation as one of the most popular cruise destinations in the world. From the commencement of the 2012-13 cruise season—

The Hon. Walt Secord: It's a cruise capital.

The Hon. DUNCAN GAY: It is a cruise capital, and Sydney's Overseas Passenger Terminal will be a regular berthing point for large cruise ships such as the *Queen Mary 2*.

[*Interruption*]

There is a lot of interest in old queens on that side of the House. Two large ships will arrive next season. They are Royal Caribbean's 315-metre long *Celebrity Solstice* and the 310-metre long *Voyager of the Seas*. [*Time expired.*]

NATIONAL PARKS

The Hon. ROBERT BORSAK: My question without notice is directed to the Minister for Finance and Services, representing the Minister for the Environment. Is the Minister aware of calls by the president of the Western Division of the Shires Association, Carathool Mayor Peter Laird, to get some commercialisation into the running of New South Wales national parks? Has the Minister agreed to travel to the area to have a look at the problems and to camp in those parks while he is there? What sorts of commercialisation projects would the Government consider for national parks?

The Hon. GREG PEARCE: I acknowledge that the member raised this matter last year and I undertook to travel out west to have a discussion, and I fully intend to do that. My diary has not yet been finalised to include that engagement, but it will be. As members will recall, last year the Hon. Sophie Cotsis also agreed to come on that trip, so we need to coordinate it. I will certainly be undertaking that visit and that discussion as soon as I can.

BLUE MOUNTAINS SEWERAGE TUNNEL

The Hon. ADAM SEARLE: My question is directed to the Minister for Finance and Services. Will the Minister commit to implementing the preferred option identified by the community working group that was established by Sydney Water to examine the options to fix the Blue Mountains sewerage tunnel and rule out inferior cheaper options?

The Hon. GREG PEARCE: That is a matter for Sydney Water. Obviously, I do not make those sorts of commitments. Sydney Water will carry out an assessment and make a decision.

SUPPLY MANAGEMENT FEE

The Hon. CATHERINE CUSACK: My question is directed to the Minister for Finance and Services. Can the Minister inform the House how the Government is making it easier for business to provide goods and services under New South Wales government contracts?

The Hon. GREG PEARCE: The member has asked a very good question. Along with everything else that took place yesterday at the Procurement Forum, I announced also that the New South Wales Government will abolish the supply management fee of up to 2.5 per cent paid by businesses when providing goods and services under New South Wales government contracts. For too long this supply management fee has been a barrier to doing business with the New South Wales Government. We on this side of the Chamber are committed to changing the way government does business, and removing this fee is an important part of that commitment.

Simply put, the fee has been an administrative burden on business, it has potentially led to higher prices for government purchases and it has been a barrier for small and medium businesses to contract with the Government. That has been verified by independent economic analysis by the Centre for International Economics, commissioned by the Government, which found little or no benefit in retaining the fee. The analysis found that the fee effectively acted as a tax on suppliers, who responded by passing the fee on in the form of higher prices for the goods and services purchased by government agencies.

It also found that the fee has been a burden on industry, which has had the task of recording, collecting and paying the fee, and has imposed unnecessary red tape costs. Finally, it showed that the fee acted as a disincentive to small and medium-sized businesses seeking government goods and services contracts, potentially blocking innovative service delivery outcomes. The Liberals and Nationals are committed to creating an open, transparent process for business to engage with government and a procurement landscape that allows for greater competition and innovation in service delivery outcomes. With this in mind, removal of the fee will occur from 1 July 2012 as existing State contracts expire. It will result in a saving to the New South Wales economy of about \$15 million per annum. This is a significant reform that will benefit companies across the State that are seeking business opportunities with the Government and will ultimately lead to better outcomes for New South Wales taxpayers.

GUN CONTROL

Mr DAVID SHOEBRIDGE: My question is directed to the Minister for Police and Emergency Services. Now that the Western Australia Government is moving to cap the number of guns that licence holders can own, when will this Government seriously tackle gun crime by putting any form of cap on gun numbers in New South Wales?

The Hon. MICHAEL GALLACHER: I take with a grain of salt any reference that The Greens make to what other States are doing. I am very cautious before I agree in any way with anything that they say.

Mr David Shoebridge: What about Channel 9 and the Western Australian Minister for Police?

The Hon. MICHAEL GALLACHER: Mr David Shoebridge might well have contact with the Western Australian Minister for Police but I have not had a chance to speak to him. I will look with interest at the public comments in relation to this matter.

The time for questions has expired. I ask that if members have any further questions they place them on notice.

SPECIAL EDUCATION SERVICES

The Hon. DUNCAN GAY: On Tuesday 14 February 2012 Dr John Kaye asked a question without notice of the Minister for Roads and Ports, representing the Minister for Education. I have been provided with the following response:

There are 40 specialist language classes across New South Wales. The regional arrangements for the start of 2012 are the same as the arrangements in place at the end of 2011. No new classes have been established.

TRANSPORT COMPANY CONTRACTS

The Hon. GREG PEARCE: Yesterday Mr David Shoebridge asked me a question on transport carriers. I can report that there have been meetings regarding contract carrier provisions between my office and the following organisations: the Australian Road Transport Industrial Organisation, Veolia, and the Transport Workers Union. Topics discussed included chapter 6 of the Industrial Relations Act 1996 and road safety legislation currently being considered by the Commonwealth.

Questions without notice concluded.

TRIBUTE TO SENIOR CONSTABLE DAVID RIXON

Ministerial Statement

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [3.32 p.m.]: It is with great sadness that I speak today following the death last week of Senior Constable Dave Rixon in the line of duty. I am sure that everyone joins me in extending our deepest sympathies to Senior Constable Dave Rixon's family, his friends and colleagues in the Police Force. As members would be aware, Senior Constable Rixon—a well-respected officer, community member and dedicated family man—was tragically killed whilst on duty in Tamworth.

Our thoughts are with his wife and children during this very sad and difficult time. Just the day before Senior Constable Rixon's tragic death we were celebrating 150 years of the NSW Police Force. Today the whole policing community of almost 16,000 officers and the non-sworn personnel who are their families and friends, and indeed the community, are in mourning. An officer went to work to help protect our community; tragically he did not come home. These are the risks associated with being a police officer. It is why as a community we are indebted to their service.

There are very few jobs that require people to risk their lives on a daily basis and policing is one of them. Police officers dedicate their working lives to the service and protection of the community and we honour and admire the courage and bravery of all officers. Our police officers are committed to serving the community, upholding the law and keeping the people of New South Wales safe—putting their lives on the line to do so. Sadly, Senior Constable Dave Rixon made the ultimate sacrifice in the line of duty and in his service to the State. It is a sacrifice we hope and pray that no officer will ever have to make. I understand that the NSW Police Force has established a critical incident team and I trust in their professionalism to fully investigate this matter.

On behalf of the Government and the people of New South Wales I express my deepest sympathy and condolences to the family, friends and colleagues of Senior Constable Dave Rixon. I honour his courage, sacrifice and bravery in performing his duties. I concur with the kind words of the Hon. Walt Secord in his adjournment speech last night. Lest we forget.

The Hon. LUKE FOLEY (Leader of the Opposition) [3.35 p.m.]: I join with the Leader of the Government in this statement. The thoughts and prayers of the Labor Opposition are with Senior Constable Rixon's family, particularly his wife, Fiona, and their six children. There can be no greater tragedy than when a police officer lays down his or her life in the line of duty, gunned down in a senseless act of violence. There can be no pain more acute than that felt by a slain policeman's family, left in this case without a husband, a father and a son. There can be no sorrow more overwhelming than that of David Rixon's colleagues in the NSW Police Force, who continue to carry the same heavy burden of responsibility which placed Senior Constable Rixon in harm's way.

David Rixon was an exemplary officer, a pillar of his community and a stalwart of law and order in Tamworth. While it is hollow solace to the family he has left behind, the entire State stands firmly behind them and will offer them every bit of support it can. We have all been left numb by the pointless, needless death of Senior Constable Rixon. Just as with every loss of a police officer, it leaves our community scarred and damaged. The events of last Friday morning will serve as a constant reminder of how precious life is and how lucky we are to live in safety and security, protected by people like Senior Constable David Rixon.

PRIVILEGES COMMITTEE**Report: Citizen's Right of Reply (Mrs Julie Passas)**

The Hon. TREVOR KHAN [3.36 p.m.]: I move:

That the House adopt Report No. 59 of the Privileges Committee entitled "Citizen's Right of Reply (Mrs Julie Passas)", dated February 2012.

The Hon. AMANDA FAZIO [3.37 p.m.]: I speak on report No. 59 of the Privileges Committee entitled "Citizen's Right of Reply (Mrs Julie Passas)", dated February 2012. I declared a conflict of interest in relation to this matter and abstained from voting at the Privileges Committee because Mrs Passas was replying to comments I made about her in the Legislative Council on 23 November 2011. I will refer to some of the issues raised by Mrs Passas in her right of reply. Mrs Passas complained that I called her a homophobic, racist, irrational harridan and said she completely denies these allegations—which is not surprising. I simply ask anybody who has any doubts about the character of Mrs Passas to ask people who have met her what they think of her.

The PRESIDENT: Order! I call the Hon. Dr Peter Phelps to order for the second time.

The Hon. AMANDA FAZIO: Mrs Passas states that she hosts overseas students in her home, as if to validate her standing in the community in some way. All I can say is pity those poor students and pity their introduction to Australia. The only people I know who would stand up for Mrs Passas are the wets in the Liberal Party who need her vote in preselections. Mrs Passas took exception to the statement I made that she campaigned for the closure of public toilets in Ashfield Park, but her comments in her citizen's right of reply do not refute that she did this. Mrs Passas also denied that she had been accused by another councillor of threatening the life of that other councillor in the council chambers in April 2000 and that she assaulted her in the council kitchen in April 2001. My understanding of this matter is based on reports in the media. There is no reference in the Australian Press Council records at all of any attempt being made by Mrs Passas to complain about these matters, or to have a retraction published in the newspapers. For those reasons I stand by the comments I made.

Mrs Passas also responded to a statement that Councillor Bonnano won a case against her and a later costs hearing but he was concerned that Councillor Passas might not be able to pay. It simply is a valid statement of fact that at the time this occurred Councillor Mark Bonnano was concerned that Mrs Passas would not be able to pay the money. The fact that Mrs Passas states that she has never avoided payment of a debt in her life is irrelevant to the fact that that is what Councillor Bonnano believed at the time. In my original statement I also referred to comments made in the *Sydney Morning Herald* that the departure of Councillor Passas meant there would be less bile, and that her contribution to council had contributed more bile than a gall bladder ward. Mrs Passas responded by denying that such comments were made in the *Sydney Morning Herald*. Anyone who wants to resolve this matter for themselves should simply Google "Julie Passas". They will find the article in the *Sydney Morning Herald* from which my comments were a direct quote.

Mrs Passas also stated she was not aware that a complaint had been made to the Joint Standing Committee on Electoral Matters about the false enrolment of another person on the Ashfield council and Julie Passas's involvement. That also is a publicly available document. Denying knowledge of it does not make the document go away. It was publicly available, as were a number of documents related to other matters to which Mrs Passas objected in her citizen's right of reply. She also took exception to the fact that I referred to her response to comments I made as being fabricated. Anyone who has met Mrs Passas would understand that her level of education is such that she would be incapable of preparing and writing her own submission to the standard of the submission that was put in. In fact I doubt whether she was the author of the citizen's right of reply document that she lodged in this respect. I believe it was well beyond her to have drafted such a document.

She also notes that she was concerned about fire safety in response to an issue I raised about the cost to the Roads and Traffic Authority [RTA] of demolishing some properties about which she had made a complaint. I simply note that anybody who is genuinely concerned about fire safety would not have stored, as Mrs Passas did at the Ashfield council pre-poll building, boxes of how-to-vote cards, A-frames and posters in the fire stairs, the keys to which she had because she works as a cleaner in the building. Anybody with any common sense or any intelligence at all would have known that that was an inappropriate thing to do, especially given that on the

first and second floors of the building there was a coaching college attended by large numbers of students, both in the mornings and in the afternoons. Somebody concerned with fire safety would have known better than to have stored that sort of material in the fire stairs in that building in those circumstances.

I will leave the matter there, except to say in conclusion that this is a pathetic attempt by somebody of whom I think the people of Ashfield should be very wary. The citizen's right of reply being exercised by her involves a denial of matters that are undeniable. This is yet another example of how this woman cannot be believed. She will say and do anything to promote her cause. I express my sympathy to members of the Liberal Party who had to have contact with Mrs Julie Passas, because she is really just an awful, awful person.

Question—That the motion be agreed to—put and resolved in the affirmative.

Motion agreed to.

Pursuant to standing orders the response of Mrs Julie Passas was incorporated.

I respectfully request that I be permitted a Citizen's Right of Reply in respect of the damaging, unfounded and hurtful comments made about me by the Hon Amanda Fazio MLC in the Legislative Council on 23 November 2011.

I set out Ms Fazio's comments and my responses, as follows:

'a homophobic, racist, irrational harridan named Julie Passas...'

I completely deny such allegations. I have supported gay rights and always stood against racism. If required, I can produce both documentary evidence and persons who will attest to my support of gay rights and religious and ethnic equality. I am of Greek and Lebanese background and I host overseas students.

'She campaigned for the closure of public toilets in Ashfield Park because she claimed that poofers and perverts frequented them.'

At the time I lived immediately adjacent to the park in the vicinity of the public toilets. In about 1994 I became aware from personal observation, from neighbour complaints and from comments by others that the public toilets and surrounding area were being used for gay sex and for gay meetings. The traffic from cars was continuous throughout the night and the area became known for such activity. I successfully campaigned for the area to be patrolled and for new toilets to be built. It is not true that genuine park users were deprived of the ability to use the toilets in that they were already in a disgusting, substandard condition.

'... The Councillor revealed also that Passas had threatened her life in the council chambers in April 2000 and had assaulted her in the council kitchen in April 2001.'

I totally deny the truth of such allegations. The allegations had no substance. An Apprehended Violence Order (AVO), to which I had consented without admissions, was sought to be extended by the councillor but refused by the Court. Indeed that councillor only sought an AVO a lengthy time after the alleged threats when I sought an AVO against Ashfield's Mayor. I note that I consented only after having spent \$7,000 in legal fees and after being advised to consent without admissions to conclude the matter without further cost.

'The havoc then moved on to a spate of apprehended violence orders being taken out by other Ashfield councillors against Julie Passas'

No other councillors sought an AVO against me.

'... Councillor Bonanno won the case in January and also a later costs hearing, but he was concerned that Councillor Passas might not be able to pay.'

I have never avoided payment of a debt in my life. I agree that I was ordered to pay the costs of the other side in my application for an AVO against Councillor Bonanno and that such costs amounted to approximately \$100,000. I paid in accordance with that determination and the costs of my own solicitors, to the extent that my husband and I mortgaged our house to do so.

I believe that the Court should never have made the costs order it did and I agree that I complained about Magistrate Mrs Betts, a complaint upheld in my favour.

'... when dealing with another apprehended violence order against her Mrs Passas, unhappy at being unrepresented in court, lodged a complaint to the Judicial Commission regarding the conduct of Justice Jennifer Betts ... The Judicial Commission considered the matter fully and dismissed the allegations of Julie Passas - because she is a liar'

I applied to the Court to revoke the AVO to which I had consented previously, without admissions. I appeared unrepresented before Magistrate Betts who cut me off and would not let me present evidence. I lodged a formal complaint which was upheld by the Conduct Division of the Judicial Commission of New South Wales. That determination includes the following:

The Conduct Division further notes that the evidence establishes that in respect of the Passas and Castle complaints, actual injustice can be seen to have been done in the sense that each hearing proceeded to a determination in the absence of a duly conducted judicial hearing.¹

'A range of apprehended violence orders were taken out because of the behaviour of Julie Passas.'

This is denied, refer to my comments earlier.

'The Sydney Morning Herald noted that the departure of Councillor Passas meant that there would be less bile and stated that her contribution to council had contributed more bile than a gall bladder ward.'

I deny that any such comments were made by the Sydney Morning Herald.

Furthermore, the SMH published a retraction when it stated that Cr Maher's AVO had been continued. That retraction stated that the AVO had been consented to without admissions, had not been extended and had expired.

'Councillor Cheung lost her position on the council when it was revealed that Councillor Passas had been involved in her false enrolment on the electoral role.'

This is totally denied. There was no 'false enrolment' and I was not involved in Ms Cheung's enrolment.

Ms Cheung was elected to Council twice and was twice challenged as to her place of residency. As regards the first challenge, Ms Cheung took the matter to the Supreme Court and was successful. As regards the second challenge, the Administrative Decisions Tribunal found against Ms Cheung but, on my understanding, financial considerations prevented a further judicial review of the decision.

I remain adamant that Ms Cheung was a genuine resident of the Ashfield council area.

Councillor Cheung did not lose her position when 'it was revealed that (I) had been involved in her false enrolment'.

I was not called as a witness in either of the two proceedings, nor was any adverse comment made about me by any of the determining bodies and persons.

'Part of the evidence ... were ... 51 telephone calls from her home phone in Hurstville to the Liberal party campaign director, Julie Passas.'

I have no knowledge of such allegations, nor am I privy to the evidence presented to the Administrative Decisions Tribunal in the second proceedings.

I agree that Ms Cheung had a flat in Hurstville, she may well have made telephone calls from that flat, but when she stood for election to Council she was a resident of Ashfield and Summer Hill.

I even helped her find places to live.

'The Joint Standing Committee on Electoral Matters received a submission about the false enrolment and Julie Passas' involvement.'

I am not familiar with any such submission and had not heard of it prior to Ms Fazio's reference to it.

'There was also her fabricated response to comments I made in debate on a citizen's right of reply. Councillor Passas lied in her response.'

The citizen's right of reply exists because the freedom of speech afforded to members of Parliament can leave citizens vulnerable to allegations being raised about them in Parliament.

But for such a right, I would have little avenue for redress.

Ms Fazio's comments are already being disseminated on the Internet, painting me as a lying, cheating, dishonest, homophobic, racist and irrational person.

It causes me great pain to know that I am being spoken of in the above manner under parliamentary privilege, without any recourse but for a citizen's right of reply.

Ms Fazio then belittles such right, claiming further that I have 'fabricated' my response, that I have 'lied'.

She denigrates those persons who have provided written references.

I am willing to provide corroborative evidence of every comment I have made, and to refute each and every allegation made against me, evidence by way of documents, transcripts and personal evidence by numerous witnesses.

I stand by every comment I have made and I deny every adverse allegation made by Ms Fazio.

I also respect and stand by the people who have supported me.

I further note, in passing, that I am not a Councillor now and was not a Councillor when the previous citizen's right of reply was made.

'The one thing I refer to members is Julie Passas' involvement in the waste of \$648,618 of taxpayers' money in a complaint she made about a Roads and Traffic Authority property at 89 Liverpool Road, Ashfield. What a disgrace.'

I have no knowledge or information as to the monies involved in the matter to which Ms Fazio refers.

The properties concerned were a group of dilapidated shops owned by the Roads and Traffic Authority (RTA) at the corner of Liverpool Road and Elizabeth Street. The shops were supposedly vacant, boarded up and awaiting demolition.

On occasion as I drove past in the evenings, I observed signs of human habitation and occupation at such 'vacant' substandard, boarded up shops.

I note that while I was on Council I regularly raised issues relating to fire safety as a woman died in a boarding house fire at 83 Liverpool Road, Ashfield during my term on Council.

Council took my concerns in respect of 89 Liverpool Road up with the RTA and I believe that the RTA placed 24 hour security guards there. The shops were subsequently demolished.

If this has cost \$684,618, then I have no knowledge of it and I cannot be held responsible for the manner in which the RTA dealt with the matter.

The RTA report in response to the Council referral stated that the properties were unsafe in the event of fire.

If Ms Fazio is critical of me for taking the stance that I did out of concern for human life, then I stand by that action and say that I would do it again if the situation arose again.

¹ Report of an Inquiry by the Conduct division of the Judicial Commission of New South Wales in relation to Magistrate Jennifer Betts, 21 April 2011, p 45.

MENTAL HEALTH COMMISSION BILL 2011

Second Reading

Debate resumed from 6 March 2012.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [3.44 p.m.]: I take this opportunity to acknowledge that yesterday during the debate on this bill the Minister for Mental Health was present in the Chamber, accompanied by his chief of staff and senior policy adviser. I extend my gratitude to the Minister and his office for taking the time to keep me, as the relevant shadow Minister, briefed and up-to-date at each stage of the development of this legislation—at the task force stage, the consultation stage, and during formulation of the draft bill. I certainly think that such a consultative approach, particularly in relation to an area of government in which there ought to be as much bipartisanship as possible, is to be encouraged.

I thank the Minister and his staff for their courtesy in doing that, and for being present in the Chamber yesterday during my contribution to the debate. They also took the time to discuss with me the Opposition's draft amendments, which is a courtesy that was gratefully received by me. Such an approach to the development of legislation, particularly important social legislation, should be encouraged whenever possible. Governments whenever they can should adopt a consultative approach—that is not restricted to formulation of this type of legislation—and should consult stakeholders, such as experts in the field, the Opposition and other parliamentary colleagues to develop as broad a base of support during the parliamentary processes as is possible.

As I have indicated, under previous Labor governments there was record investment in mental health. A significant increase in investment occurred between 2006 and 2011, amounting to approximately \$940 million, which is the largest sustained increase. Labor's investment in 2010-11 is the largest sustainable increase in any one year, and I think I am correct in saying that the mental health budget tripled under the Labor Government. Moreover, the mental health workforce throughout approximately five years of the new plan for mental health, which was auspiced by a previous Labor Premier, Morris Iemma, increased by approximately 20 per cent. The additional investment and building of capacity through an increased mental health workforce represented a very significant investment in this important area of government and a very significant step in capacity building.

As a society we should also strive to do better, particularly in this important area of social policy. Opposition members earnestly hope that this legislation and the commission it creates will lead to improvements in mental health care and in the development of policies relating to mental health services and facilities in the State. Opposition members look forward to the remainder of debate on this bill, and to the commission becoming a reality.

The Hon. AMANDA FAZIO [3.48 p.m.]: At the outset of my contribution to debate on the Mental Health Commission Bill 2011 I inform the House that I had the privilege of being a member of the Legislative

Council Select Committee on Mental Health, which has been referred to during debate. I take this opportunity to discuss gaps in service provision that were identified by the 2002 inquiry as well as some provisions of the legislation.

That inquiry identified a need for increased supported accommodation places and expansion of child and adolescent early intervention care, improved Aboriginal mental healthcare, better access to services for older people, more sensitive care for people from culturally and linguistically diverse backgrounds, and increased community care capability. One of the key issues was the need to coordinate government agencies such as housing, the Department of Disability, Housing and Home Care, NSW Health, police, the Attorney General's department and, of course, the non-government sector.

Some of those issues will be addressed by the creation of the Mental Health Commission, which will operate from 1 July 2012. I concur with the comments of my colleague the Hon. Adam Searle that that timeline is tight in terms of allowing for any further consultation on this matter, but I do note that extensive consultation has taken place in the community sector since the bill was introduced in the lower House last year. In relation to the specific provisions of the bill, there is one issue that I wanted to raise and that is part 2, clause 8, which states:

8 Commissioner or Deputy Commissioner is to have personal experience of mental illness

The Commissioner or at least one Deputy Commissioner must be a person who has or has had a mental illness.

My concern in relation to this is that, in terms of fulfilling the role of commissioner, this provision has the potential to exclude many mental health professionals or advocates who have been very strong in their work in terms of improving services for people with mental health problems. I believe that limiting the choice of appointments and excluding experienced people could mean that the commission may be slightly less effective than it could be otherwise. I do support the involvement of people with mental health issues of their own in the commission but, speaking practically, I do not know whether the position of commissioner or deputy commissioner is the appropriate role for such a person.

To be quite frank, people appointed to either of those two positions could only be people who have suffered episodic periods of depression or things like that, because somebody who suffers from a condition such as schizophrenia is probably unlikely to take on that sort of role simply because of the demands and stress of that position and the potential for them to exacerbate the mental health issue that they suffer from. I hope that the Parliamentary Secretary in charge of the bill will address my concern. Secondly, part 2, clause 9 states:

9 Ministerial control

The Commission is subject to the direction and control of the Minister.

I am concerned about that having the capacity or the potential to gag criticism of the Minister or the Government or government departments and agencies. That issue needs to be clarified. I know that most commissions are subject to the direction and control of the Minister but the wording could cause some people in the community to have concerns that the Minister's control could be too strict. The bill also states in relation to the Mental Health Community Advisory Council:

The Minister may remove an appointed member from the Council at any time.

I ask for an undertaking that there would be some due process and scope for procedural fairness if somebody is to be removed from the council. Then the public and people interested in mental health service provision could be sure that it was being done for a just reason and it was not being done because somebody was deemed to be problematic, because they were raising issues that were not convenient. There should be procedural fairness in relation to that matter. Part 3, clause 12 (1) states:

The Commission has the following functions:

- (a) to prepare, in consultation with providers of mental health and related services and government agencies, a draft strategic plan".

Public consultation and input into that strategic plan, as with the preparation of this bill, should be guaranteed. Part 3, clause 12 (c) provides for this function of the commission:

To review and evaluate, and advise on, mental health services and other services and programs provided to people who have a mental illness and other issues affecting people who have a mental illness.

In view of the degree of ministerial control of the strategic plan, there should be a guarantee of openness and accountability. There should not be too much control by the Minister; the commission should be able to act with a degree of independence and impartiality.

I particularly support the proposal that the commission educate the community about mental health issues. We need to overcome the myths about people who suffer from mental illness. Employers should have more understanding of how they can support people with mental health problems to ensure that they remain productive, engaged members of the workforce. That deserves notation and support. The commission is to take into account co-morbid issues associated with mental illness such as drug and alcohol use and disability. That was something that was a real focus of the select committee on mental health. We found that there were huge gaps in service provision as a result of buck passing the patient. Did the person have a drinking problem because they were mentally ill or was it the other way around? The same with people using illicit drugs: were they self-medicating because they were mentally ill or did they become mentally ill because they were excessively using illicit drugs?

Clients were shuffled from one service to another without holistic management of people who had those co-morbidity issues, particularly people with intellectual disabilities who also had psychiatric problems. They seemed to be the people who most fell through the gaps. A very high percentage of people with co-morbidity problems become involved in the criminal justice system and any diversionary programs that can be put in place to reduce the number is commendable.

I am a little concerned about the special reports provisions of the bill. The commission may include in a special report the recommendation that the report be made public. I think the reports should be made public. I think we should have complete transparency in relation to this. The commission should not be given the option of deciding whether reports should be made public. All reports should be made public. The bill deals with systemic issues and service provision. Reports will not refer to an individual and therefore will not require confidentiality. Even if they did, that could be dealt with in many other ways without reports not being made public. The last concern I have involves part 4, clause 20, which states:

Review of Commission and Act

- (1) As soon as possible after the period of 5 years from the commencement of this Act, the Minister is to undertake the following reviews:
 - (a) a review of the work of the Commission taking into account the functions of the Commission and the principles governing the work of the Commission,
 - (b) a review of this Act ...

I would like a guarantee that while those reviews are ongoing the work of the commission continues without interruption. An ordinary member of the public—and heaven only knows why they would want to be reading a bill but some do—who is not used to reading legislation would think this could allow for a gap in service provision, it could allow for everything to be drawn to a halt until that review is completed. We need on the public record a guarantee that, even though as a result of one of the reviews things might be finetuned or changed, the commission will continue to work and continue to support improved services for people with mental health issues. This is a huge area. A lot of money is going in. The Federal Government has a new plan. Whatever we do at the State level needs to fit in with the national mental health strategies.

Any improvement in the provision of services for mental health deserves support. I will be supporting the amendments to be moved by my colleague the Deputy Leader of the Opposition to improve the Mental Health Commission Bill 2011. However, this bill generally is positive for the provision of services for people with mental health issues in New South Wales. I look forward to hearing positive feedback from the community about improved services.

The Hon. SARAH MITCHELL [3.59 p.m.]: It gives me great pleasure to speak in support of the Mental Health Commission Bill 2011, which fulfils yet another election commitment of the O'Farrell-Stoner Government. At the centre of this commitment is the establishment of the New South Wales Mental Health Commission to drive reforms for patients, improve outcomes, allocate resources to where they are most needed, and promote the best possible treatment and support for mental health patients. By monitoring and reviewing the mental health system in New South Wales, this bill will help improve the mental health and wellbeing of those suffering mental illness in this State. The Government is committed to improving the way we manage people with a mental illness. This is evidenced by the fact that mental health has been given its own portfolio, and Minister Kevin Humphries has achieved significant milestones in less than a year into his term.

Mental health is an ever-changing field, with new treatments and therapies constantly becoming available as medicine evolves. The only way we can manage these new innovations and policies is through the creation of an overarching body that has the capability to develop a mental health strategic plan and facilitate the sharing of knowledge and ideas about mental health. Members in this House know that suicide rates in rural and remote areas are significantly higher than the national average and in very remote regions are more than double those in major capital cities. In rural areas especially, the individual can become the silent sufferer simply because they do not have the means to express their concerns. This Government wants people who suffer from mental illness to have access to the best possible care and support so that they can participate fully in the community and lead meaningful lives. The commission will ensure that those with mental illness have a voice by providing world-class practice standards for mental health delivery and outcomes in New South Wales.

The Mental Health Commission Bill 2011 was drafted after extensive consultation and research that was led primarily by the Mental Health Taskforce. More than 2,000 people contributed to this process in metropolitan and regional centres such as Dubbo, Wagga Wagga, Coffs Harbour and Nowra. The task force sought the views of experts, people with mental illness, their families and carers, and members of the broader community to determine the form, function and overall responsibility of the commission. These responsibilities include diverting people with a mental illness away from the prison system and ensuring the successful operation of the Mental Health Review Tribunal. The commission will also advocate and educate the community about the stigma of mental health and associated discrimination.

The Hon. Amanda Fazio referred to clause 8 in part 2 of the bill, which requires that the commissioner, or at least one of the deputy commissioners, must be a person who has, or who has had, a mental illness. The intention is to ensure that the commission is representative of those with a personal experience of mental illness. That will be a positive role of the commission. The bill makes certain that the commission will stand as a truly independent statutory authority. It will report to the Minister and provide reports to Parliament and the public. In order for the commission to be successful and fulfil its responsibilities, it must work in cooperation with government agencies. This bill provides such a mechanism so that the commission can remain independent of government but retain its influence to improve the mental health structure. This bill is an important step in improving the mental health system in New South Wales and the outcomes for those suffering from mental illnesses. For those reasons I commend the bill to the House.

The Hon. NATASHA MACLAREN-JONES [4.03 p.m.]: For too long mental health services and, more importantly, the mental health system have been fragmented and neglected in this State. The Mental Health Commission Bill 2011 is the first step in getting the system and structure right. The New South Wales Coalition was elected in March 2011 on the back of a commitment to deliver real change in mental health. The people of New South Wales deserve quality mental health services, and I commend the Minister for Mental Health, the Hon. Kevin Humphries, for introducing a bill that will deliver one of the biggest and most important reforms to the mental health system. I also thank the Minister for Health, the Hon. Jillian Skinner, for putting the needs of mental health clients first and foremost, and for championing the creation of the role of Minister for Mental Health.

The Coalition has a longstanding association with championing improvements in mental health services. In 2005 the Coalition Opposition first announced a spokesperson for mental health. This led to the announcement of the first shadow Minister for Mental Health prior to the 2007 election. Sadly, it has taken a change of government to see the first Minister for Mental Health sworn in. The previous Labor Government allocated money to mental health services but, as with so many of its health initiatives, following where that money was spent was difficult. Once funds were allocated to area health services, it was almost impossible to follow the financial trail to ensure that they were being spent properly on delivering mental health services to those who needed it. The Labor Government implemented the recommendations of the 1983 Richmond report—a report that led to the deinstitutionalisation of mental health clients.

During my time working as a psych nurse, I saw the impact of deinstitutionalisation on the individual, the family and the community caseworkers by forcing the most vulnerable in society, under the name of early discharge, out of care and into the community, which, frankly, did not have the resources to manage them. This aggressive policy of deinstitutionalisation went too far. It created a revolving door of care, forcing those with a mental illness out of treatment and onto the street or into jails. If they were fortunate, they were picked up again and placed back into the mental health system, only to be discharged again at a later time. This bill addresses those very important issues and accepts that mental health is a whole-of-government responsibility. Delivering effective mental health services is a shared responsibility across all levels of government as well as the non-government sector.

This bill highlights the Government's commitment to expanding services and improving the health and wellbeing of those with a mental illness. The bill honours the Government's commitment to establish a Mental Health Commission to drive a more accountable and efficient mental health system in New South Wales. As the Minister for Mental Health has stated, the Government is "committed to implementing world best practice standards for mental health delivery and outcomes in New South Wales." A Mental Health Commission will do just that. The Minister has given the assurance that the commission will be independent from government. Clause 9 states that the commission will be subject to the direction and control of the Minister in relation to administration and financial matters, but is independent to develop reports and provide strategic advice to government.

The Deputy Leader of the Opposition questioned the ability of the commission to be truly independent. I am pleased to advise the House that the bill constitutes the commission as a separate statutory authority, which ensures its independence. As a statutory authority, the commission will be required to provide an annual report as necessary under the Finance and Audit Act 1983 and will be subject to review after five years following commencement of the Act. I reiterate the comments of my colleague in congratulating the members of the 2002 Select Committee on Mental Health, chaired by the Hon. Dr Brian Pezzutti, on raising the need for an holistic approach to treatment and on challenging the unfortunate stigma associated with mental illness. In the report the committee stated:

People with a mental illness who seek services must not encounter service discrimination. There must be 'no wrong door' when people with a mental illness attempt to access health services.

This bill goes a long way to addressing the stigma that remains with mental health. Clause 8 provides that the commissioner, or one of the deputy commissioners, must have had a mental illness. This requirement came from a recommendation following the many consultations undertaken by the task force. It was felt that for the commission to make a difference it must truly understand what it means to live with a mental illness. Behind heart disease and cancer, mental illness affects more Australians than almost all other health conditions. Statistics show that 20 per cent of Australians will experience symptoms of mental illness this year, and 45 per cent will experience some form of mental illness at some stage during their life. Sadly, young Australians aged between 16 and 24 years are most at risk. In 2008 mental illness was responsible for 718 deaths, representing 13 per cent of the total disease burden in Australia.

Furthermore, it is a bigger barrier to workforce participation than any other illness in this country and it may prevent a person fully participating in the labour force. The annual cost of mental illness in Australia has been estimated at \$20 billion, which includes the cost of loss of productivity and labour force participation. People living with mental illness need access to a range of services including health services, accommodation, community support, and education and training. The Government has a moral responsibility to help those who cannot help themselves and to make the right investment in mental health services to deliver the best model of care. I commend the bill to the House.

Dr JOHN KAYE [4.10 p.m.]: I lead for The Greens in debate on the Mental Health Commission Bill 2011. As previous speakers have noted, this legislation is a courageous step forward by the O'Farrell Government. I am not one who normally congratulates the O'Farrell Government, having in the past voiced a number of criticisms of it. However, the Minister for Mental Health, his staff and the Cabinet are to be congratulated on taking this step towards depoliticising the treatment of mental health. Although history will not look kindly upon other decisions of the O'Farrell Government, this bill will stand out as a step forward for mental health.

There will be debate about internal aspects of the bill during the committee stage, but I join the Labor Party and the Coalition in celebrating not just the proposed legislation but also the way in which it was brought forward. It was a courageous step to consult widely and find out what service providers, doctors, nurses, workers in the field and patients wanted. Developing a commission along those lines is the signature of a government that is seriously committed to getting it right on mental health services. It is a tribute to the Minister personally that he has stood up for the establishment of the commission and driven it. I congratulate and thank him for that work.

From my perspective, the ultimate objective of this legislation is to ensure that mental illness—when this commission has done its work, and that may be a 10-, 20- or 30-year task—is seen and treated as any other illness in our community: Funding is provided to meet patients' needs, there is support and sympathy for patients and their families, and no stigma is attached to mental illness. The reality of mental illness is it can cause behaviours that challenge the community's notion of rationality, and there has been a tendency to ostracise

mental health patients. Historically, in Australia and around the world there has been systematic maltreatment of people with mental health issues. Mental health patients were placed in institutions that were only a little short of jails and locked away and subjected to treatment that all too often descended into brutality.

There have been substantial steps forward. The 1983 Richmond report, which I believe was extremely well motivated, recommended deinstitutionalisation. Sadly, as often happens with governments of all complexions, the deinstitutionalisation recommendation, although accepted, proved difficult to support financially in a way that ensured that patients who were deinstitutionalised received quality care in the community. That funding never eventuated. Every member has a Richmond report story to tell of the tragedies that ensued. Funding was increased for mental health under the previous Government and it is to be congratulated on putting the foot to the floor on that issue. There is always a need for more money. The question is how we are spending that money. Are we spending it on mental health or is it getting absorbed into the general health system?

The proposed commission is the next step in a process that started with lunatic asylums and hopefully will end with a vision of mental health as being like any other health issue in our society. The key issue is that this commission is focused on the needs of mental health patients. It is a step towards—I recognise this is difficult for all governments—assessing what funding is genuinely needed, not what is available in the budget. It is a step towards developing a strategic plan to ensure that funding is spent where it is needed and the strategic plan is monitored. These are logical, sensible and I am sure effective steps towards providing better mental health treatment in our society.

The most outstanding thing about this legislation is its birth, which involved wide consultation across all sectors and included patients, doctors, nurses and workers in the industry. It is the first time that there was a comprehensive decision to allow those who provide and receive the services to write their own future. That is something on which the O'Farrell Government and Minister for Mental Health is to be congratulated. It is a step towards taking politics out of treatment decisions and the allocation of resources. One highly admirable feature of the bill is that it creates a commission with a large degree of independence. There will no doubt be tension, hopefully productive tension, between the Government and the commission in years to come—not just under this Government but as long as the commission exists. It is good to have a public sector voice arguing loudly for the needs and rights of patients, and I am sure that treasurers of both complexions—and maybe even of a third complexion—will in years to come curse the Minister for Mental Health, his staff and all of us in this Chamber for creating the commission. That is a good thing. Let that tension exist so there is a voice out there saying how money is genuinely needed for mental health.

The Mental Health Commission will have the capacity to answer questions such as how much money is being spent, how long it takes for patients to be treated, and what standard of treatment patients need. That is essential. NSW Health has struggled to ask these questions and provide the answers because it is enmeshed within a bureaucracy and answers directly to a Minister who answers to the Treasurer and the Treasury. This bill breaks that link. It allows for those questions to be asked and answered honestly. That is a step forward for all patients with mental health issues and for the community. Commandably, the bill does not just look directly at mental health provision; it looks across the public and private sectors beyond mental health and into housing, education and welfare—across government service provision.

The Vinson report of 2002 commissioned by the Teachers Federation, the Federation of Parents and Citizens' Associations of New South Wales and the Primary Principals' Federation recognised a desperate need for better coordination between NSW Health and the Department of Education and Training to ensure that mental health services were delivered as needed in schools. There has been progress since 2002 under the previous Government, and that progress continues under this Government but it is not rapid enough and is not heading towards implementing the Vinson report recommendation of fully coordinated services. The commission offers an opportunity, because of its breadth of focus, to produce an outcome whereby mental health services and schools are fully coordinated and highly effective.

There is no question that the Mental Health Commission has a large task ahead of it. The budget estimates last year revealed two statistics that I found absolutely shocking. In answer to a question placed on notice on 27 October last year, the Minister admitted that only 57 per cent of patients discharged from an acute public mental health unit within New South Wales were followed up by a community mental health team within seven days; the remaining 43 per cent either had to make their own arrangements in the private sector or by and large went without any follow-up for seven days. These people had been in a mental health institution or unit where they had been under the guidance and control of medical health professionals, and looked after extremely well in most cases. But they were then discharged into a vacuum.

This was not always the case. I am told that in days gone by teams of public mental health caseworkers went into a hospital when a patient was about to be discharged and developed a discharge plan to ensure that that patient had access to services in the community. That no longer happens for at least 43 per cent of patients. In fact, the Department of Health target is for only 70 per cent of patients discharged to be seen by a community mental health team within a week. That is equally scandalous. One of the tasks ahead of the commission will be to address the issue of transitions from institutions back into the community—an important stage in the path to wellness for so many people stricken by mental health disease.

The second example relates to the Mental Health Review Tribunal. I have spoken at length regarding The Greens' concerns about the Mental Health Review Tribunal and the fact that patients are kept in involuntary detention within the mental health system for up to four weeks before they see a member of the Mental Health Review Tribunal who will assess them. That is not good enough. It denies the rights of patients. The focus of the commission on the rights of patients will be a positive outcome. I wish to relate to the House a concern. One of the functions of the commission, set out in clause 12 (1) (f), is:

... to advocate for and promote the prevention of mental illness—

I have no problems with that—

and early intervention strategies for mental health.

Early intervention strategies across the range of health issues, mental and physical, are in general a good thing, and they are supported. However, in the mental health area, one of the growing concerns—which even some of the architects of the scheme are now recognising—is that early intervention can, if not done appropriately, lead to over-medication and unnecessary medication, particularly of young people displaying some symptoms. Members will be aware that Patrick McGorry, founder of Headspace, was a key architect of early intervention in Australian psychiatry. He scored about \$2.2 billion from the Federal Government for his early intervention centres, which were designed to diagnose what is called pre-psychosis or attenuated psychosis and to medicate young people with pre-psychosis.

Part of the problem is that the symptoms used to identify pre-psychosis—that is, individuals having some delusions or disorganised speech and thought—were used as a predictor for the onset of psychosis. The problem is that the science does not support that approach. The second problem is that medicating young people who are showing some signs of delusion, or of disorganised speech or thought, can lead to medicating of people who are just going through a phase and not headed towards psychosis at all. There is a real need to make sure that we do not go down the path of over-medication. In fact, Professor McGorry has now expressed concerns about over-medication and no longer supports the inclusion of pre-psychosis in the new Diagnostic and Statistical Manual on Mental Disorders, DSM-5, for psychiatric and psychological illnesses, which is to come out shortly. He is no longer supporting the inclusion of attenuated psychosis in DSM-5.

I raise this because I wish to put on record the concerns of The Greens with early intervention strategies for mental health—not that we are opposed to early intervention strategies, because they are a good thing, but if they are responsible for over-medication they are inevitably a bad thing. The issue here is to have a nuanced set of early intervention strategies. In the end, as we will be saying during the Committee stage of the bill, we will need to trust the quality of the commission. Much will turn on how well the commission not only develops its own strategic plans, its own views and its focus, but also operates in dealing with government and with the psychiatric, psychology and nursing professions to make sure, in what will become an extremely complex balancing task, that outcomes respect the needs of patients; and, in this particular case, that early intervention strategies that are developed do not replicate the mistakes leading to over-medication.

The Greens are impressed by the work that has gone into this legislation. We are impressed by the direction it takes. We are impressed by the idea that there will be an independent commission. We congratulate the Government on that. We have some concerns about specific features of the legislation, and we will address those in Committee. We are aware that the Labor Party proposes to move a number of amendments, and that those matters will be debated. But, notwithstanding those matters—which are mainly minor—the reality is that this legislation is a step forward, and The Greens support it.

The Hon. PAUL GREEN [4.26 p.m.]: I speak on behalf of the Christian Democratic Party in support of the Mental Health Commission Bill 2011. The objects of the bill are to establish the Mental Health Commission of New South Wales; to provide for the appointment of a Mental Health Commissioner and deputy mental health commissioners; and to establish the Mental Health Community Advisory Council to advise the

commission on mental health issues. The bill sets out the internal structures, principles, functions and powers that will govern the work of the Mental Health Commission. It sets out also the responsibilities of a range of government agencies that provide services that people with mental illness, their families and carers want to use.

The commission will develop a mental health strategic plan for approval by Cabinet, and monitor and report on its implementation. It will review and report on mental health issues, mental health services and other supports provided to people with mental illness. It will also promote and facilitate the sharing of knowledge and ideas about mental health issues, and undertake and commission research, innovation and policy development in relation to mental health issues. It will also advocate for, promote and educate about mental health issues, including in relation to stigma and discrimination. It will also form community and stakeholder advisory mechanisms and processes to ensure that the views and the needs of all parts of the community are heard and reported to government.

The bill enables the commission to focus on three reform priorities set by the Government in its commitment to establish a commission. They are: to better manage the experience of people with mental illness, their families and carers, to divert people with mental illness away from the prison system, and to ensure the smooth operation of the Mental Health Review Tribunal. Having been in the mental health industry, I know this initiative is well overdue. I have seen in the system clients who have been over-medicated or heavily medicated. I have seen the use of electroconvulsive therapy as a means of treatment. I have experienced the results of the Richmond report, which saw the release of people like my brother into the community without resources. That was a terrible time for my mother and family, who had to deal with consequences of that system without the community having the resources necessary to help my brother adjust and adapt. Having said that, it is now many years on and he has adjusted quite well and has the resources available. Mental health has come a long way since the Richmond report; it is at least being resourced to some degree. It is great that the Government has picked up on mental health, has given it a portfolio and is resourcing the area further.

Yesterday the Hon. Adam Searle cited statistics that show that about one million people are affected by mental illness in Australia. He noted the strategic mental health plan for our State—many would say that that was well overdue. I congratulate the Minister for Mental Health on this growing and ongoing commitment to privatising and resourcing the mental health sector. Of course, there is still a long way to go. In our area we are still putting people with acute mental health issues in the back of paddy wagons and sending them an hour and a half up the road. That does nothing to assist their problems of acute psychotic episodes and other delusional problems. We have to get away from this paddy wagon treatment and humanely get people from point A to point B, even given the challenges of these people being a danger to themselves and, often, a danger to police. I hope the Mental Health Commission will make dealing with those sorts of issues one of its highest priorities. There is no doubt that mental health service consumers will appreciate this innovation. The Christian Democratic Party commends the bill to the House.

The Hon. JENNIFER GARDINER [4.30 p.m.]: I have pleasure in supporting the Mental Health Commission Bill 2011. In June 2010 I attended a mental health roundtable at Parliament House, convened by the then shadow Minister for Mental Health, The Nationals member for Barwon, Mr Kevin Humphries. It was an opportunity for him to start to finetune the development of mental health policies that we would take to the 2011 election. Many stakeholders and experts on mental health were at the roundtable and quite a lot of research on the state of knowledge of mental health was presented on that occasion. That has fed into the creation of the Mental Health Commission.

For example, the Menzies Centre for Health Policy presented information about the comorbidity phenomenon whereby patients who are suffering from mental illness tend to stay longer in hospitals than they would otherwise. It was pointed out that a patient who might have to go into hospital to be treated for breast cancer, for example, may well get excellent and compassionate treatment in hospital for that particular disease but if six months later that patient is admitted to the same hospital system suffering from a mental illness the nurses may appear to be more detached or the family of the patient may have sent flowers to the patient in the first hospitalisation but not in the second. The phenomenon the patient might endure was described by one of the experts as a kind of apartheid.

Research was presented at the roundtable that showed that mental health capital built up throughout one's life and that if a person becomes mentally ill at or around the age of 22 it can have all sorts of impacts on their life, including employment opportunities and stability in the workforce, and their financial state of affairs might start to fall to pieces. That is one of the reasons why there is a lot of emphasis on the topic the Hon. Paul Green spoke about: the need for early intervention and the type of early intervention in mental health for young

people. It was pointed out that primary health care hospitals are not necessarily the right place to treat young adults with mental illnesses and that it is too simplistic to say that just mainstreaming mental health with the rest of the hospital health system is the way to go. The hospital system is not necessarily set up to deal with mental health to the degree required.

We need mental health services with the right service culture, taking into account the age of the patient, the stage of the illness, the cultural background of the patient and gender. The importance of home care was also mentioned. Research presented to the roundtable included information from other jurisdictions which were in some ways leading the field and certainly ahead of the game in New South Wales. For example, some services offered in Ireland, Canada and some parts of Scandinavian countries were considered to be best practice. There was also an analysis of where other jurisdictions are at in Australia, including Western Australia and Victoria.

A lot of the discussion that occurred at the roundtable was then developed by Kevin Humphries and taken to broader audiences throughout the State to get other stakeholders' input into formulating the policy. Previously there had been a breakthrough by a former Leader of the Opposition, John Brogden, who appointed the first shadow Minister dedicated to mental health—Gladys Berejiklian. Now the Liberal-Nationals Government has appointed Mr Humphries as Minister for Mental Health and has given a dedicated portfolio to the Minister. The mental health budget has been quarantined so that there is more transparency over the long term. We will be able to see budget expenditure on mental health services as distinct from the massive expenditure on health services generally.

Those roundtable deliberations led us to this point: the Mental Health Commission being established by this bill. I am pleased that it has support from all sides of the House. The Mental Health Commission is based on best practice models from around the world and other parts of Australia. It will be dedicated to improving outcomes for patients; it will be responsible for allocating resources to where they are most needed, using the most appropriate models of care; and it will be a champion for mental health across government and the community. A theme at the roundtable was that there needed to be champions for mental health in and from governments.

The Mental Health Commission, through the Minister, will be working to better manage the experience of people affected by mental illness as they go through their treatment. One pleasing objective of the Mental Health Commission will be to divert mentally ill people from the prison system. I refer to the work of one of our former colleagues, the Hon. John Ryan, who chaired a select committee on the prisoner population some years ago. I also served on that committee. The committee observed the proportion of the prison population that was suffering from mental illness and found that it needed to be addressed because it was quite scandalous. It is pleasing to see that with the establishment of the Mental Health Commission that issue will be better addressed than it has been in the past.

The Mental Health Commission will help to ensure the smooth operation of the Mental Health Tribunal. The aim will be, through the Mental Health Commission, to deliver world's best practice standards for mental health delivery and outcomes and to provide the structure and the support for strong leadership and independent advice to the government and to various mental health services throughout the State. It is the result of widespread discussions across New South Wales as to what sorts of services should be provided into the future. The views of many people whose lives have been touched by mental illness directly or who have come from families that have borne the brunt of mental illness suffered by a family member have been synthesised in the Hon. Kevin Humphries' policy work. More than 2,000 people contributed to the consultation process in the metropolitan area and in regional cities such as Dubbo, Wagga Wagga, Coffs Harbour and Nowra.

The Mental Health Commission Bill reflects the desire of the community and experts in the mental health field to establish a commission that will hopefully improve the lives of people who have been afflicted by mental illness. The commission will be representative and include people who have some experience of mental illness and work across the service spectrum to help those with a mental illness or with emerging mental health problems. It will also hold mental health services to account and work with them to improve the quality of services. I am pleased that the establishment of the commission has received support from all parties. I congratulate the Hon. Kevin Humphries on introducing the bill. I also congratulate the Government as a whole on ensuring that this important development passes through Parliament during the Government's first year in office. It is an important initiative and it is terrific to see it come to fruition.

The Hon. NIALL BLAIR [4.41 p.m.]: It gives me great pleasure to support the Mental Health Commission Bill 2011. I acknowledge and echo the remarks of the Minister for Health, Jillian Skinner, in the

other place who acknowledged the good work of the previous Government in raising the profile of mental health in New South Wales. I am also proud that the New South Wales Liberal-Nationals Government is honouring its election commitment by taking the necessary next step of establishing the Mental Health Commission. One of the key parts to establishing the commission is to ensure that the spending of all funds in this area is transparent and accountable.

I am proud that one of my Nationals colleagues, the Hon. Kevin Humphries, is the first stand alone Minister for Mental Health in New South Wales. It is significant that we have a member from a regional area as the first Minister for Mental Health. Recent statistics show that at least one in five people will experience mental health problems or issues in their lifetime. We also know according to statistics from the New South Wales Farmers Mental Health Network that male farm owners or managers commit suicide at around twice the rate of the national male average.

We need only look back to the drought we have experienced over more than the past decade to see its impact on many of our communities and the resultant increases in depression and suicide rates. I know that Minister Humphries has acknowledged on numerous occasions that the one positive we may be able to take away from the drought is that it potentially blew the lid off the mental illness issues and depression suffered throughout regional areas. It is also timely to acknowledge that many people in regional New South Wales who are experiencing floods at the moment may also be at risk of suffering mental illnesses because of the hardships they are witnessing and the financial stress that may be placed upon them.

It is important that the Minister for Mental Health is a regional member whose electorate covers a wide part of the State that was severely impacted by the drought over the past decade. He has seen firsthand the increase in these statistics and it is appropriate for him to have been given the responsibility of the Mental Health portfolio. I acknowledge Minister Humphries, all of his staff and the department for the work they have done with the mental health task force. They have spent many months travelling and talking to over 2,000 people not only in Sydney and the greater metropolitan area, including areas such as Penrith, but also in regional areas such as Dubbo, Wagga Wagga, Coffs Harbour and Nowra. The staff have brought together all of the consultation that has culminated in the development of this bill.

One of the most important functions of the commission will be to draw many service providers under one umbrella to provide consistency and support across the number of areas and resources that have been allocated. Men's Sheds and other movements do great work throughout regional areas by helping people with depression and other mental health issues. These organisations will now be able to tie in with the commission. So particularly in regional New South Wales the Mental Health Commission Bill reflects the community's desire to establish a body that will improve the lives of people with a mental illness.

As a member of the Committee on Children and Young People, I note that the Commissioner for Children and Young People expressed concern that children are not specifically mentioned in this bill. I assure her that due to its broad wording this bill will allow the commission to address all areas of mental health without limitation. Clause 12 (f) of the bill sets out as a central function to advocate for and promote the prevention of mental illness in early intervention strategies for mental health. Minister Humphries has said in the other place that this function will undoubtedly involve strategies targeted at children and adolescents, recognising also that they are not a homogenous group and that the messages will need to be tailored.

One of the most significant aims of this bill is to reduce the stigma of mental illness. I note the comments made by Dr John Kaye that mental health issues are different from other medical issues particularly because they affect one's behaviour. The community's perception of people with mental health issues suffers as a result of this. To illustrate the point of such a perceived stigma I will draw upon an experience that I had among my close network of friends. I hope I do not oversimplify the subject by using this example. I was recently with a group of my friends when one of them quite openly and proudly told us that he had sought help to fix his golf slice. He thought it was positive that he had taken steps to get this problem fixed. A few hours later during conversation we also found out that the same man had been receiving help for depression. He did not want to bring that up because he was worried about what we would think and the stigma that we may attach to him.

I repeat that I hope I am not oversimplifying the issue or doing it an injustice with this example. For him to proudly announce that he was getting help for something as simple as a golf swing, and yet not feel he could tell his close friends that he was also getting help for a mental health issue highlights that a stigma still

exists in this area. But I acknowledge that public perception of mental health is changing. Once my friend realised that we were happier to hear he was getting help for his depression than for his golf swing he realised that there would not be any stigma attached to him.

Clause 8 of this bill requires the commissioner, or at least one of the deputy commissioners, to be a person who has or has had a mental illness. That is a critical step in altering the stigma that surrounds mental illness. It also shows that the bill is unlike any other mental health legislation previously passed in New South Wales. The initiatives outlined in the bill are positive. The bill is a fantastic starting point. Development of the commission is welcomed. I acknowledge the support of all members, albeit that some slight amendment has been requested, and I acknowledge wide praise for the Minister and his department in developing the bill. I commend the bill to the House.

The Hon. MARIE FICARRA (Parliamentary Secretary) [4.50 p.m.]: Many members contributed to debate on the Mental Health Commission Bill 2011, and it is fantastic to see such a high level of cross-party support for a huge issue that affects health in our State. Many congratulations must go to the Minister for Mental Health, the Hon. Kevin Humphries, and his staff for the manner in which they have approached the whole issue of their portfolio, not just the creation of the Mental Health Commission. Their consultation and respect for all stakeholders throughout the State is worthy of acknowledgement. I join with other members in their tributes to the Minister and also offer my personal congratulations. Every member has someone in their family or in their circle of friends who suffers from mental health issues. Indeed, many parliamentarians have had periods of suffering from anxiety and depression. The occurrence of those conditions is very common. We all understand how important it is to have people cared for in a respectful manner, to not stigmatise mental health, and to give people every assistance to become productive citizens of our community.

It gives me great pleasure to support the Mental Health Commission Bill. The bill establishes the Mental Health Commission for the purposes of monitoring, reviewing and improving the mental health system and the mental health and wellbeing of the people of New South Wales. The New South Wales Liberals and Nationals were elected in March 2011 with a strong commitment to making delivery of quality mental health services a high priority. The bill provides for a commission to take a leadership role in facilitating mental health reform in New South Wales. The commission's focus across all levels of government and non-government will be on systemic issues and it will ensure that the mental health system is accountable. It will work collaboratively with government and non-government agencies to ensure a coordinated and integrated approach to mental health. It will ensure that people with mental illnesses have access to the best possible care and support so that they can participate fully in the community and lead meaningful lives.

In March 2011 the Liberal-Nationals Government made a commitment to establish a mental health commission to drive reform and improve outcomes for people with mental illness and to champion mental health within government so that people with mental health issues can obtain the best possible treatment and support. In May 2011 a task force to establish the New South Wales Mental Health Commission was established. Since June 2011 the task force has sought views from more than 2,000 experts comprising people with mental illness, their families and carers, and other stakeholders and members of the broader community to determine the form, function and power of the commission. The commission will develop a mental health strategic plan for approval by Cabinet and monitor and report on the plan's implementation. It will review and report on mental health issues, mental health services and other supports provided to people with mental illness. It will promote and facilitate the sharing of knowledge of ideas about mental health issues. It will undertake and commission as well as nurture the emergence of research, innovation and policy development in relation to mental health issues.

The commission will advocate for, promote and educate about mental health issues—which is a very important role—including in relation to stigma and discrimination. It will establish formal community and stakeholder advisory mechanisms and processes to ensure that the views and needs of all parts of the community are heard, and report on that to the Government. The bill enables the commission to focus on the three reform priorities set by the Government in its commitment to establish a commission: to better manage the experience of people with mental illness, their families and carers; to divert people with a mental illness away from the prison system, which is a key component that is supported by everyone in the community; and to ensure the smooth operation of the Mental Health Review Tribunal.

The centre of the Government's commitment to establishing a New South Wales Mental Health Commission is based on best practice models from around the world. I could speak at length on those models, but suffice it to say that the Minister and his staff have done a sterling job of researching those models and

putting them to stakeholders, patients, carers and families. The culmination of that consultation is the excellent bill that is before the House that has strong cross-party support. I reiterate that it gives me great pleasure to support the Mental Health Commission Bill 2011.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [4.55 p.m.], in reply: It gives me great pleasure to speak in reply to debate on the Mental Health Commission Bill 2011. I genuinely and warmly thank members for the contributions they made to the debate. I reiterate what has been stated by the Government in the other place and elsewhere in the community—that mental health is everyone's business. That was made very clear during debates. I acknowledge the work of the task force that was established to develop a proposal for a New South Wales mental health commission. Last night many of the task force members attended a function in Parliament House: Jenna Bateman, Mary Foley, Julie Hourigan Ruse, Dan Howard, Karin Lines, Brian Pezzutti, who I mentioned during my speech, Alan Rosen, Sebastian Rosenberg, David McGrath and Colman O'Driscoll. The support they have given the Minister, the Government and the people affected by mental illness throughout the State is very much appreciated. In many ways, this is their legislation and, more importantly, the legislation of the more than 2,000 stakeholders they consulted to ensure that the commission will meet the needs of the community as a whole.

I highlight a point made during debate by the Hon. Jennifer Gardiner that stakeholder consultation commenced many years ago. The then Coalition Opposition held many mental health roundtables throughout New South Wales. Those discussions were supported and organised by Kevin Humphries and Jenny Gardiner to develop this policy. It was those important workshops and stakeholder meetings that were the genesis of this legislation, and that good work has now been carried through to fruition in a bill introduced by the Coalition Government. Many people who have been touched by mental illness, as well as their families, carers and others working in the provision of mental health care, were consulted. They showed great courage in sharing their experiences with the task force. The Government again thanks them for their participation in this important piece of social justice reform. This bill delivers for them. It is their bill.

I particularly acknowledge members who contributed to the debate, including the shadow Minister, the Hon. Adam Searle, and thank him for his gracious comments and support of the collaborative approach adopted by the Minister and the Minister's staff. I acknowledge the contribution to the debate made by the Hon. Amanda Fazio. I acknowledge omitting to mention that she was a member of the Select Committee on Mental Health along with Brian Pezzutti. The Hon. Paul Green made a passionate and deeply personal speech, and I thank him for his contribution to the debate. I also thank all the others members who contributed to the debate. Mental health is an issue that has touched all our lives—our families, our social networks and our communities. I note the concern that has been raised about the timeframe for the commission's \$30-million budget. For the information of the Hon. Adam Searle, I advise that the funding will be \$30 million over three years.

We all agree that mental health is too important an issue to politicise. I thank members on the Opposition side of the House for their in principle support of the bill and look forward to further discussion during the Committee stage. I thank all those who have been involved, particularly the Minister, the Hon. Kevin Humphries.

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 to 8 agreed to.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [5.02 p.m.]: I move Opposition amendment No. 1 on sheet C2012-010C:

No. 1 Page 5, clause 9. Insert after line 4:

- (2) A direction given to the Commission by the Minister must be in writing.
- (3) As soon as practicable after giving a direction to the Commission, the Minister is to cause a copy of the direction:
 - (a) to be published in the Gazette, and
 - (b) to be provided to the Presiding Officer of each House of Parliament.

- (4) A direction given to the Commission by the Minister does not have effect until a copy of the direction has been published in the Gazette and the Presiding Officer of a House of Parliament has made the direction public or has laid the direction before that House.

As I indicated during my contribution in the second reading debate, we understand that clauses such as clause 9 are not unusual in legislation and indeed are very similar, if not in the same terms, as appear, for example, in the Health Care Complaints Commission legislation. We understand that clause 9 makes clear that the control and direction power reposed in the Minister does not extend to the preparation or contents of the draft strategic plan or any other report prepared by the commission. We do welcome that but our concern is—this is not a reflection on the present Minister or indeed on any particular Minister—that this clause as it stands means that a Minister could, if he or she chose, overrule a decision of this independent commission to inquire into and report on a particular systemic issue the commission believed was of concern and needed to be addressed. The control and direction power could also extend to the exercise of the commission's other functions under clause 12, including its monitoring functions. Again, I do not suggest for a moment that this is part of some malign intent by the Government or the Minister; it is simply a function of the width of the language used in clause 9.

We do not cavil with the Minister having this power, but we think it should be balanced, as it were, by a requirement for any direction by the Minister to be published and tabled in each House of Parliament. The Minister would still be able to exercise his power of control and direction if he or she thought that were necessary, but the fact that this was done and what was done would become known to the wider community would no doubt be a factor in the mind of any Minister before taking the profound step of directing the commission.

Again, we do not suggest for a moment that there is any present intention to interfere in the commission's deliberations or the exercise of its various functions under clause 12, but we do not think the protections that are presently in clause 9 go far enough to preserve and maintain the commission's integrity. Again, we do not seek to take away from the Minister the power to control or direct if he or she feels that is necessary or becomes necessary; we simply say it should be made public. The Opposition amendment as it stands also indicates that a direction by the Minister would not have effect until the direction was published and tabled in the Parliament. I believe Dr John Kaye may have a further amendment to this which would take out paragraph 4 of Opposition amendment No.1. If he moves that way we will not oppose it. The protections in clause 9 do not go far enough and we think it needs to be made public if the Minister is going to take the serious step of making a direction to the commission.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [5.06 p.m.]: The Government does not support this amendment. The purpose of this amendment is to ensure the commission's independence. However, clause 9 is a usual provision and similar to provisions in the Health Care Complaints Act and Cancer Institute legislation. In line with the outcomes of community consultation led by the taskforce, this provision fits with the commission and a government framework in terms of its relationship with the Minister. The amendment would place an extensive administrative burden on the Minister and also delay the effect of any instruction, which would have to be first published.

Dr JOHN KAYE [5.07 p.m.]: The Greens have two levels of concerns with this amendment. We understand where the amendment comes from. We support the intent of the amendment but not what the amendment would do. Our first concern, as the Hon. Adam Searle indicated, relates to paragraph (4), that a direction given by the commission to the Minister does not take effect until a copy of the direction has been published and gazetted by the Presiding Officers in the Houses of Parliament. The problem is that that would delay the directions given by the Minister to the commission and there may be situations in which such a direction is urgent by nature. Being totally hypothetical here, there may be a Chelmsford-like episode and the Minister needs urgent advice on how to act to protect patients. Our second concern with the amendment relates to a subsequent amendment of the Opposition which we do support, subject to our amendment to that, amendment No. 7, which states:

The Minister is, as soon as practicable after receiving a copy of the special report, to cause a copy of the report to be provided to the Presiding Officer of each House ...

Again, we strongly support that, but we are concerned that some reports should not be in the public domain. Giving some of these reports to Parliament, and hence to the community, could do damage to individuals or service providers. We will seek to amend Opposition amendment No. 7 by including the words "if the commission so requests it". If Opposition amendment No. 7 as amended by The Greens is passed and the

Minister asks for a report and the commission says, "Yes, here is your report, Minister. It is an important issue but we do not think this report should be in the public domain," and if Opposition amendment No. 1 has been passed, the directive to prepare that report will be in the public domain but not the report.

Clause 9 states that the directive and control powers of the Minister do not cover the preparation and contents of draft strategic plans or any other report prepared by the commission. I ask the Parliamentary Secretary to address this matter. My understanding is that the Minister cannot tell the commission to not investigate or report on specified matters. If the amendment prevents the Minister from doing that I am less concerned about the directive powers because they would not need modification. However, if the Minister is given the power to tell the commission to not report a matter my residual concerns remain as to the Minister's directive powers.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [5.11 p.m.]: The Government is concerned that this amendment does not add any value to the bill. The amendment reduces the capacity for urgency, which the Hon. John Kaye has outlined. There has been much consultation on this bill, involving 2,000 stakeholders across New South Wales, including some of the best mental health experts in New South Wales. I reiterate the Government's position: we will not support this amendment.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [5.12 p.m.]: I listened carefully to the Parliamentary Secretary and Dr John Kaye. I seek leave to withdraw paragraph (4) of Opposition amendment No. 1 that a direction does not become effective until it is published. The remainder of the amendment stands, which contains paragraphs (2) and (3).

The Hon. LYNDIA VOLTZ [5.13 p.m.]: I move:

That Opposition amendment No. 1 be amended by deleting paragraph (4).

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [5.13 p.m.]: I have taken on board the concerns raised by Dr John Kaye and the Parliamentary Secretary on behalf of the Government regarding any delay in implementing any direction. However, I am profoundly disappointed that I have not heard any real rationale for the control and direction power of the Minister. Referring to the comments of Dr John Kaye, it is true that the Minister will not be able to direct the commission about the content of any report, whether it is the draft strategic plan or any other report, but the protection is not extended to any of the commission's other functions in clause 12. For example, it does not protect a decision of the commission to inquire into a matter. While I do not ascribe any malign intent to the present Minister, nevertheless, this provision gives a Minister an ability, if he or she feels it necessary, to interfere in the workings of the commission other than for preparation of the draft strategic plan and the contents of any report.

An awful lot of the commission's remaining functions could be open to influence or interference if a Minister feels it is necessary. I repeat: the Opposition does not seek to remove this capacity from the Minister, but seeks an accountability mechanism that simply provides that if a Minister feels it necessary and in the public interest to give such a direction, it must be in writing, and it must be published and tabled in the Parliament. This is similar, for example, to a shareholder Minister's ability to direct a State-owned corporation, although different considerations apply.

[Interruption]

I note the interjection of the Hon. Dr Peter Phelps. I am saying that, while no commercial interests are at stake here, nevertheless, these are sensitive and important issues of public policy. If the Minister feels that he must direct the commission to cease and desist undertaking one of its functions or to do them in another way, again we agree that the Minister should have that power but there should be accountability and that direction should be disclosed. The Government has not revealed the purpose of clause 9 other than that it is a usual provision and is in a number of other Acts. We accept that and do not seek to undercut the capacity of the Minister to do what he or she feels is necessary. We just say, "If you do it make sure you tell us. What is the direction? Make it public."

I do not understand the resistance of the Government to this level of transparency or accountability. Presumably this power would be used only in the most rare and pressing of cases. I also have taken the step of consulting stakeholders, people closely concerned in this field of mental health, about this and other amendments. I have heard similar concerns about why the Minister needs this power and for what use. Again,

we do not seek to take the power away from the Minister. We just say that if it is used we must be told. The Government has not said anything that would cause me to reconsider our request. I understand the delay point and I have met that by accepting the amendment moved by the Hon. Lynda Voltz. I am unclear as to the Government's resistance other than that it changes the bill in some small material respect.

Dr JOHN KAYE [5.17 p.m.]: I listened carefully to the persuasive arguments of the Deputy Leader of the Opposition, but I remain confused. Clause 9 states:

The Commission is subject to the direction and control of the Minister, except in relation to the preparation and contents of the draft strategic plan or any other report prepared by the Commission.

Clause 12 deals with what the commission can do. The commission can prepare the strategic plan. Clearly, clause 9 is not a directive power over clause 12 (1) (a). Clause 12 (1) (b) states:

... to monitor and report on the implementation of the strategic plan,

Monitoring is preparation and reporting is content. Therefore, I imagine that the exemption in clause 9 would apply to clause 12 (1) (b). Clause 12 (1) (c) states that the commission is to review and evaluate, and report and advise on, mental health services et cetera. I imagine that preparation is review and evaluate, and report is report. I ask the Parliamentary Secretary to advise the Chamber on this issue. Is it the Government's view that the exemption in clause 9 covers clause 12 (1) (a), 12 (1) (b) and 12 (1) (c)? It would not cover clause 12 (1) (d), (e), (f), (g), (h) and (i). There are issues there. In terms of the investigative and reporting powers of the commission, the words "prepare and report" cover clause 12 (1) (a) and (b). With clause 12 (1) (c), if you can review, evaluate and report on mental health and other services then surely reviewing and evaluating is the preparation and reporting is reporting. I ask Government members to give The Greens some assistance in terms of telling us what they think. I think that clause (12) (1) (c) is covered by the exemption in clause 9.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [5.20 p.m.]: This legislation has been modelled very much on the Health Care Complaints Act and the Cancer Institute (NSW) Act—both involving independent organisations. For that very reason I have been informed by the Minister that he does not support these amendments because it reduces the capacity to act urgently. The commission is a standalone, independent organisation and the legislation is modelled on that covering other organisations that, coincidentally, were established under the previous Labor administration, such as the Health Care Complaints Act and Cancer Institute legislation. The Government is confident that the proposed legislation allows and ensures the integrity of the standalone commission and we will not support the amendments.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [5.21 p.m.]: I want to record my disappointment at the inability of the Government to engage in a discussion of this provision. I understand that parts of the legislation are modelled on other pieces of legislation, but the entire purpose of the mental health commission is that it is meant to be a bold departure from, and innovation in, public policy. The mere fact that there are provisions modelled on provisions in other legislation is not a suitable device to explain why the Government is not willing to accept this accountability measure.

In relation to the issue the Parliamentary Secretary raised about delay, that potentiality has now been removed from the amendment so there is no delay. The mere fact that the direction must be given in writing would delay the Minister in no discernible way. As a matter of practicality such directions would have to be reduced to writing to ensure the commission adhered to the Minister's intention. The substance of the amendment is paragraph (3), which ensures that after the direction to the commission is given the Minister must publish and provide to the Parliament a copy of that direction. The delay issue is not a consideration because of the amendment to the amendment.

In relation to what Dr John Kaye raised, the Opposition agrees that the protection presently in clause 9 would extend to clause 12 (1) (a) and (b) but I do not believe it would extend to the rest of clause 12 to the extent that those matters fell outside the strategic plan. Clause 12 (1) (c) states:

to review and evaluate, and report and advise on, mental health services and other services and programs ...

If it was not in relation to the strategic plan for mental health the protection would not apply.

Dr John Kaye: Why is that?

The Hon. ADAM SEARLE: Because, if the commission decided that it was going to inquire into a particular systematic issue, before it had done any work on a report the Minister at that point can simply say,

"I direct you to not investigate that matter." The Minister is not interfering in the preparation of anything because there is nothing to be prepared. It does not affect the content of any report, which is the protection in clause 9. I understand that this is a power that would be used sparingly and hopefully only in the most pressing case. Nevertheless, the capacity is there for a Minister to countermand or interfere with the commission's exercise of its functions under clause 12 (1)—except for (a) and (b).

I do not apprehend that the Minister has that present intention. All I am suggesting is that if the Minister makes the direction then the Parliament be told about it. The Opposition is struggling to hear any compelling reason from the Government as to why it cannot accept this accountability measure other than that it does not appear in some other pieces of legislation. This is meant to be a departure by this Government from previous methods, it is meant to break new ground and be a bold piece of public policy innovation. I encourage the Government to be bold. If the Minister directs the commission, let Parliament know what the direction is. The Opposition does not understand the resistance to this amendment.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [5.23 p.m.]: The advice is that we can confirm that the exemption in clause 9 would cover the reports in clause 12 (1) (a), (b) and (c).

Dr JOHN KAYE [5.23 p.m.]: I thank the Government for providing that information. It is congruent with my analysis. I understand what the Hon. Adam Searle is saying and I appreciate his greater legal expertise. The Greens see the issue of preparation beginning at the point where it has been decided that a report be made. The Greens therefore say it involves clause 12 (1) (a), (b) and (c). Clause 12 (1) (a), (b) and (c) are covered and that alleviates the concerns of The Greens with respect to the directive powers of the Minister. I appreciate the Government putting that on the record.

Question—That the amendment of the Hon. Lynda Voltz to Opposition amendment No. 1 [C2012-010C]—put and resolved in the affirmative.

Amendment of the Hon. Lynda Voltz to Opposition amendment No. 1 [C2012-010C] agreed to.

Question—That Opposition amendment No. 1 [C2012-010C] as amended be agreed to—put.

The Committee divided.

Ayes, 13

Ms Cotsis	Mr Searle	Mr Whan
Mr Donnelly	Mr Secord	
Mr Moselmane	Ms Sharpe	<i>Tellers,</i>
Mr Primrose	Mr Veitch	Ms Fazio
Mr Roozendaal	Ms Westwood	Ms Voltz

Noes, 25

Mr Ajaka	Ms Ficarra	Mr Mason-Cox
Ms Barham	Mr Gallacher	Mrs Mitchell
Mr Blair	Mr Gay	Mrs Pavey
Mr Borsak	Mr Green	Mr Pearce
Mr Brown	Mr Harwin	Mr Shoebridge
Mr Buckingham	Dr Kaye	
Mr Clarke	Mr Khan	<i>Tellers,</i>
Ms Cusack	Mr MacDonald	Mr Colless
Ms Faehrmann	Mrs Maclaren-Jones	Dr Phelps

Pair

Mr Foley

Mr Lynn

Question resolved in the negative.

Opposition amendment No. 1 [C2012-010C] as amended negatived.**Clause 9 agreed to.****Clause 10 agreed to.****Clause 11 agreed to.**

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [5.35 p.m.]: The Opposition will not move its amendments Nos 2 and 3 as circulated, but will move Opposition amendment No. 4, which also proposes an amendment to clause 12.

The CHAIR (The Hon. Jennifer Gardiner): Order! Members are having difficulty hearing what is being said. Opposition members will be a little quieter.

The Hon. ADAM SEARLE: I move Opposition amendment No. 4 on sheet C2012-010C:

No. 4 Page 7, clause 12, lines 5-8. Omit all words on those lines. Insert instead:

- (h) to work, independently and with others:
 - (i) to educate the community about mental health issues, and
 - (ii) to reduce the stigma associated with mental illness and prejudice against people who have a mental illness, and
 - (iii) to eliminate discrimination against people who have a mental illness,

As I indicated during the second reading debate, the legislation establishing the New Zealand Mental Health Commission provides for its commission a very strong mandate to work towards reducing the stigma associated with mental illness and prejudice towards people with mental illness, their families and caregivers, and to eliminate discrimination on the ground of mental illness. The bill now before the Committee has those important functions only as a subsidiary part of a broader community education function, embodied by clause 12 (1) (h) of the bill. The Opposition believes the language around those elements needs to be strengthened significantly to make clear that the commission should not only work to educate the community—which all members would support wholeheartedly—but also have an independent mandate to work to reduce the stigma associated with mental illness, and thus work towards eliminating discrimination against persons with a mental illness.

I think it would be very hard for anyone to argue against those public policy objectives. I will wait until the Government discloses its position, but I would find it hard to accept that a government that has produced this bill, which has many fine and admirable qualities, would cavil at ensuring the commission is understood to have those independent roles of reducing stigma associated with mental illness and working towards eliminating discrimination, rather than have them buried away as merely a subsidiary part of community education. What is in the bill now is perfectly acceptable, but those elements need to be strengthened because the provision in the bill simply does not go far enough. That is the message I have from stakeholders.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [5.37 p.m.]: The Government does not support Opposition amendment No. 4. The amendment relates to the proposed community education function set out by the bill for the commission. The proposed amendment would simply reformat existing bill provisions into separate subclauses, and that is not supported. The amendment is not substantive and, more importantly, not necessary as the commission is not limited to working alone, and it can work with others as appropriate. I am advised by the Minister that we will not be supporting the amendment.

Question—That Opposition amendment No. 4 [C2012-010C] be agreed to—put.

The Committee divided.

Ayes, 18

Ms Barham	Mr Primrose	Ms Westwood
Mr Buckingham	Mr Roozendaal	Mr Whan
Ms Cotsis	Mr Searle	
Mr Donnelly	Mr Secord	
Ms Faehrmann	Ms Sharpe	<i>Tellers,</i>
Dr Kaye	Mr Shoebridge	Ms Fazio
Mr Moselmane	Mr Veitch	Ms Voltz

Noes, 20

Mr Ajaka	Mr Gallacher	Mr Mason-Cox
Mr Blair	Mr Gay	Mrs Mitchell
Mr Borsak	Mr Green	Mrs Pavey
Mr Brown	Mr Harwin	Mr Pearce
Mr Clarke	Mr Khan	<i>Tellers,</i>
Ms Cusack	Mr MacDonald	Mr Colless
Ms Ficarra	Mrs Maclaren-Jones	Dr Phelps

Question resolved in the negative.

Opposition amendment No. 4 [C2012-010C] negatived.

Dr JOHN KAYE [5.48 p.m.]: I move The Greens amendment No. 1 on sheet C2012-002C:

No. 1 Page 7, clause 12. Insert after line 22:

- (e) to take into account the particular views and needs of people of different age groups, including children and young people, and

The intent of this amendment is to add to clause 12 of the bill the functions of the commission to take into account the particular views and needs of people of different age groups, including children and young people. The reason for doing this is because it relates to a submission made to—

The CHAIR (The Hon. Jennifer Gardiner): Order! Members who wish to engage in private conversations will do so outside the Chamber. The Chair and Hansard cannot hear the member with the call.

Dr JOHN KAYE: The purpose of this amendment is to respond to the submission of the Commissioner for Children and Young People, who wrote to the Director General of the Department of Communities and Health on 11 August 2011. In her letter she pointed out that it was important for the commission to pay particular regard to children and young people. She said that an important way of doing that was to include in the bill a specific objective of focusing on and taking into account the particular views and needs of children and young people. That letter was in response to the draft bill that was circulated among stakeholders. It was noted that her suggestion did not appear in the final version of the bill. On 26 January 2012 Commissioner Mitchell wrote to the Committee on Children and Young People of this Parliament and expressed her disappointment at the fact that the Government had not included her concerns in the legislation. She said:

A specific focus on the views and needs of children and young people in the work of the Mental Health Commission is warranted for a range of reasons, including the relatively high rates of mental disorders in children and young people aged 16-24. ABS data indicates that 26% of children and young people in Australia in this age range had a mental disorder in 2006. Despite the fact that the prevalence of mental illness is relatively high in young people compared to other population groups, they have a relatively low rate of mental health service use, with just under a quarter of those with a mental disorder using services in 2006. Roughly half of all lifetime mental health disorders are thought to start by the mid-teens and three-quarters by the mid 20's.

The commissioner went on to say:

I believe the Mental Health Commission has an important role in ensuring that this occurs, and that appropriate wording in the text of the Bill that will establish the functions of this agency is required to facilitate this.

In response to her concerns The Greens raised the matter with the Minister's office. His office responded to us by saying that it had some concerns about targeting one age group when all groups should be targeted. We

responded to that by changing our amendment to read, "to take into account the particular views and needs of people of different age groups, including children and young people." We are not focusing unduly on children and young people to the exclusion of other age groups; we are just pointing out that those groups have specific needs. The amendment will enact the advice of the commissioner, who is charged by the Government of New South Wales to represent the needs and concerns of young people. She has warned this Parliament that we should do something about this. We are responding by moving this amendment. I commend the amendment to the Committee.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [5.52 p.m.]: While respecting and understanding the intent of the amendment that Dr John Kaye has moved on behalf of The Greens, the Government is confident that what he is seeking to achieve is already within the content of the bill. I highlight that the Commissioner for Children and Young People had plenty of opportunities to give input to the bill. The task force considered the submissions but also looked broadly at the consultations with more than 2,000 people. The bill balances the needs of all age groups and includes everyone. The Government does not support The Greens amendment.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [5.53 p.m.]: The Opposition supports The Greens amendment largely for the reasons outlined by Dr John Kaye. I do not intend to labour the matter further.

The Hon. JAN BARHAM [5.54 p.m.]: I support The Greens amendment No. 1. I congratulate Dr John Kaye on moving the amendment and the Opposition on supporting it. Comments were made that the commissioner could have raised this issue in a submission. The commissioner did that. She raised this issue in a comprehensive submission that was presented to the task force. It is bewildering that her advice to include a specific focus on young people within the bill has been overlooked. I acknowledge that the amendment has been broadened so as not to focus on young people so specifically, but it ensures their inclusion. The utmost consideration must be given to the care and attention received by young people. The importance of addressing their needs has been proven during many inquiries. If their mental health issues are not addressed in their youth and they are not given the support they need, they will face a shorter life or a life of ill health. That is made clear by many statistics and studies, and that is the situation that this amendment seeks to avert.

I acknowledge that this bill is an important move by the Government. I missed speaking during the second reading debate but I congratulate the Government on this timely and important initiative that establishes the Mental Health Commission. I also congratulate the Minister on taking this important step. But what a shame it is not to proceed with recognising the needs of young people. We have seen from reports that the mental illnesses young people suffer affect them in many ways. A study conducted by the Department of Community Services showed that more than half the young people in out-of-home care were reported to have clinically significant mental health difficulties and presented with complex disturbances.

We have a responsibility toward these people. Their problems must be addressed properly, which was the intention of the commissioner in her submission. She then took the step of writing to me and to other members of the Committee for Children and Young People because she was so concerned that the significant issues presented in her submission were not raised by the task force response or in the bill. The commissioner said in her letter dated 31 January 2012:

Although I strongly support the NSW Government's decision to establish a NSW Mental Health Commission, I am concerned that the Bill fails to identify children and young people as a group whose particular views and needs the Mental Health Commission must take into account in exercising its functions ...

A specific focus on the views and needs of children and young people in the work of the Mental Health Commission is warranted for a range of reasons, including the relatively high rates of mental disorders in children and young people aged 16-24. ABS data indicates that 26% of children and young people in Australia in this age range had a mental disorder in 2006. Despite the fact that the prevalence of mental illness is relatively high in young people compared to other population groups, they have a relatively low rate of mental health service use, with just under a quarter of those with a mental health disorder using services in 2006. Roughly half of all lifetime mental health disorders are thought to start by the mid-teens and three-quarters by the mid 20's.

There can be no better reason to recognise and focus on the specific needs of young people in this historic legislation. The functions of this agency must focus on young people because they are the most vulnerable. Studies and reports make it clear that they need to know that the services are there and they need to have those support services made available to them. They will not access normal services; they will more likely engage in unsafe activities, experimenting with life in many different ways. We know that a lot of young people who are drinking alcohol for the first time might engage in binge drinking and also experiment with drugs. Often

polydrug use creates mental disorders that, if not diagnosed and treated while people are between 16 and 24 years of age, turn into lifelong illness. That is something we would not wish on any New South Wales constituent, particularly on young people who deserve our support.

I commend the amendment to the Committee. I thank Dr John Kaye from the bottom of my heart for moving the amendment because it is so important. I sincerely hope that on this historic occasion the Committee will acknowledge the value of enhanced support for and recognition of the needs and views of young people. I urge the Committee to support the amendment.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [6.00 p.m.]: I welcome the impassioned speech that has been made by the Hon. Jan Barham. I assure her that clause 12 (1) (f) of the bill includes among the functions of the commission advocating and promoting prevention and early intervention strategies. The needs of children and adolescents are matters of critical concern for the commission to consider, and the Hon. Jan Barham can be assured that the commission will consider them.

Question—That The Greens amendment No. 1 [C2012-002C] be agreed to—put.

The Committee divided.

Ayes, 18

Mr Buckingham	Mr Roozendaal	Ms Westwood
Ms Cotsis	Mr Searle	Mr Whan
Mr Donnelly	Mr Secord	
Ms Faehrmann	Ms Sharpe	
Ms Fazio	Mr Shoebridge	<i>Tellers,</i>
Mr Moselmane	Mr Veitch	Ms Barham
Mr Primrose	Ms Voltz	Dr Kaye

Noes, 20

Mr Ajaka	Mr Gallacher	Mr Mason-Cox
Mr Blair	Mr Gay	Mrs Mitchell
Mr Borsak	Mr Green	Mrs Pavey
Mr Brown	Mr Harwin	Mr Pearce
Mr Clarke	Mr Khan	<i>Tellers,</i>
Ms Cusack	Mr MacDonald	Mr Colless
Ms Ficarra	Mrs Maclaren-Jones	Dr Phelps

Pair

Mr Foley

Mr Lynn

Question resolved in the negative.

The Greens amendment No. 1 [C2012-002C] negatived.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [6.10 p.m.]: I move Opposition amendment No. 5 on sheet C2012-010C:

No. 5 Page 7, clause 12. Insert after line 26:

- (3) The Minister is, as soon as practicable after receiving a draft strategic plan, to provide a copy of the plan to the Presiding Officer of each House of Parliament.

The Opposition raised this issue during the second reading debate. The commission is tasked with the key role of preparing a strategic mental health plan. This plan will not just be for public sector agencies and what they do, but will comprehend all mental health services provided in the State, regardless of the body that provides them. The strategic mental health plan is subject to approval by the relevant Minister and the wording of clause 12 (1) (a) makes that clear. However, the bill does not explain what will happen in the event of any disagreement between the independent commission and the relevant Minister regarding the content of the strategic mental health plan. There is no provision for how any such disagreement may be resolved.

The way in which I read the bill is that only a plan approved by the Minister can become the plan, and that is fair and reasonable given that not only does the Government of New South Wales directly provide most of the services in this area but also is the funding provider for many of the non-government services. We have no issue with the Minister having the last say. What we do say—as a matter of transparency and accountability—is that the community ought to know whether there is a difference between the strategic mental health plan that is ultimately embraced and put into action and the views of the independent commission. One could envisage a situation where there is a significant root and branch disagreement that ultimately can be resolved only by the commission either having a complete Mexican standoff with the Government, and therefore there is no plan, or the commission giving in to the views of the relevant Minister, so that becomes the plan.

Again, the Minister is part of the elected Government and it is fair and right that only the plan approved by the Government should become the State strategic mental health plan. Given the great store that the Government has placed upon the independence of this new commission, the community should know whether the plan that is put into place differs from the plan submitted by the independent commission. Therefore, it would be able to be seen quite clearly whether, and to what extent, the Government has influenced the plan that is finally put into place. That is the idea behind amendment No. 5. We say that as soon as practicable after receiving a draft strategic plan the Minister should provide it to each House of Parliament.

It does not bind the Minister to approve the plan; it does not in any way inhibit the Cabinet discussions that might take place about the plan; and it does not inhibit the Cabinet or the Government from approving a plan in different terms. However, it does make that conversation public in the sense that people can see what was submitted and what emerges on the other side. The public will not know all the detailed steps in between. Given the nature and sensitivity of some of those discussions and the fact that they may of necessity be Cabinet in confidence, that is fine. However, the community should know what the independent commission recommends as the strategic mental health plan for this State if it is ultimately to have any credibility with stakeholders and the wider community. I cannot put it any more highly than that.

Dr JOHN KAYE [6.13 p.m.]: The Greens support the intent of this amendment, which is to create the opportunities for openness and public debate about the draft plan. However, we have concerns about the practical implementation of the amendment. Opposition amendment No. 5 would suggest that every draft strategic plan has to become a public document. Our concern is that it would take away from the commission the capacity to make an ambit claim against the Government. This is a new animal. We are creating a policy animal that will have a significant impact on the future of the Government. There will be tension between the Government and the commission. That is a good thing. There will be productive tension. However, some of that tension is best played out in private to give the commission the capacity to put an ambit claim, to put things to the Government that it knows it will be uncomfortable with. However, it will begin the debate from that perspective.

If the commission knows that everything it writes will go into the public domain, it will have less freedom in what it can do in its draft plan. While The Greens support the intent, the outcome may be adverse. This becomes important where the Government begins to play hardball with the commission and says, "No, we are just not going to do that." We think a better solution to approaching the problem is our amendment No. 1 on sheet C2012-034A. That amendment creates the opportunity for the commission to report on progress of the preparation of a draft strategic plan. For example, that could include the commission publishing the draft that it submitted to the Government.

Our amendment gives the commission the capacity to do this without forcing it to do it, which is different to the Opposition's amendment. Our amendment puts more arrows in the quiver of the commission in its negotiating stand with the Government. The Government will know that the commission could potentially put the draft into public hands by reporting on what was in it without necessarily forcing it to do so, so that the commission can then put pressure on the Government. While we support the intent behind Opposition amendment No. 5, we do not support it. We think our amendment No. 1 is a more sensible way of achieving the same outcome, which is getting the material into the public domain.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [6.16 p.m.]: I thank Dr John Kaye for his contribution, because it is to the point. It is important and the task force agreed that the commission would develop a strategic plan to present to the Government for approval. This is a big task, and a big part of this mental health commission is to ensure that we take a strategic approach and go across all government agencies, from Juvenile Justice, to police, to Housing, to Health. This task force will be doing a huge job in respect of the

strategic plan. To ensure that we have as honest a strategic plan as possible to present to Government, it is important that it remain in confidence so that it can be done in a proper policy framework. I note that Dr John Kaye has seen the reasoning behind the way the legislation is drafted.

The commission would already be undertaking broad consultation for the development of the plan and the proposed amendment would inappropriately override the role of Cabinet in considering the draft plan. The intention of the task force was that the commission would provide a draft strategic plan to Cabinet so that all Ministers and government agencies could commit to a whole-of-government strategic plan and therefore be accountable for its implementation. The Government does not support the Opposition's amendment.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [6.18 p.m.]: It is disappointing that the Government is yet again missing another opportunity to improve the bill, and to have more openness, accountability and transparency in this important area of public policy. The Government has said that it wishes to encourage a spirit of bipartisanship. Regrettably, the Government's conduct in relation to this debate is not conducive to that. It is complete nonsense that this amendment, if carried, would inhibit Cabinet discussions. The Government is creating an independent body to develop a draft strategic mental health plan in consultation with public sector providers and other providers throughout New South Wales. The Government must consider that in the light of budgetary constraints and other policies. It will always be a matter for Government, under the legislation, as to what draft plan for mental health it is prepared to approve and the legislation makes clear the Government will have the last say in that process. We will see what comes out the other side.

The Opposition is suggesting that the community should know what the independent commission has recommended. It does not inhibit anyone's discussion; it does not seek to reveal the contents of those deliberations between the Government and the commission, and within the Government itself. We simply want to know what the commission has recommended and then, of course, we will know what the Government has chosen to approve. It is a simple provision that will provide for greater clarity, transparency and openness. It is disappointing that the Government seems determined to miss the boat again on this important matter.

Question—That Opposition amendment No. 5 [C2012-010C] be agreed to—put and resolved in the negative.

Opposition amendment No. 5 [C2012-010C] negatived.

Clause 12 agreed to.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [6.20 p.m.]: I move Opposition amendment No. 6 on sheet C2012-010C:

No. 6 Page 7. Insert before line 27:

13 Draft strategic plan for mental health system

The draft strategic plan for the mental health system must:

- (a) include mental health services provided by both government and non-government sectors, and
- (b) specify a term for the plan, not exceeding 5 years.

The thinking behind this amendment is twofold. First, it is to make it clear that it is not merely a plan for the public or government sector; it is a draft strategic mental health plan for the whole of New South Wales and for the mental health system of the State as a whole; and, second, to specify a term for the plan. The bill is silent on what the life of a strategic plan will or can be. It is not clear whether it is for four years, five years, 10 years or even 100 years. It is not clear what criteria will be used to decide for how long a plan should be. Our view is that without some time frame it will not be possible to reasonably or properly evaluate whether the targets and objectives of the plan are sensibly being met as each year passes. This is crucial to public confidence in this new commission because it will have the capacity, indeed the duty, to monitor and report on the implementation of the plan as envisaged in clause 12 (1) (b) of the bill.

For example, the New Zealand legislation specifies that its strategic mental plan shall be for a period of time to be agreed between the commission and the relevant Minister. A provision of that nature would be acceptable to the Opposition. From discussions with the Minister, a particular time frame is in the Government's consideration but it cannot be found anywhere in this bill. We simply say that as one of the roles of the

commission will be to report each year, including presumably to this Parliament, on the progress against the plan, whether the progress being made year by year is reasonable or should be better or is above expectations will be a function of how long the plan is intended to be for.

The current construction of the bill gives us or the commission no guidance as to the time frame. That is not reasonable; there should be a time frame even if it were, for example, one of 10 years. It is a strange omission. If no time frame is set, as each year passes and we receive progress reports against the time frame, the significant risk is that the credibility of the commission's plan will be undermined. I do not know the effect of the absence of a time frame from legislation because the commission or the Minister is not given an ability to set a time frame for a plan. Given that the bill is silent on this aspect, one way of looking at it is that the period literally could be anything. That is not sensible or reasonable. A time frame should be set or at least a mechanism by which to set a reasonable time frame. Hence, we advocate for Opposition amendment No. 6.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [6.24 p.m.]: The Government will not support Opposition amendment No. 6. The amendment is unnecessary because clause 12 (2) (d) (ii) already requires the commission to engage and consult with the government and non-government sectors, including the private sector, in exercising its functions, including when preparing the draft plan. Subclause (b) of the amendment relating to a time frame also is not supported as it is considered to be a constraint on the commission in its independent advice to the Government on a time frame for the draft strategic plan, which would be identified through the commission's consultations. This also does not need to be legislated.

Dr JOHN KAYE [6.25 p.m.]: The Greens do not support this amendment. We appreciate its origination, but subclause (a) is unnecessary because it already exists. The principles governing the commission's work at clause 11 (e) (i) in part states:

- (e) an effective mental health system requires:
 - (i) a co-ordinated and integrated approach across all levels of government and the non-government sector ...

Therefore, clause 13 (a) already is contained in clause 11 (e) in that the draft strategic plan would have to reflect the principles governing the commission and the need for coordination across all levels of government and non-government sectors. Clause 13 (b) would tie the hands of the commission as it refers to the specified term for the plan to not exceed five years. The commission should properly determine the term of the plan. Much of this bill is about putting our trust in the commission and believing that it can deliver a sensible plan. If this all goes terribly awry and the plan the commission delivers is hopeless, we will have to reconsider. Given the amount of consultation and the way the commission is appointed, there are good reasons to believe that the commission will make sensible decisions on how long that plan should last.

I have two problems with the amendment. First, I consider that five years may be too short and that perhaps the term should be for 10, 15 or 20 years. Second, I am uncomfortable with the expression "specify a term for the plan". One possibility the commission may come up with is a plan that has short-term goals within maybe one or two years, a medium five-year to eight-year plan, and then a 10-year to 20-year plan. That would be sensible for the commission because we are discussing developing a new mental health system and need to do some things quickly to alleviate current constraints. I mention again the issue of patients leaving acute care and entering community care and the urgent need to get mental health coordination services available for those patients immediately.

Without wishing to bind the commission, that probably is something it would consider as an urgent matter and would have it in the short-term plans. Then there would be a workforce development issue in how we position the workforce given the high anticipated retirement rate of nurses over the next five and 10 years. That might be contained in a five-year to 10-year plan. Then there may be the more long-term aspirational goals about changing community attitudes, for example, which takes longer. Specifying a particular term for a plan, which then drops dead at a certain date, is unnecessarily binding the commission into a particular view of how it would write a plan. The Greens would prefer to see the commission develop its own view of how it would do that, including possibly a range of time frames. While we understand the arguments of the Opposition, which were well argued and make a lot of sense, the problem is that they would bind the commission unnecessarily. Therefore, The Greens do not support this amendment.

Question—That Opposition amendment No. 6 [C2012-010C] be agreed to—put and resolved in the negative.

Opposition amendment No. 6 [C2012-010C] negatived.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [6.29 p.m.]: I move Opposition amendment No. 7 on sheet C2012-010C:

No. 7 Page 7, clause 13 (3), lines 34 and 35. Omit all words on those lines. Insert instead:

- (3) The Minister is, as soon as practicable after receiving a copy of a special report, to cause a copy of the report to be provided to the Presiding Officer of each House of Parliament unless the Minister is satisfied that the report contains information that is Cabinet information under the *Government Information (Public Access) Act 2009* or information that relates to confidential proceedings of Cabinet or any committee of Cabinet.

This Opposition amendment is directed to clause 13 of the bill and deals with the issue of special reports where the Minister may direct the commission to prepare a special report on any significant systemic issue affecting people who have a mental illness. Such special reports may be tabled as provided in clause 13 (3) but they need not be. This stands in contrast with other reports prepared by the commission as provided for in clause 14. The Opposition does not understand why in the interests of openness, transparency and promoting understanding of the issues to do with mental health the Government would want to retain some mechanism for not making reports public.

The Minister in his address in reply in the other place indicated that it was his view that this function of the commission, which is triggered by a direction by the Minister to the commission, would arise from discussions of the Cabinet and, in turn, any resulting special report would go back to Cabinet for its deliberation and consideration. That would be the origin of the special reports. The amendment that the Opposition proposes in No. 7 deals with that one exception. The Opposition submits that as soon as practicable after receiving a copy of the special report that report should be tabled, along with every other report from the commission, unless it contains material which is described as being "Cabinet in confidence".

We understand that The Greens will move an amendment to this amendment which would contain the additional caveat that such a report would only be tabled if there was a recommendation for it to be so tabled by the commission itself. Again, the Opposition accepts that as a sensible and reasonable proposition. It provides for maximum openness—as much as can be sensibly required—but in a way that is sensitive to other considerations. For example, such a special report may well contain matters which ultimately do not go to Cabinet and do not fall within that exception but nevertheless contain information that is sensitive and, although a systemic matter, may relate to a particular institution or people where it would not be in the public interest for those details to be disclosed. The Opposition accepts that and in that spirit the Opposition accepts that additional caveat on this disclosure requirement. The Opposition believes that, absent those considerations, there is no sensible or real objection that can be made to these special reports being mandated to see the light of day. No doubt the Parliamentary Secretary will clarify the matters.

[The Chair (The Hon. Jennifer Gardiner) left the chair at 6.33 p.m. The Committee resumed at 8.00 p.m.]

Dr JOHN KAYE [8.00 p.m.]: I move Greens amendment No. 2 on sheet C2012-033C:

- No. 2 Omit "The Minister" from Amendment No 7 and insert instead "If the Commission includes such a recommendation, the Minister".

This amendment seeks to amend Labor's amendment No. 7 on sheet C2012-010C. I hardly need to introduce this amendment because the Deputy Leader of the Opposition did such an excellent job of introducing my amendment that I cannot do much more. The intent of The Greens amendment is to allow the commission to deliver a report to the Minister without that report entering the public domain if the commission thinks that is not the appropriate thing to do. In other words, The Greens amendment will allow the commission to report on sensitive matters, the publication of which would not be in the public interest and would inflict unnecessary harm on an individual or a group of individuals or institutions without concomitant benefit.

The Greens amendment would allow the commission to deliver such a report to the Minister without the report being presented in the public domain. The Greens think that, with our amendment, the requirement for the Minister to publish as soon as practicable any special report is in the public interest, provided the report is not a Cabinet-in-confidence document. I commend The Greens amendment, and Labor's amendment as amended, to the Committee.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [8.03 p.m.]: The Government does not support amendment No. 7. When a special report is not Cabinet-in-confidence there may be circumstances in which confidentiality is critical in relation to the subject matter of a special report because of its sensitive nature. Clause 13 (2) will enable the commission to include a recommendation that the report be made public, and the amendment would stifle the discretion and independence of the commission. The Government will not support the amendment.

Dr JOHN KAYE [8.04 p.m.]: I appreciate that the Government does not support the Opposition's unamended amendment because it would stifle the capacity of the commission to deliver a report to the Government in confidence. But the Government would probably recognise that, with The Greens amendment, such publication would occur only if the commission includes a recommendation for that to happen. Therefore it would be at the discretion of the commission whether a special report is published.

Under The Greens amendment, a special report, which the commission felt should not be published, would not be published, whereas if the commission recommended it be published then it would be published unless it was Cabinet-in-confidence. I understand the intent of the Opposition's amendment, and I think it is a good intent, but I have some concerns, as I stated earlier. The Greens amendment addresses the Government's concerns with respect to the publication of special reports.

Question—That The Greens amendment No. 2 [C2012-033C] to Opposition amendment No. 7 [C2012-010C] be agreed to—put and resolved in the affirmative.

The Greens amendment No. 2 [C2012-033C] to Opposition amendment No. 7 [C2012-010C] agreed to.

Question—That Opposition amendment No. 7 [C2012-010C] as amended be agreed to—put and resolved in the negative.

Opposition amendment No. 7 [C2012-010C] as amended negatived.

Clause 13 agreed to.

Dr JOHN KAYE [8.07 p.m.]: I move Greens amendment No. 1 on sheet C2012-034A:

No. 1 Page 8, clause 14 (1). Insert after line 3:

- (a) progress of the preparation of the draft strategic plan,

This amendment will give the commission the capacity to report on progress in relation to preparation of the draft strategic plan. Members will recall that when we were discussing Labor amendment No. 5 The Greens had some concerns because it would have required the draft strategic plan to be put into the public domain. The Greens felt that amendment would restrict what the commission could do in terms of reporting to the Government on a strategic plan. But the Opposition's amendment was based on concern that the Government would ignore the commission, just reject the draft plan and, as it were, keep playing hardball with the commission. The Greens thought that was a valid concern.

Inserting the amendment into clause 14 would give the commission the capacity at any time to prepare a report on the progress of the preparation of the draft strategic plan. In effect, it would give the commission a pressure point against the Government. It will be able to say to the Government, "If you are not going to play seriously with us in terms of developing a strategic plan that is acceptable to us and to you, and you are not prepared to work towards a consensus outcome, we will put you in our report on what you are doing." The entire draft strategic plan could be published if the commission felt that was appropriate. The idea—although I do not think it should, or would, get to this stage—is that it provides a balance between the powers of the Government and the powers of the commission without forcing the commission or the Government to put any draft strategic plan into the public domain. The Greens think that is a balanced way of maintaining the commission's capacity to put pressure on the Government. It gives the commission the capacity to put pressure on the Government to negotiate with the commission. I commend the amendment to the Committee.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [8.10 p.m.]: The Government will not support Greens amendment No. 1. The task force came up with the recommendations that formed the basis of the legislation. Insertion of The Greens amendment could result in the clause becoming another onerous

responsibility of the commission and may slow the commission down in performing its real work, which is to enhance the services available for mental health across all agencies in New South Wales. The Government is confident, based on its consultation with 2,000 stakeholders with whom it has met, that the bill is appropriate. The Government will not support this amendment.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [8.11 p.m.]: Unlike the Government, the Opposition takes a sensible and balanced approach. We will support the amendment that has been moved by Dr John Kaye, although we gently chide Dr John Kaye for not supporting Labor's earlier amendment.

Dr John Kaye: That is because I was screwed.

The Hon. ADAM SEARLE: I acknowledge that interjection. We gently chide Dr John Kaye and his colleagues for not supporting Labor's earlier amendment, which was directed to the same end—making sure that the public of this State is fully aware of what is in the strategic mental health plan for New South Wales that the independent commission proposes to the Government. We were not successful with our amendment. What Dr John Kaye has put before the Committee gives the commission the capacity, but not the responsibility, to report on progress in relation to preparation of the draft strategic plan. It does not require the commission to do so. To that extent, the instructions given to the Parliamentary Secretary to present to this Committee, a somewhat lightweight and fanciful notion that this amendment would burden the new commission unduly, involve a completely risible proposition. The suggestion that it is burdensome to give the commission the discretion to do something but not require it to do something flies in the face of any known logic, even in the somewhat tortured and strange debates that occur in this Chamber.

It is regrettable that this extra measure of accountability is not being accepted by the Government in the spirit of multipartisanship. That is unfortunate, given the goodwill that comes with this legislation and the policy objectives to which it is directed. I reiterate for the consideration of this Committee that, given the goodwill and good works that we are all trying to direct our deliberations towards, it is most regrettable that the Government is thumbing its nose at all of the balanced and sensible proposals that we are putting before the Committee for consideration. Those proposals have not been plucked out of thin air. The proposals derive from our consultation with stakeholders—the very same stakeholders that the Government consulted during preparation of its bill.

They keep offering the excuse that this is not our bill, it is the taskforce's bill, but did they present our amendments to the taskforce for the consideration of that taskforce? I do not know. It would be instructive for the Parliamentary Secretary to get that instruction. I know we have had the discussion with the Minister's office about Labor's proposed amendments. I cannot speak for Dr Kaye's amendments but the Government is hiding behind the rationale that it is not its bill; it is the taskforce's bill. I understand that but it would be very instructive to know whether the Government has sought the advice of the taskforce on the amendments. I apprehend not, because some of the people who had input into the taskforce's deliberation are also the people that I have consulted around our amendments. As I said, it is regrettable that there is not a lot more open-mindedness in the debate to ensure, as we are all striving to do, that this good piece of legislation is made the best it can be from its very inception.

Dr JOHN KAYE [8.15 p.m.]: I must say, I am deeply surprised to see the Government changing its tune and saying it will vote against this amendment. I understood from my negotiations with the Government that it would support this amendment. Having been lured into a very neatly set trap by the Minister's office, I have learnt a lesson in this Parliament tonight about how the Coalition behaves. As I said during discussion of Opposition amendment No. 5, The Greens voted against that amendment because we had an alternative amendment which we thought was better. I had understood that was the arrangement. Clearly, that is not the arrangement. That is the way the Coalition likes to play this. I have learnt a lesson tonight. Thank you very much.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [8.16 p.m.]: There appears to be a misunderstanding on where the negotiations had got to on this amendment. This amendment and a couple of the others are sensible amendments that we can live with and that make the bill better. The Government accepts this as a proper amendment and will support it.

Dr JOHN KAYE [8.17 p.m.]: I thank the Government for that and I retract my earlier remarks.

Question—That The Greens amendment No. 1 [C2012-034A] be agreed to—put and resolved in the affirmative.

The Greens amendment No. 1 [C2012-034A] agreed to.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [8.18 p.m.]: I move Opposition amendment No. 8 on sheet C2012-010C:

Page 8, clause 14, line 4. Omit all words on that line. Insert instead:

- (a) the implementation of the strategic plan and progress of the mental health system throughout New South Wales against the strategic plan,
- (b) funding allocated to mental health in the State budget for the previous year, including the purposes for which funds were provided and details of any variation in expenditure from those purposes,

Amendment No. 8 deals with the commission's capacity to develop other reports. Currently clause 14 (1) (a) refers to "the implementation of the strategic plan". Our amendment is twofold: it not only concentrates on the implementation of the strategic plan but it also importantly relates to the progress of the mental health system throughout New South Wales against the strategic plan. That is so that the commission reports not just about where the plan is up to but also how the whole of the system is dealing with that plan. The system itself involves more than just the government agencies; it includes non-government bodies and other private bodies as well. Part of the deliberations of the commission will be directed not just towards policy but towards changes in practices and, indeed, towards encouraging the development of additional capacity within the system as a whole. Because that is the aim of the Government's bill, we thought it appropriate that the reporting capacity reposed in the commission was described properly as being the progress of the whole system against the strategic plan.

The second proposition in amendment No. 8 encapsulated in subclause (b) is to give the independent commission the ability, but not the requirement, to report on how the budget allocation the Government proposed spending on mental health has gone and whether in fact it got to where it was supposed to. The thinking behind this part of the amendment is simple. Members of this Government when in opposition from time to time raised the issue of whether the Labor Government's additional investment in mental health during the five years of former Premier Iemma's A New Direction for Mental Health package was reaching the appropriate place. The spectre was raised that it was not and that area health services were, for example, accessing money for mental health beds to use in emergency departments and the like, and for one reason or another not all the money was getting to where it was supposed to go.

Interestingly, when I commenced discussions with stakeholder groups and others actively engaged in the mental health field in this State, two separate stakeholder groups, unprompted by me at a time when I was not discussing any amendments, raised the matter that one really good thing about the Government's bill was the capacity of the commission actually to ground truth the budget allocations and be able to report on whether those allocations reached their intended goal. I returned to those interested parties and said, "I cannot find it in the bill, can you?" When they could not find it in the bill, the concern was that reporting on funding allocations was not one of the commission's functions. That is true because the Minister's agreement in principle speech in the other place and the second reading speech in this place by the Parliamentary Secretary did not touch on reporting as one of the functions to be reposed in the new commission.

From reading the bill, it certainly is not clear that these functions would arise, for example, in clause 12 (1) (b) or, indeed, in the present form of clause 14. The bill as currently constructed would not permit the commission to carry out such a function. As I said, the Minister and the Parliamentary Secretary did not refer specifically to any such role in their speeches when introducing the bill. Therefore, it is reasonable to conclude that reporting on funding allocations is not one of the intended purposes of the commission. Certainly, stakeholder groups and others were expecting it to be included. Given the concerns raised by the present Government when in opposition, it seems to be an odd oversight, particularly when earlier today the Hon. Natasha Maclaren-Jones in her contribution to the debate indicated that this was one area in which she expected the commission at least to have a role. Indeed, many people expect the commission to have that role.

I am mindful of not overburdening this new commission, particularly in its early days when it is developing its capacities and getting fully functional. The amendment is not constructed to require this function to be fulfilled, but it gives the commission the capacity to investigate if there is future stakeholder or community disquiet that somehow the budget allocations for mental health are not being implemented properly. The Minister in the other place in his speech in reply indicated that this amendment was unnecessary because such concerns could be referred by the Minister to the Auditor-General for investigation. Faced with those concerns, not every Minister would necessarily refer them to the Auditor-General for investigation. It is possible that the

Auditor-General could otherwise look into the matter, but certainly in the time I have been interested in public affairs in this State I have not known the Auditor-General to investigate this particular area of administration. In the ordinary course, it is unlikely that the Auditor-General would be called on to do that.

The people expect the Mental Health Commission to have the function to investigate funding allocations. Again, we do not require it of the commission, but it should be able to look into the annual mental health budget allocation to see whether the moneys have been misappropriated in any way or spent otherwise than in accordance with the intention of Parliament. Again, no additional burden is placed on the commission. The amendment proposes a mechanism to encourage greater openness and accountability as well as public confidence not just in the commission, but in the mental health system in this State. As I indicated, in the past some question marks had been placed over whether the money got to where it was needed and was supposed to go. If ever those concerns existed, or may exist in the future, let there be no wringing of hands. There should be a clear mechanism by which the independent Mental Health Commission can investigate and report on it if it considers that appropriate. Let us make it clear that this is a power the commission has available to it if it thinks it appropriate and necessary to exercise. I do not see how that can be argued against.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [8.26 p.m.]: The Deputy Leader of the Opposition might not be able to see how that proposal could be argued against, but it will be. It is important to highlight that Opposition amendment No. 8 seeks to prescribe matters to be dealt with in reports by the commissioner. The amendment is not supported. The first part of the amendment is not necessary as it makes no substantial change to the reporting that would be undertaken. The second part of the amendment is not supported as, potentially, it is duplicative of the budget and estimates processes. It also is a level of detail that should not be legislated but left to the commission's discretion in deciding what it should report on. It should be remembered also that the budget papers now contain a clear definition of mental health funding, for which there was no definition in the past. Again, I refer to the argument from the Government that it does not want to bog down the commission in onerous reporting of financial details. Processes are available to the Opposition and to the community via budget estimates hearings to ensure that the money is being spent appropriately. I highlight that the Government has delineated mental health funding in the budget papers, which can be properly examined.

Dr JOHN KAYE [8.27 p.m.]: I suffer from a dissonance between what I read in subclause (b) in amendment No. 8 and what I believe the Deputy Leader of the Opposition said. My understanding is that subclause (b) refers to a report into the budget allocation and budget variations. I think budget variations are those variations voted on through the budget variations process. They are not the fine graticule of expenditure that the Deputy Leader of the Opposition was trying to get to. I understand that he is trying to address the issue that is a kind of not urban myth but perceived wisdom within the mental health area that while funds are allocated to mental health they get siphoned off by hospitals into general health activities.

The Deputy Leader of the Opposition through this amendment was trying to explore the way in which the funds are finally spent and the purposes for which they are spent in an effort to make sure at a fairly fine graticule level that on a hospital-by-hospital basis mental health funds end up in the right place. I am not convinced that subclause (b) would advance us in that direction. I think it is a good outcome. There are powers within the existing bill to do it. The strategic plan could be implemented under existing clause 14 (1) (a) if the commission were of a mind to do so. It would give the commission the capacity to determine where the money was being spent according to its strategic plan. It would have that power in general to inquire and to report on those matters. Clause 12 (1) (c) states:

To review and evaluate, and report and advise on, mental health services and other services and programs provided to people who have a mental illness, and other issues affecting people who have a mental illness.

It gives the commission the capacity to undertake that particular kind of study. The words "variations in expenditure" would not give them that level of fine graticule. The Greens propose an alternative and more general amendment, amendment No. 2 on sheet C2012-03A, which is to provide within clause 14 of the bill the capacity to examine the funding of mental health services in New South Wales. That gives the commission the capacity to go down to the finer graticule and examine whether the money allocated is being spent on individual services and in a way that the Parliament intended in the budget that it passes.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [8.31 p.m.]: The concern expressed by the Parliamentary Secretary about an additional burden being placed on the commission is clearly a risible proposition given that, if passed, this would be a function available to the commission but not required of it. So there would be no burden on the commission. I call upon the Parliamentary Secretary to clarify on behalf of the Government whether, as Dr John Kaye has apprehended, the functions that the Opposition is seeking to make available to the commission are already available to it in the bill. The reason I ask is that, on reading the bill, it is not readily apparent to the Opposition that it is so. It was not one of the functions highlighted by the Minister

or the Parliamentary Secretary in their speeches introducing the bill. One would think if this commission is envisaged to have such a role it would be a key role and one that would be highlighted in a second reading speech by the Minister or the Parliamentary Secretary. The Opposition will be interested to hear whether the Government holds the view that these functions will be available to the commission under the bill.

In answer to a concern raised by Dr John Kaye, subsection (b) amendment No. 8 talks about funding allocated to mental health in the State budget for the previous year, including the purpose for which it was provided and details of any variation. The term "variation" does not mean variations approved by the Parliament. Dr John Kaye, being a more experienced parliamentarian, would know that from time to time a budget is delivered and in the following year's budget particular items of expenditure will have varied—the spending is above or below what was allocated.

Dr John Kaye: That is not what you mean?

The Hon. ADAM SEARLE: That is what I mean. It is to see whether what happened is different from what was proposed by the budget. This commission would be able to ask, "Why was not the whole of the mental health budget spent? Why did you spend \$20 million less than Parliament allocated?" Or, alternatively, "Why did you spend \$30 million more than Parliament allocated? What were the reasons for those variations?" It is not meant as a variation approved by Parliament. That is the Opposition's intention in terms of proposing this amendment. It gives the commission the capacity in the future to look at any concerns raised as to whether the money allocated by Parliament is spent as intended by the Parliament. As Dr John Kaye indicated, from time to time in the mental health field the received wisdom is that that has occurred to the detriment of mental health consumers and confidence in the system generally. I think amendment No. 8 is an important step towards maintaining and enhancing public confidence in our mental health system.

Finally, the Parliamentary Secretary raised a point about mental health now being more clearly delineated in the budget. As shadow Minister, I have taken the time to look at a number of previous budgets and, although not set out in exactly the same way, it is my inexperienced reading that the mental health budget has been as clearly delineated for a number of years as it is in the current year's budget. I do not perceive any change in presentation. I do not say that by way of criticism but merely to say that Parliament, when budgets are delivered, intends for moneys to be spent in certain ways but sometimes during a financial year exigencies are such that plans are departed from or things turn out differently. For example, the Government may propose a program but due to workforce constraints a particular line item, program or proposal is not able to be implemented fully. In some areas of the community that may give rise to an apprehension that somehow the money has not been properly spent—but there may be a more rational explanation. Amendment No. 8 will enable the commission to look closely at those matters if the need arises and if the commission feels it is necessary and appropriate.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [8.35 p.m.]: The shadow Minister will be relieved to know that in clause 14 (1) (b) there are systemic issues highlighted and this would allow the commission to inquire into any such issues of its choosing, including the budget.

Question—That Opposition amendment No. 8 [C2012-010C] be agreed to—put.

The Committee divided.

Ayes, 12

Ms Cotsis
Mr Donnelly
Mr Moselmane
Mr Primrose
Mr Searle

Mr Secord
Ms Sharpe
Mr Veitch
Ms Westwood
Mr Whan

Tellers,

Ms Fazio
Ms Voltz

Noes, 24

Mr Ajaka
Ms Barham
Mr Blair
Mr Borsak
Mr Brown
Mr Buckingham
Mr Clarke
Ms Cusack
Ms Faehrmann

Ms Ficarra
Mr Gay
Mr Green
Mr Harwin
Dr Kaye
Mr Khan
Mr MacDonald
Mrs Maclaren-Jones
Mr Mason-Cox

Mrs Mitchell
Mrs Pavey
Mr Pearce
Mr Shoebridge

Tellers,

Mr Colless
Dr Phelps

Pairs

Mr Foley
Mr Roozendaal

Mr Gallacher
Mr Lynn

Question resolved in the negative.

Opposition amendment No. 8 [C2012-010C] negatived.

Dr JOHN KAYE [8.43 p.m.]: Under instruction from the Parliamentary Secretary, I move The Greens amendment No. 2 on sheet C2012-034A:

No. 2 Page 8, clause 14 (1). Insert after line 6:

(c) the funding of mental health services in New South Wales.

I spoke about this when speaking to Labor's previous amendment. This amendment attempts to achieve what I think Labor's previous amendment intended, but does so in a way that is less restrictive on the Mental Health Commission. I commend the amendment.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [8.44 p.m.]: The Greens amendment is but a pale echo of Labor's amendment but, given that it is a small step in the right direction, we should give some encouragement, so we will support it.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [8.44 p.m.]: The Government supports The Greens amendment.

Question—That The Greens amendment No. 2 [C2012-034A] be agreed to—put and resolved in the affirmative.

The Greens amendment No. 2 [C2012-034A] agreed to.

Clause 14 as amended agreed to.

Clause 15 agreed to.

Clause 16 agreed to.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [8.46 p.m.]: The Opposition will not move amendments Nos 9 and 10. They refer to directions or draft strategic plans and their tabling in the Parliament. The Committee having rejected earlier Opposition amendment No.1, it would make a nonsense of the legislation if amendments Nos 9 and 10 were somehow to be carried, so we will not move them.

Clause 17 agreed to.

Clauses 18 to 20 agreed to.

Schedules 1 to 3 agreed to.

Title agreed to.

Bill reported from Committee with amendments.

Adoption of Report

Motion by the Hon. Melinda Pavey, on behalf of the Hon. Michael Gallacher, agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Melinda Pavey, on behalf of the Hon. Michael Gallacher, agreed to:

That this bill be now read a third time.

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

CRIMINAL CASE CONFERENCING TRIAL REPEAL BILL 2011

Message received from the Legislative Assembly returning the bill without amendment.

BIRTHS, DEATHS AND MARRIAGES REGISTRATION AMENDMENT (CHANGE OF NAME) BILL 2012

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. David Clarke, on behalf of the Hon. Michael Gallacher.

Motion by the Hon. David Clarke agreed to:

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

Second reading set down as an order of the day for a future day.

CRIMES AMENDMENT (CONSORTING AND ORGANISED CRIME) BILL 2012

Second Reading

The Hon. DAVID CLARKE (Parliamentary Secretary) [8.52 p.m.], on behalf of the Hon. Michael Gallacher: 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 (Consorting and Organised Crime) Bill 2012. The bill proposes to make a number of amendments to the Crimes Act 1900 to ensure that the provisions of the Act remain effective at combating criminal groups in NSW.

The Government is determined to ensure that the NSW Police Force has adequate tools to deal with organised crime, and this bill represents part of a suite of reforms aimed at achieving that. The bill introduces a new aggravated form of drive-by shooting, introduces new offences relating to criminal groups, and modernises the offence of consorting, as well as extending and clarifying its application.

I turn to the detail of the bill. Schedule 1, item [1], of the bill will create an aggravated form of firing at a dwelling when the shooting occurs in the course of organised criminal activity. Section 93GA of the Crimes Act currently creates an offence of firing a firearm at a dwelling house or other building with reckless disregard for the safety of any person, punishable by 14 years imprisonment.

Since 2006 there has been an average of 73 to 78 drive-by shootings annually, and between October 2008 and September 2009 that number peaked, when there were 102 instances of shootings. The primary goal of the new offence is to recognise that a greater degree of criminality is involved where these shootings occur in connection with the activities of criminal groups, and to ensure that this is reflected in appropriately high penalties.

The bill will create an aggravated form of the firing at a dwelling offence, punishable by 16 years imprisonment where it occurs in the course of organised criminal activity. The organised criminal activity may be the act of firing into the dwelling house itself, for example, where it has been the subject of extensive arrangement and planning with others, or is one in a series of related shootings. It may also have been undertaken in the course of another criminal activity, such as drug supply, where the shootings are part of a turf war between drug syndicates, for example.

Schedule 1 Items [4] and [5] of the bill will enhance the application of the existing offence of participating in a criminal group, and add additional tiers to it. This will help police in combating the offending of criminal groups and extend the application of the provisions.

Section 93T of the Crimes Act 1900 currently creates an offence of participating in a criminal group, which is defined as a group of three or more people who have, as one of their objectives, obtaining material benefits from conduct that constitutes a serious indictable offence, or committing serious violence offences.

Where a person participates in such a group, knowing that it is a criminal group, and knowing or being reckless as to whether the participation contributes to the occurrence of criminal activity, the person commits an offence punishable by five years imprisonment. If the offence involves assault or damage to property, the offence is punishable by 10 years imprisonment.

The bill proposes to amend the basic participation offence so that rather than requiring a person to have known that the group was a criminal group and to know or be reckless as to whether the participation contributed to criminal activity, a person will commit an offence where he or she ought reasonably have known those things. This will better allow the offence to be applied not only against members of criminal groups, but against those on the periphery of such groups who nevertheless contribute to the group's criminal activity.

Criminal groups do not and cannot function in isolation and this offence sends a strong message out to the community. It is not an excuse to say, "I wasn't told" or "I didn't ask". If a person should have known that the group was a criminal one they should not get involved. These proposed amendments mean that to participate in a criminal group, when a reasonable person would have known it was a criminal group, risks falling foul of the new form of this offence.

The bill will also add a new offence under s.93T of directing the activities of a criminal group. A person who participates in a criminal group by directing the activities of the group, knowing that it is a criminal group and knowing, or being reckless as to whether that participation contributes to criminal activity, will be guilty of an offence punishable by up to 10 years imprisonment. This higher penalty recognises the greater criminality involved of those higher up in the organisation.

It is not, however, limited to the "Mr Bigs". It will cover anyone who tells a group member what to do, or makes the decisions that determine what the group will do. An example will be someone who orders another group member to carry out a drive-by shooting on a rival's home. If a person is responsible for the criminal activities of the group, that greater degree of responsibility should be reflected in the sentence.

It is well known that in criminal gangs, the senior members with the most to gain are often less likely to personally commit offences. They keep a lower profile and get junior members to do the dirty work. This offence again sends a clear message. The senior members of a criminal organisation will not escape punishment just because they got others to do the work. They will be exposed to severe consequences for being the ones directing behind the scenes.

The bill will also add an offence of directing the activities of a criminal group whose activities are organised and on-going, carrying a maximum penalty of 15 years imprisonment.

Section 93T is not a section that is limited in its application to sophisticated organisations like outlaw motorcycle gangs. It applies to any gathering of 3 or more people who have serious criminal activity as a shared purpose. It may capture one off gang activities such as may be undertaken by juveniles coming together on the spur of the moment. Consequently, there must be a limit on the penalties that can be imposed so as to avoid disproportionate outcomes. The same concern does not apply to more sophisticated organisations, and the new offence will allow very significant penalties to be imposed on those that direct the activities of such groups.

As well as the additional tiers targeting those that direct criminal groups, Schedule 1 Item [6] of the bill will insert a new offence targeting those that receive material benefits from a criminal group, knowing that it is a criminal group and knowing that the benefit resulted from the group's criminal activities, punishable by five years imprisonment.

It is intended to capture persons who may not participate in the criminal activity of the group or directly contribute. They may be at arm's length, they may be a passive recipient, they may have a legitimate business, but if they knowingly receive a material benefit they too will be committing a criminal offence.

This amendment is intended to make it difficult for criminal groups to function by making it hard for them to hand out benefits. For example, if a locksmith changes the locks at a criminal group's meeting place and the locksmith receives payment from someone knowing it is on behalf of the criminal group, and knowing or being reckless to that benefit having been derived from criminal activity, then the locksmith may be charged with an offence.

These are provisions that target payments or largesse handed out by criminal groups and do not extend to cover payments by a member as an individual. It will therefore cover purchases made by a member of the gang on behalf of the gang, but will not cover, for example, that gang member's weekly grocery payments to feed his family. This is to ensure that the offence does not capture people who receive benefits which were derived from the group's criminal activity, but who did not have some direct nexus with the group.

These people cannot be said to receive benefits directly from the criminal group itself, even if the benefits may have been derived from the group's criminal activities. In this respect these offences are complementary to, and will be used by police in conjunction with the existing offences of dealing in the proceeds of crime.

Finally, schedule 2, Item [9] of the bill will modernise the offence of consorting. Section 546A of the Crimes Act makes it an offence to habitually consort with persons who have been convicted of indictable offences. This is an old offence, and NSW Police have indicated that it is difficult to use, in part because there is no statutory guidance as to what constitutes 'habitual consorting'. The bill will modernise the language of this provision and provide more guidance as to when the offence may be enlivened.

The bill states that a person does not habitually consort with convicted offenders unless he or she consorts with at least two convicted offenders, whether on the same or separate occasions, and the person consorts with each offender on at least two occasions. The requirement that the person consorts with more than one offender recognises the fact that the goal of the offence is not to criminalise individual relationships, but to deter people from associating with a criminal milieu. A convicted offender is someone who has been convicted of an indictable offence, other than the consorting offence itself.

The new offence provision also requires that a person be given an official warning in relation to each of those convicted offenders. No form is specified and it may be written or oral. It must however give the warning defined by the Act and tell the person that consorting with the convicted offender is an offence. When police give notice is a matter for them. What is important is that the person must then consort one more time with the convicted offender before consideration can be given to laying charges.

- The definition will assist police in knowing the minimum number of meetings that are necessary to trigger the offence. In effect, the number of instances of consorting that a person must have had is at least two each with two different convicted offenders.

It is important to note that the mere fact the person has met a convicted offender the requisite minimum number of times is not in itself enough to establish the offence. There may be a case where a person coincidentally meets convicted persons regularly, at a bus stop, at the corner shop, or buying coffee. Coincidence is not consorting.

The High Court has found that consorting need not have a particular purpose but denotes some seeking or acceptance of the association on the part of the defendant (*Johanson v Dixon* (1979) 143 CLR 376 per Mason J citing *Brown v Bryan* [1963] Tas SR 1). It does not extend to chance or accidental meetings, and it is not the intention of the section to criminalise meetings where the defendant is not mixing in a criminal milieu or establishing, using or building up criminal networks.

This bill puts police in a position to do what they do best every day and make a judgment about whether observed behaviour reaches the level sought to be addressed by the bill, that is, behaviour which forms or reinforces criminal ties.

There will therefore be prosecutions which involve more meetings or more people than the minimum, as police will be dealing with a wide range of circumstances. For example:

- There may be cases where the person only has 2 meetings, but they involve the same 2 offenders. If they can be shown to have consorted on these two occasions they could be charged.
- Police may decide to observe more than the statutory minimum number of meetings, and lead evidence of them, in order to establish that the person is "consorting".
- Similarly, police may not limit the notification to just 2 convicted persons and may lead evidence of the person consorting with a higher number of convicted offenders so as to properly reflect his or her immersion in the criminal milieu

The bill also modernises the offence of consorting by directing police on what relationships should be exempt. The existing offence has been criticised for its potential application to everyday, innocent relationships which should not be the subject of prosecution.

The bill will amend the Act to specify certain relationships which may be raised as a defence to a prosecution. The exemptions include associations with family members, consorting in the course of lawful employment, or business, training and education, the provision of health services, legal advice and in the context of lawful custody or complying with a court order. These terms are not further defined, as for the defence to be made out the defendant must establish that the consorting was reasonable in the circumstances.

Consorting with extended family may therefore be reasonable in circumstances where the defendant is heavily reliant on, or lives in a community based on, extended kinship. It may not however be reasonable in other situations. The onus will be on the defendant to bear and one for the court to determine on a case by case basis.

The bill also modernises the offence of consorting by extending its application to include consorting by any means including electronic or other forms of communication. This will include electronic forms of communication which have become everyday parts of our lives but which we must ensure cannot be exploited by criminals to avoid prosecution. These amendments will ensure that networks established via Facebook, Twitter and SMS will not be immune from these provisions.

The existing offence is a summary offence punishable by 6 months imprisonment or a fine of 4 penalty units. This bill will make the offence punishable by imprisonment of up to 3 years and a fine of 150 penalty units. It can however continue to be dealt with in the Local Court unless the prosecution elect to have the matter heard on indictment in the District Court.

Schedule 1, Item [11] of the bill proposes that the operation of the consorting provisions be reported on by the Ombudsman after a period of two years. The old provision has fallen into disuse and has been criticised in the past. This Report will provide an opportunity after two years of operation to review the use of the new provision and to consider any further amendments or repeal of the provisions as necessary.

Schedule 2 of the bill contains consequential amendments to related legislation.

The amendments contained in this bill represent an aggressive signal to criminal groups in NSW; their continued operation will not be tolerated, and members of such groups will be dealt with severely when they are called to account for their actions.

I commend the bill to the House.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [8.53 p.m.]: I lead for the Opposition on the Crimes Amendment (Consorting and Organised Crime) Bill 2012. The bill will amend the Crimes Act to create a new offence of firing at a dwelling house, with a slightly higher penalty than the existing general offence for firing at a dwelling house, where the offence occurs in the course of an organised criminal activity.

The bill changes the mental element for the offence of participating in a criminal group and it also seeks to create new offences relating to participation in criminal groups, with slightly higher penalties than the existing general offence for participating in a criminal group, where the defendant directed the activities of the criminal group or the activities of the criminal group were organised and ongoing.

This bill has seen the light of day only because the Government has been dragged kicking and screaming to the Parliament to do something about the spate of drive-by shootings that have occurred particularly in western and south-western Sydney. Interestingly, when the Premier announced the introduction of a package of reforms he said that the purpose was to "combat organised crime in further support of police and their war on drive-by shootings". This bill is part of that package. The Attorney General, the Hon. Greg Smith, in another place said that "the primary goal of this new offence is not to reduce the incidence of shootings". One wonders somewhat rhetorically what the purpose of the legislation is. The Opposition does not oppose the bill, although we remain somewhat sceptical about whether it will have any particular—

The Hon. Duncan Gay: So you are happy to get two bob each way.

The Hon. ADAM SEARLE: You are the Government. You have said this is a solution to a particular problem.

The Hon. Duncan Gay: If you don't agree with it, oppose it.

The Hon. ADAM SEARLE: We say that we are sceptical about whether the provisions will be effective. Most of the amendments are not substantial changes. There are increases in penalties, but they are not substantive and we would be surprised if they have any deterrent effect. But we are happy to be proven wrong if that turns out to be the case. The new offences proposed in the bill mostly criminalise behaviour that is already captured by existing offences. The Attorney General has specifically said that new section 93GA is not about stopping drive-by shootings, which indicates that the proposals are not about anything very much. It increases by two years the penalties imposed for a particular offence. Of course, there are already offences that carry terms of imprisonment for up to 25 years if an offender attempts to shoot someone but misses. We think it is fanciful to believe that this bill will provide any deterrent effect because people must first be caught.

Increasing the maximum penalty by two years will not have much effect, if any. The proposed amendments to section 93T (1) change the elements of the offence so that it is no longer necessary to prove that a person was knowingly involved in a criminal group but effectively should have known even if the person conceded that he or she did not. That is a change, but it is not much of a substantive change; it is a minor and incremental change, tweaking around the edges of the existing section 93T. As I said, the behaviour to which the bill is directed is already broadly captured by the law as it stands, but the bill slightly refines the offences and the penalties are being increased somewhat.

The real issue of concern in the community is the levels of the police commands in western and south-western Sydney. There are concerns that they are inadequate compared with other parts of the State. That situation definitely needs to be remedied. We can have penalties and we can create offences, but all of that is somewhat academic if the police, who do a good job within the limits of their resources, do not have the resources they need to catch the criminals who are disturbing the peace. We can create all the laws in the world, but if the police are not properly resourced they simply will not be able to fulfil the expectations that have given rise to the legislation that is already in place and the amendments created by this bill when they are carried. While we will be happy if we are proven wrong, we do not believe this bill will add much to the arsenal of laws and offences that are currently at the disposal of the police to properly enforce public safety in this State.

The Hon. TREVOR KHAN [8.58 p.m.]: I support the Crimes Amendment (Consorting and Organised Crime) Bill 2012. The hallmarks of organised crime, such as violence and drug trafficking, have become regular features in the media. Even if people do not watch the news every night they would have seen the results of some of these incidents—bullet holes in the walls or doors of suburban homes, sometimes where children are sleeping; a golden coffin carried on the side of a motorbike, followed by more motorbikes in a funeral cortege for a biker who was killed in a shooting; or vast quantities of drugs piled high beside firearms and other weapons that have been seized by police and set up on a table at a media conference. As familiar as these images might be, organised crime should not be something that the community of New South Wales has to tolerate and, indeed, it will not. This Government will not sit idly by and let this continue. Nor will it give unequivocal support to a bill such as this—unlike the Labor Party. However, organised crime is not easy to defeat.

I will briefly outline the problem presented by organised criminals. They do not think that the law applies to them. For instance, bikies call themselves one-percenters—the minority who will not conform. They insist on resolving their own disputes and often do so violently. This means that when they are victims of crime they will not talk to police—even if they have been seriously injured or their friends and family members have been murdered. They intimidate witnesses to escape conviction for their crimes. They have well-established hierarchies that allow those who plan and coordinate crimes to escape detection and conviction, while still profiting from criminal activity. They have strict membership requirements that make it difficult for undercover police to infiltrate their groups. They are continually linked to drug manufacture and supply. They have infiltrated legitimate businesses to launder the proceeds of their crimes.

These are some of the reasons that organised crime has become entrenched. Only a multifaceted approach that targets organised criminals at all levels will succeed in breaking up crime gangs. This bill delivers that. First, the bill takes aim at criminals who carry out drive-by shootings. The maximum penalty for discharging a firearm at a house or other building will be increased to 16 years imprisonment if it takes place as part of organised criminal activity. Next, because organised criminals draw their strength from their associations, the bill modernises consorting laws. This will make it easier for police to prevent criminals from getting together to plan and carry out crimes.

Currently, the common law and police practice require that for a charge of consorting to be laid police must have caught the offender consorting with known criminals at least six times. This is clearly unworkable and, as a result, for some time police have rarely used consorting laws. The bill codifies and simplifies the requirements for a consorting charge. Police can now charge a person with consorting if the person has communicated with two convicted offenders on at least two occasions after having been given an official warning. This warning can be given orally or in writing. The bill also brings consorting into the twenty-first century by amending the definition of "consort" to include consorting via electronic or other forms of communication—not just meeting in person. For example, text messages, phone calls and emails can now be considered consorting. These changes will once again make consorting a key weapon in the fight against organised crime.

The bill also makes amendments to section 93T of the Crimes Act 1900. First, the mental element for the existing offence of participating in a criminal group has been changed. It will only be necessary to prove that a defendant knew, or ought reasonably to have known, that he was participating in a criminal group and that he knew, or ought reasonably to have known, that his participation contributed to the commission of a crime. Another change targets all members of a criminal group who benefit from the group's crimes. The bill introduces a new offence of knowingly receiving a material benefit from the criminal activities of a criminal group. This offence will carry a maximum penalty of five years imprisonment. Police could potentially use this charge to target all levels of a criminal group from the lowest members up to the Mr Bigs who may be masterminding the group's activities in a hands-off way. Importantly, it will not be necessary to prove that a person participated in the criminal group to obtain a conviction for receiving a benefit from the activities of a criminal group.

The bill also includes offences that specifically target the Mr Bigs. First, a new aggravated offence of participating in a criminal group by directing any of its activities will be punishable by 10 years imprisonment. This offence will be applicable to groups that form to commit crimes on only one or a few occasions. Second, another new aggravated offence of directing a criminal group whose activities are organised, planned and ongoing will carry a maximum penalty of 15 years imprisonment. This offence will apply to criminal groups that are well established and may have been active for some time. Bikie gangs are good examples of such groups.

To recap, this bill contains an increased penalty for committing drive-by shootings; a streamlined, updated consorting offence with a stronger penalty; a new offence of obtaining a material benefit from the criminal activity of a criminal group; and two new offences of directing a criminal group. This bill presents a comprehensive package of measures that will make it easier for police to disrupt the illegal activity of organised criminals and bring them to justice. I commend the bill to the House.

The Hon. PAUL GREEN [9.05 p.m.]: The Christian Democratic Party supports the Crimes Amendment (Consorting and Organised Crime) Bill 2012. This bill proposes to make amendments to the Crimes Act 1900 to ensure provisions of the Act remain effective in combating criminal groups in New South Wales. In response to the more than 60 shootings, particularly in western and south-western Sydney—and one in my home town of Nowra—this bill introduces new legislation for drive-by shootings and new offences for

consorting in criminal groups. Firing at a house will attract a 16 years maximum sentence and ordering an attack on a house will attract a 10 years maximum sentence. On the occasion of the shooting in Nowra shots were fired at a cabin in a caravan park. I note that the bill includes the word "dwelling-house" to encompass all types of dwellings, not just houses. Also, leading an organised crime group will attract a 15 years maximum sentence.

New section 93X (1) outlines that a person is guilty of an offence if they habitually consort with individuals who have been convicted of an indictable offence and continue to consort with those convicted offenders after having been given an official warning, written or oral, in relation to each of those offenders. The Legislative Review Committee, the New South Wales Bar Association and the Law Society of New South Wales expressed concerns over the possible discrimination resulting from a person's status as having been convicted of an indictable offence, or individuals who may not have committed any offence but are guilty of an offence by way of meeting or electronically communicating with offenders.

In response the Attorney General advised that the mere fact that a person has met a convicted offender the requisite minimum number of times is not in itself enough to establish an offence. This bill will allow police to decide whether to observe more than the statutory minimum number of meetings in order to establish if the person is in fact consorting. The new laws are not designed to criminalise relationships and will contain exemptions. This bill aims to strengthen the serious and organised crime laws to target persons who knowingly contribute to criminal activities of a criminal group. The Christian Democratic Party commends the bill to the House.

The Hon. JOHN AJAKA (Parliamentary Secretary) [9.08 p.m.]: I support the Crimes Amendment (Consorting and Organised Crime) Bill 2012. I will concentrate my remarks on the aspect of this bill concerning the old offence of consorting and its relevance in an age of drive-by shootings. I say an old offence because some members may be surprised to learn that this crime is still on the statute books. Its heyday was in the early 1930s when consorting laws were used to break up the so-called razor gangs. But since the war the laws fell first into dispute and then almost into disuse. Anyone who followed the various investigations into police corruption from the 1970s onward that culminated in the Wood royal commission will recall how even among the various corrupt squads the "consorters" were notorious.

The Consorting Squad has long since been disbanded, and I believe that the offence itself is rarely used these days. There are a number of reasons for this. The first has already been alluded to—the historical reputation for corruption and abuse associated with the offence of consorting, so much so that there have been calls by legal academics and other commentators for the offence to be abolished. In truth, the risks of corruption and misuse of the power that the offence gives to police really are very small these days. We have a completely different Police Force from the heyday of the consorters of the 1960s and 1970s. Today's New South Wales police officers are honest and highly skilled, and are led by men and women of the highest personal integrity. We also have strong internal and external oversight mechanisms in place, strong whistleblower protections, and even in some circumstances integrity testing of suspect officers.

No, I think the reason that the offence is so rarely used by the NSW Police Force these days is that it has become antiquated, it is too hard to prove and, because of its low penalty, it offers very little deterrent. I shall address each of these items in turn. Our current consorting laws are stuck in the 1930s when, to plan or commit crimes, crooks usually needed to be in each other's company. In an era of email, universal mobile phone possession, texting, social media networks, Skyping and so on, people can consort without ever needing to meet. And let me take a moment to say that for someone to consort with others, it takes more than a casual or accidental meeting, or an exchange of words or messages. Consorting implies some willingness of all parties—some "meeting of the minds", and that the conduct be habitual.

The present offence does not define "habitual". Guided by case law, the NSW Police Force has adopted the rule that there must be at least six meetings with convicted persons resulting in police warnings before someone can be charged with consorting. Imagine the investment of police resources that would be required to make a successful prosecution of consorting, and to what end? The offence attracts a maximum penalty of six months imprisonment.

The Hon. Dr Peter Phelps: How much?

The Hon. JOHN AJAKA: A maximum of six months imprisonment. We have a choice between scrapping the offence or doing what Victoria has done and refreshing it to allow it to be used as a preventative tool against serious and organised crime. While this bill does not follow the Victorian model exactly, it

modernises the old consorting offence in ways that, if used effectively, should be of tremendous assistance to police when dealing with gangs and organised crime generally. First, it sets at two the minimum number of contacts a person must have with others who have been convicted of indictable offences as opposed to the current practice I mentioned of at least six occasions. Secondly, it now encompasses all electronic communication as possible ways of consorting. Thirdly, it significantly increases the maximum penalty from six months to three years imprisonment. The higher penalty will finally give some teeth to this offence.

Let us consider some of the situations in which the modernised consorting offence could be used. Police on the street, in shopping precincts and in pubs see what is going on and know who's who in their area. They know who are the hardened crims, who are the up-and-comers and who are on the periphery—those who are in danger of being drawn deeper into criminality, even into becoming career criminals. I believe that in bike circles, these people are called probationaries or prospects, and they are often called upon to commit crimes to prove their worth.

Police also can recognise when criminals are deliberately cultivating others who have no criminal records—cleanskins, as they are called—to assist, sometimes unwittingly, in criminal activities. An example would be an honest panelbeater who takes the occasional job from some people who have been convicted of car rebirthing. In such cases, people need to be warned about those with whom they are associating. They need to be put on notice that they should not be hanging around with criminals who have been convicted of serious crimes, or still less give those criminals any assistance that might be linked to criminal activity, lest they could face a significant prison term.

When the offence of consorting is properly used, it is partly about warning people who are not members of criminal groups or entrenched in a criminal life about keeping their distance and perhaps changing their group of friends and associates. Would we not all be grateful to police for warning our impressionable sons and daughters, if they were associating with some seriously bad people? But consorting also can be used by police to prevent groups of career criminals getting together, colluding and planning further crimes. I would not be at all surprised if the police and the New South Wales Crime Commission have a very good idea of the identity of members of rival crime groups and families that were involved in recent drive-by shootings—even if there is, as yet, insufficient evidence to charge all of them with offences. But given good strong workable consorting laws, how much more effectively could good intelligence-led proactive policing prevent offenders from planning their next attack?

The Government is not oblivious to the fact that consorting laws have been misused in the past and that some people fear they might be used to target marginal groups. It is pleasing that for the first two years the Ombudsman will be reviewing the use of the new offence. The defences built into the bill are very sensible. Reasonable contacts with convicted criminals through family connections, employment, training, rehabilitation, et cetera, need to be preserved. I was amused to hear Nathan Rees attack those defences as unacceptable weakening of the laws because of where they are taken from—Nathan Rees's own Crimes (Criminal Organisations Control) Act 2009. The defence provisions of the 2009 Act have been adopted almost word for word in this legislation. Talk about an own goal. In conclusion, I state that I have every confidence that our police will use the new offence sensibly, fairly and effectively. I commend the bill to the House.

Mr DAVID SHOEBRIDGE [9.16 p.m.]: On behalf of The Greens, I oppose the Crimes Amendment (Consorting and Organised Crime) Bill 2012. It is notable, but not unusual, that when it comes to questions of civil liberties The Greens are the only political party that opposes the use of an expansive set of police powers and an expansive set of laws that greatly infringe upon civil liberties in New South Wales. I make that observation in the light of a number of members having referred to the very sorry and sad history of consorting laws in this State. Their sad history derives from providing excessive discretion to the police and becoming a part of corruption-inducing activities within the NSW Police Force. That is the history of consorting powers being given to the police in New South Wales. On any view of the situation, repeating past mistakes and granting a further set of broad discretionary powers to the NSW Police Force is a backward step for any political party interested in maintaining the integrity of the police in New South Wales.

The object of the bill is to amend the Crimes Act 1900 to, among other things, "create a new offence of firing at a dwelling-house, with a higher penalty than the existing general offence for firing at a dwelling-house, where the offence occurs in the course of an organised criminal activity". That object constitutes a marginal change to the criminal law in New South Wales. It is remarkable that any Government would suggest that by changing the maximum penalty for an offence of shooting at a house from 14 years to 16 years it will have even

the slightest impact upon criminal activity in this State. The Government suggests that a criminal will think, "I won't shoot at this house because yesterday I would have got 14 years, but today I will get 16 years", and that that will change the activity of organised criminals in New South Wales.

The Hon. Jeremy Buckingham: It defies logic.

Mr DAVID SHOEBRIDGE: As my colleague the Hon. Jeremy Buckingham interjects, it defies logic that that will have any meaningful impact upon criminal activity or drive-by shootings in New South Wales. We all agree that one drive-by shooting is too many, but the rhetoric from the Labor Opposition in particular on the incidence of drive-by shooting in Sydney over the past 12 months has been appalling. The statistics show that drive-by shootings reached a peak 3½ years ago under Labor with more than 100 in any given year. Whilst there are a disturbing number of drive-by shootings—some 60-odd drive-by shootings in the last 12 months—they are nowhere near the peak they were under Labor's administration, yet Labor has run a fear campaign in Sydney to suggest that there is an upward spiral of crime in New South Wales.

There is not: almost all of the criminal statistics, in western Sydney, in south-western Sydney, across New South Wales, show falling levels of crime. No-one would know it from the rhetoric of the Leader of the Opposition and the shadow police Minister. Crime in New South Wales has been falling for more than a decade—consistently falling. Those statistics are inconvenient for those scaremongering to increase police powers and introduce more draconian criminal laws, but the statistics tell the truth—not the Leader of the Opposition in New South Wales.

The second thing that this bill does is change the mental element for the offence of participating in a criminal group so it is no longer necessary for the prosecution to prove the defendant knowingly participated in a criminal group and knowingly or recklessly contributed to the occurrence of a criminal activity. Currently a person who is a member of a criminal group and knows or is reckless as to whether a group is a criminal group is guilty of an offence. So it requires actual intent or recklessness by a person to prove the criminal offence.

But the new standard will be that the person knew or ought to have known that such a group was a criminal group. That means a person could genuinely not be aware that a group was a criminal organisation, could go before the court charged with this offence and prove to the judge absolutely that they had no knowledge that it was a criminal organisation. Yet a judge could be entirely convinced and say, "I accept, Mr Phelps, that you had no knowledge, you genuinely did not know that the people you were engaging with were a criminal organisation. I accept that you genuinely did not know that, but you should have, and the fact that you should have means that you can now be convicted of a criminal offence."

The Hon. Dr Peter Phelps: No, that a reasonable person should have.

Mr DAVID SHOEBRIDGE: "Yes, Mr Phelps, a reasonable person should have known. I accept that you did not know but a reasonable person would have known. Even though you had no criminal intent at all for what you were doing you can be found guilty of a criminal offence." Criminalising inadvertence or naivety will not make us safer in New South Wales and it is a major step backwards to remove mens rea from a serious criminal offence in New South Wales. We have the so-called champion of the conservatives in New South Wales, the Government Whip, who likes to stand up for, so he says, tradition and the common sense of our forefathers. Well traditionally in the criminal law it is a fundamental principle here in Australia, as we have inherited from the English tradition, that mens rea, some sort of mental element, is necessary to prove a criminal offence. This bill betrays that tradition and removes mens rea from the offence.

Perhaps the most substantial change to the law is the change to the law on consorting. The offence of consorting has been revived from consorting laws that date back to the 1920s that were aimed at a spate of razor gang activity in Paddington. The debate in this House from September 1929 could read almost word for word for the current rhetoric that has been put before the House in bringing in this legislation again. For the offence to be proven it must be shown that the person habitually consorted with convicted offenders. That is defined to include consorting with at least two separate offenders together or separately on at least two occasions.

The police can give anyone an official warning not to contact a person who has previously been found guilty of an indictable offence, a so-called 'convicted offender' under this bill. The person given the warning may have been involved in no criminal activity at all. There is no suggestion that the person being given the warning had any criminal knowledge, any criminal history—just an ordinary punter. The person given the warning may never have committed an offence in their life. If that person then contacts the convicted offender

after being given a warning in any way, even by text message, they are guilty of an offence with a maximum penalty of 150 penalty units or three years in prison. They have not committed any criminal offence other than contact someone who was previously in jail or two people who were previously in jail.

Of course, a 'convicted offender' means any person who has at any time been convicted of an indictable offence. Indictable offences are an extraordinarily broad range of offences in New South Wales, from very serious offences such as murder and manslaughter down to much lesser offences such as stealing property worth over \$5,000 and the like. The courts have held that consorting does not require any mixing with criminals for a criminal purpose or any mixing with criminals for even a vaguely nefarious purpose. The case law is very clear on that. I am grateful to Professor Alex Steel for this history in his work *Consorting in New South Wales: Substantive Offence or Police Power?*

The case of *Gabriel v Lenthall* [1930] SASR 318, which dates back from the 1930s, is the case that set the tone for consorting. The defendant argued that driving a person to court to face the magistrate could not amount to consorting. But Justice Richards disagreed and he stated that:

The offence is not being with thieves on occasions when it might be suspected that they are about their nefarious occupation, but simply habitually consorting with them; it is not companionship in thieving but with thieves.

So these are laws directed at who one mixes with, not the purpose for which they mix and that is very clear. This was clarified by the High Court in a case of *Johanson v Dixon*. In that case Justice Murphy tried to change the course of the law and tried to say that surely consorting should mean consorting for some sort of criminal purpose. It should have some kind of intent to do some wrong. But he was unsuccessful in doing that. Justice Mason, who wrote the majority judgement in that case, put the matter beyond doubt. He said:

It is not for the Crown to prove that the defendant has consorted for an unlawful or criminal purpose. The words creating the offence make no mention of purpose ... Nor does the word 'consorts' necessarily imply that the association is one which has or needs to have a particular purpose.

What is prescribed is habitual association with persons of the three classes, they being undesirable or discreditable persons.

Once this law is passed, citizens of New South Wales who may have family members who have been to prison under an indictable offence, who may have friends who have been to prison subject to an indictable offence, who may have partners who have been to prison because of an habitual offence, will find themselves, very potentially, subject to police discretion, the subject of warnings by police to say cease mixing with your family members, cease mixing with your partner, cease mixing with your friends. And if they disobey that warning, even if they then send text messages to those persons saying, "I've been told by the police I can no longer contact you or mix with you", they can then be subject to a criminal charge and face up to three years in prison. The New South Wales Young Lawyers make some very fine observations in relation to this. The President of that group, Ms Heidi Fairhall, says this:

All that is required under the proposed legislation is that a person be officially warned by police that the people they are interacting with have a conviction. If an association with those individuals continues, that person may be committing an offence. For example, under the proposed legislation if you play in a football team with a couple of mates who got into a fight and were convicted of assault, then the police can officially warn you of consorting.

If a person then goes on to consort—some people would say play football—with these team mates that person would be committing an offence and risk jail for up to three years. Ms Fairhall said:

The scope of the defences for consorting with family and work colleagues is also too narrow and inadequate.

She said:

For example, under the bill Indigenous people—

The Government Whip does not care to hear about the impact on Indigenous people, but this issue is serious for the Indigenous population of New South Wales because of their extraordinarily high incarceration rates. Ms Fairhall said:

Indigenous people who are disproportionately more likely to have convictions may be prevented from interacting with their extended kin.

Surely it should trouble this House that this bill will give the police such a broad discretionary power to constrain the capacity of Aboriginal citizens in this State from meeting with their extended family. Aboriginal

citizens, on the misfiring of our criminal justice system over the past two centuries, face enormously disproportionate imprisonment rates, indictable offences and charges. Almost without exception the extended family members of most Aboriginal citizens in New South Wales have been the subject of indictable offences. To that extent, on any view this law will have a grossly disproportionate impact on Aboriginal citizens in New South Wales. As Ms Fairhall said:

It is essentially left up to police to decide without guidance or restriction whether you ought to associate with people you know.

The Law Society of New South Wales, hardly the most radical institution in New South Wales, said this via its Criminal Law Committee:

The Committee is particularly concerned about the proposed amendments to the offence of consorting. The proposed consorting offence makes it a crime for otherwise innocent people to associate with people who have been convicted of an indictable offence and imposes a sentence of up to three years imprisonment if they do so. The Committee agrees with Associate Professor Steel, that "In a modern-day society there should not be an offence of speaking to anybody unless the nature of a conversation is a conspiracy."

In other words, as the Law Society says, this Parliament should not, although tonight it will, criminalise the simple fact of speaking or texting to people who have previously been convicted of an indictable offence. This Parliament should address laws towards genuine criminal activity. It should be directing police resources and powers to genuine criminal activity, not making new laws and criminalising activity that is otherwise innocent and accepted in a free society.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! I remind members that interjections are disorderly at all times.

Mr DAVID SHOEBRIDGE: In 1929 the Labor Party in this place had a backbone and stood up against this kind of law. When responding to these proposed changes John Lang said:

Glancing through the bill it seems to me that it might be possible for some grave injustice to be done under it to persons who are perfectly innocent. Under the bill as it now stands it appears to me that if a woman was frequently seen speaking to women of bad character, she might be committed to prison or, at the discretion of the magistrate, she might be taken in hand to be reformed. If a decent woman can be hauled up because she's found in conversation with another woman who has been found to be guilty of certain practices and can be sent to reformatory or jail although she may have been talking to the other only for the purposes of reforming her, the position is intolerable. I am merely offering a word of caution against going too rapidly and making criminals of persons who, though they mix with these particular people, are with them not for a bad purpose but probably for a very good one!

That rationale extends to the so-called defences found in this bill. Once a person who becomes the subject of a warning by the police and continues to mix with the person from whom they were warned off by the police they can run a defence in a very narrow set of circumstances. One defence is that the person was consorting with a family member: "Dad had an indictable offence and I was mixing with Dad and surely that is reasonable." But that is not a defence of itself. The defendant must prove that the interactions with his or her father, uncle or aunt were reasonable. It is not simply a defence that the interactions were with a family member. As a defendant one has to prove to the court that those interactions were reasonable.

To show the absolute nonsense of this law, another defence is that the consorting occurred in lawful custody or in the course of complying with a court order. If someone is in jail and surrounded, as one tends to be in jail, by those found guilty of indictable offences, the defendant can argue, "I couldn't do much about it, your Honour, I was in jail." Thank you, Mr O'Farrell, for saving our civil liberties! Another defence is that the consorting occurs in the course of lawful employment or the lawful operation of a business. The Hon. John Ajaka raised the example of a panelbeater. The panelbeater may have had a criminal tow truck driver deliver a number of somewhat questionable vehicles for work. The panelbeater's employees who then met with the somewhat questionable tow truck driver may be the subject of a warning letter or a verbal warning from the police.

Once another car is delivered by that same tow truck driver, those employees who met with the tow truck driver in the course of their employment and said, "Park it out the back" potentially would face three years in jail unless they could prove to a court that their actions were reasonable. They would not have done anything criminal. They were just engaged in the course of their employment but this Government wants to criminalise that conduct. This bill proposes a set of laws that will do little, if anything, to address serious criminal activity in the form of bikie gangs and the like. These criminals do not obey laws against murder. These criminals do not

obey laws against drive-by shootings. They are hardly going to have their activities greatly changed by a strengthening in consorting laws. But those who obey the law and will face significant infringements on their civil liberties are the remainder of New South Wales citizens. This bill goes too far. The Greens oppose it.

The Hon. ROBERT BROWN [9.36 p.m.]: The Shooters and Fishers Party will support the Crimes Amendment (Consorting and Organised Crime) Bill 2012. I should like to put some thoughts on the table, particularly after having heard the contribution of Mr David Shoebridge. I almost could not believe what I was hearing. I was thinking, "Hang on, is David talking to this bill or is he actually supporting the Shooters and Fishers Party on another bill that is circulating in this Parliament?" He was talking about protecting the rights of innocent people. Every time one of these moronic little back hatters caps off a few at someone's front door the 192,000 licensed shooters in this State cop it in the ear from the media, the likes of Mr David Shoebridge and other rabble-rousers. Mr David Shoebridge did say one thing that probably is commendable and correct. His comment that a 16-year maximum term as opposed to a 14-year maximum term is laughable is right.

Also laughable is the continued adherence by most members in this place to this old-fashioned idea, "Oh no, we can't tell judges how they must sentence. We have to maximum sentences. We can't have minimum sentences." The blokes running around committing these crimes do not really care about 14 or 16 years because they know that they probably will not get either. We support the general context of this bill. At least these bills are trying to do something reasonable and worthwhile towards solving the problem of drive-by shootings, which result from organised criminal activity. If only the Government could be consistent in the pursuit of these pieces of legislation we would be far happier.

The Hon. SCOT MacDONALD [9.38 p.m.]: I support the Crimes Amendment (Consorting and Organised Crime) Bill 2012. I welcome the measures introduced in this bill that will assist police in their ongoing fight against organised crime and organised criminals. These measures enhance offences for committing crimes as part of a criminal group, streamline and modernise consorting laws, and bring in new offences that target all levels of the organised crime world. This includes the organisers or directors of criminal conspiracies down to the foot soldiers who carry out the crimes, along with their hangers-on. Today I will talk about the lower-level organised criminals because I believe this bill provides some excellent mechanisms to target this level of criminality.

First, it is important to state that the police are already doing a great job of effectively targeting organised crime. NSW Police Force Strike Force Raptor has been successfully targeting the illegal activities and violent behaviour of outlaw motorcycle gangs for almost three years. Since Raptor commenced on 27 March 2009 and up until 31 January 2012, officers in Strike Force Raptor had made 1,645 arrests and laid 3,731 charges. Those charges have included offences such as assault, possession and supply of prohibited drugs, possession of prohibited firearms, aggravated robbery, demand money with menaces and participation in a criminal group. Raptor does not only target the Mr Bigs of bkie gangs; it targets the criminal behaviour of bikies at every level. Officers in Strike Force Raptor have issued 7,760 infringement notices, executed 228 search warrants and created 3,445 information reports.

Officers in Strike Force Raptor have also made significant seizures of prohibited drugs and weapons, including 355 firearms, consisting of 121 hand guns, 49 shotguns, 175 rifles, nine replica firearms and one pen gun; 16,780 rounds of ammunition; 29 kilograms of cannabis; 2,060 ecstasy tablets; 16 kilograms of cocaine and amphetamine type substances; 27 litres and 9,700 tablets of steroids; prohibited weapons, including 85 knives or swords, 10 electronic stun devices and 102 other weapons; and more than \$2.2 million in cash. When one considers that Raptor specifically targets outlaw motorcycle gangs, these results make it plainly obvious that bikies are heavily involved in drugs and violent crime. But despite these great results, we are still seeing the ugly face of organised crime, particularly on the streets of metropolitan Sydney. Bikies and other criminals have been resolving their grievances and playing out their turf wars using firearms and tit-for-tat drive-by shootings.

In response to these shootings, in early January this year the Police Force formed Operation Spartan, which is making use of resources from across the NSW Police Force to tackle gun crime. These include officers from the public order and riot squad, the traffic and highway patrol command, region enforcement squads, the dog squad, Polair, local area commands, the State crime command and others. The New South Wales Liberal-Nationals Government is determined to assist police in building on these great results and continue their work in disrupting and breaking up organised criminal groups. The Crimes Amendment (Consorting and Organised Crime) Bill 2012 contains a suite of amendments to provide police with the means to do just that. The

bill introduces increased penalties for shooting firearms at houses and other buildings, which will carry a maximum penalty of 16 years imprisonment. This will provide an additional deterrent to would-be drive-by shooters. Those who are not deterred and who go ahead and recklessly shoot firearms into buildings will be spending longer behind bars.

The bill also brings consorting laws into the twenty-first century. Consorting laws have the potential to be the nail in the coffin for organised criminals but have been simply unworkable for too long. Evolutions in the common law and police practice resulted in a situation where police were required to catch criminals consorting on at least six occasions before a consorting charge could be laid. Understandably, police have largely abandoned consorting offences. This bill will reduce the number of occasions on which police need to find criminals consorting. Where a person consorts with at least two convicted offenders on at least two occasions and the person has received a warning in relation to each of those offenders, then on subsequent occasions the person can be charged with consorting. And consorting will now include communication by any means; it could be email, over the phone or face to face.

Consorting will now be an indictable offence carrying a maximum penalty of three years imprisonment, a fine of \$16,500 or both. These enhanced consorting offences will prove invaluable for the officers of Strike Force Raptor and Operation Spartan, which are getting in the faces of organised criminals every day. That consorting offences were left to languish for so long by the previous Government was a missed opportunity. Indeed, this bill takes consorting laws, which were completely unworkable, and transforms them into what will likely be one of the primary tools that the police will use to bring down criminal organisations. Another powerful aspect of this bill is the enhancements being made to criminal group offences within section 93T of the Crimes Act 1900. I am advised that during the extensive discussions with police that resulted in this bill, police representatives advised that it was difficult to secure charges for criminal group offences. Section 93T makes it an offence to commit crimes as part of a criminal group.

Currently, it is necessary to prove that a defendant knew that the group they were committing crimes with was a criminal group and that the defendant also knew, or was reckless to, whether his or her participation contributed to criminal activity. Ironically, organised criminals, who are usually smarter than your average crook, are also better at playing dumb. Proving that a criminal knew they were assisting a criminal group to commit crimes was simply too high a threshold to meet. But this bill now makes it harder for crooks to feign innocence of gang activity. The bill amends the Crimes Act so that it will only be necessary to prove that a defendant knew, or ought reasonably to have known, that he was participating in a criminal group, and that he knew, or ought reasonably to have known, that his participation contributed to the commission of a crime. This is an important change, and one that will ensure that gang crime can be punished, without offenders escaping by exploiting legal loopholes. I commend this bill to the House.

The Hon. DAVID CLARKE (Parliamentary Secretary) [9.45 p.m.], in reply: I thank honourable members for their contributions to the debate. In particular, I thank the Hon. Dr Peter Phelps for his contribution; I enjoyed and appreciated his comments. No doubt one cannot keep a good man down. Before concluding I will make a few comments. I am advised that it has been said by a Labor member in the other place that what is needed to address gang crime is more police on the streets. What a cheek! Labor had 16 years to fix the problem. But what did Labor do? It did virtually nothing. This Government came into power with a commitment to putting an additional 550 police on the streets, and it has already delivered 150 of them. The Opposition refuses to acknowledge that in 2010 the Labor Government refused to fund a class of students big enough to cover the number of police expected to leave the Police Force. That was disgraceful.

The Labor Government also did absolutely nothing to address the fact that hundreds of officers were on long-term sick leave, unlikely ever to return to work, yet they were still counted in actual strength figures. What a fiddle with the figures that was by Labor. At the end of the day, as members opposite know full well, the allocation of resources is an operational matter for the commissioner and his executive team. If members opposite do not know that, they should know it. The NSW Police Force works with the resources available to it. The Opposition knows all too well that in the past 11 months the Government has done more to ensure that police have the resources they need than the Labor Government promised to do in the past 16 years. It is also worth stating that linking organised crime to the numbers of police allocated to local area commands completely ignores the hard work and excellent results achieved by police specialist groups that target gangs.

This includes Strike Force Raptor, whose officers, as at 31 January 2012, had made 1,645 arrests and laid 3,731 charges; and they had seized 355 firearms, 16,780 rounds of ammunition, 29 kilograms of cannabis,

more than 2,000 ecstasy tablets and more than \$2.2 million in cash. It also ignores Operation Spartan, which commenced in January this year. As of today, the officers in Operation Spartan have already made 183 arrests, laid 331 charges and seized 26 firearms. Are we not proud of our police in this State? We certainly are. Police in both Raptor and Spartan are also in the faces of criminals; they target all levels of criminality. Reducing gang crime to a ratio of police numbers shows the Opposition's simplistic view of policing.

It is now pretty clear how we have ended up where we are—given it was the Labor Party that called the shots for 16 years. But Labor is not calling the shots any longer and it is not going to be calling the shots for many years to come. Stopping organised crime and drive-by shootings is not simply a matter of police numbers. What we need are well-trained and appropriately resourced police officers, which this Government is providing; well-designed laws that significantly reduce opportunities for criminals to plan and commit crimes; and laws that stop gangs from recruiting new members into their organisations. That is what this bill provides. This bill introduces a new aggravated offence of firing into a dwelling house when the offence occurs in connection with a criminal organisation.

The bill includes a number of offences that bolster existing offences relating to participation in criminal groups and it modernises the offence of consorting, allowing New South Wales police to break down the ties between gang members. Opposition members have made some interesting remarks about the new consorting offence, particularly focusing on the new defences. It has been suggested that under the new provisions family members, work colleagues and students are automatically exempt from anti-consorting laws. First, the new defences do not represent automatic exemption from the operation of the offence. The defences will only apply where consorting for that purpose is reasonable in the circumstances. It will not apply where members of a crime family meet to plan criminal activities. This cannot be said to be reasonable in the circumstances. However, meeting at their grandmother's funeral may be considered reasonable.

Second, it is important to note that the consorting offence does not only criminalise consorting with hardened gang members, it criminalises habitual consorting with persons who have been convicted of any indictable offence. Is the Opposition seriously suggesting that once a person has been convicted of an indictable offence members of his or her family, who have never committed any offences, should be considered to be consorting or associating with that person? The amendments contained in the bill increase the penalty for consorting to six times its previous level. The defences represent an appropriate balance for what is now an offence that carries significant jail time. Some have suggested that the defences do not go far enough, that an exemption should be provided for those who consort for the purpose of protest, advocacy, dissent or industrial action.

The defences in this bill are an exhaustive list of clearly identifiable ordinary everyday relationships. They reflect careful consideration of the court's interpretation of consorting laws to date and are capable of being applied in everyday policing. This bill has been very well thought out. It will simplify and modernise consorting laws. The introduction of a defence for dissent is out of step with what the amendments are intended to do and would render the modernised offence complex and unusable. The Opposition police spokesman has also criticised the need to issue a formal warning to individuals before pursuing a charge under the new consorting offence, but this merely reflects existing police practice. The offence of consorting requires the person to know that the people he or she has been consorting with are convicted criminals. The issue of a warning by police negates any attempts by that person to say that he or she was unaware of the status of the person with whom they were consorting.

This is the way the offence has operated for several decades. Criticism has also been made of the bill's proposals to lower the "mental element" in section 93T to "ought reasonably to have known". As noted when this bill was introduced, the new knowledge element will better allow the offence to be applied to members of criminal gangs and to those on the periphery of such groups who contribute to the group's activities in other ways. This offence sends a strong message to the community that it is not an excuse to say, "I was not told" or "I did not know." If a person objectively should have known the group was a criminal one then they should not get involved. We are letting these criminal gangs know that this Government is not mucking around. The Government is going to break up these criminal gangs. For too long they have been marauding around the State as if they own the State. They are not going to be marauding around for too much longer. I commend this bill to the House.

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

The House divided.

Ayes, 31

Mr Ajaka	Mr Gay	Mr Searle
Mr Blair	Mr Green	Mr Secord
Mr Borsak	Mr Khan	Ms Sharpe
Mr Brown	Mr MacDonald	Mr Veitch
Mr Clarke	Mrs Maclaren-Jones	Ms Voltz
Mr Colless	Mr Mason-Cox	Ms Westwood
Ms Cotsis	Mrs Mitchell	Mr Whan
Ms Cusack	Mr Moselmane	
Mr Donnelly	Mrs Pavey	<i>Tellers,</i>
Ms Ficarra	Mr Pearce	Ms Fazio
Miss Gardiner	Mr Primrose	Dr Phelps

Noes, 5

Ms Barham
 Ms Faehrmann
 Dr Kaye
Tellers,
 Mr Buckingham
 Mr Shoebridge

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Pursuant to sessional orders business interrupted to permit a motion to adjourn the House if desired.

The House continued to sit.

In Committee

Clauses 1 and 2 agreed to.

Mr DAVID SHOEBRIDGE [10.05 p.m.]: I move The Greens amendment No. 1 on sheet C2012-026:

No. 1 Page 3, schedule 1 [4], lines 21-29. Omit all words on those lines. Insert instead:

Insert after section 93T (1):

This is an amendment to new section 93T, which currently allows for a finding of criminal activity where a person participates in a criminal group either knowing it is a criminal group or being reckless as to whether his or her participation in that group contributes to the occurrence of any criminal activity. As the law is currently drafted, for a person to be found guilty of a criminal offence that carries a penalty of five years imprisonment the person either had to know they were engaged with a criminal group—and if they know they are engaging with a criminal group they obviously have mens rea and the criminal intent to engage with a criminal group—or the person needed to be reckless, which is a test well known to the criminal law, and requires a sense of culpability on the part of the person who is being reckless in engaging with a criminal group.

But because the police say it is difficult to get charges to stick by proving that the person knew or was reckless, and as a result of police pressure, the Government is seeking to change the test. Under this proposed bill a person can be found guilty and go to jail for up to five years if they knew that they were engaging in the activities of a criminal group. The Greens note that that is the current law and there is no issue with it. It is the second element that is the problem. The Government's amendments to the Crimes Act seek to get rid of the requirement of recklessness, which carries moral culpability with it, and replace it with proving that a person

knew or ought reasonably to have known that his or her participation in that group contributed to the occurrence of any criminal activity. This is the removal of mens rea—the removal of any criminal knowledge or criminal intent on the part of a person.

A person can prove to a judge that they did not know that they were participating in a criminal group and the judge can say, "I have heard from you; I accept that you did not know. I accept you had no idea you were engaging in a criminal activity or with a criminal group. Nevertheless, you should have known that and a reasonable person would have. For that reason, even though you had no criminal intent, you will go to jail for up to five years." The removal of mens rea is an extraordinary watering down of the protections of liberty in our criminal laws in New South Wales. The thought that you can go to jail for up to five years even though you had no knowledge you were engaging in a criminal activity or with criminal group—

The Hon. Catherine Cusack: Give us an example of what you are talking about.

Mr DAVID SHOEBRIDGE: I hear the member calling for an example. We make laws not knowing the broad array of human activity to which those laws will apply. When making a law that provides for a five-year term of imprisonment for allegedly criminal behaviour, it needs to be made in the knowledge that those who will be found guilty under it have actually had some criminal intent, have known that what they were doing was wrong, or at least were recklessly indifferent about whether what they were doing was wrong. Because the police say proving recklessness is too hard, this Government removes mens rea from this aspect of the criminal law. As I have said, for centuries our criminal justice system has been founded on proving not only that someone did something wrong but that they knew what they were doing was wrong, or at least were reckless in not caring whether what they were doing was wrong. This provision of the bill removes that history entirely; it trashes that tradition, it trashes its protection, and it trashes one of the golden threads, and it is for that reason that The Greens move this amendment and oppose this aspect of the bill.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [10.10 p.m.]: The Opposition does not support The Greens amendment. We do not think the provision in the bill changes the law in any significant way; it certainly will not have the catastrophic effect that Mr David Shoebridge argued. Therefore, we are not persuaded that The Greens amendment is reasonable or necessary.

The Hon. DAVID CLARKE (Parliamentary Secretary) [10.11 p.m.]: The Government does not support The Greens amendment. As noted when this bill was introduced, the new knowledge element will better allow the offence to be applied not only against members of criminal groups but against those on the periphery of such groups who nevertheless contribute to the group's criminal activity. This offence sends a strong message to the community that it is not an excuse to say, "I wasn't told" or "I didn't ask." If a person objectively should have known that the group was a criminal one, that person should not get involved. The new wording ensures that offenders will not escape punishment by feigning ignorance in a situation where, objectively, a person ought reasonably to have known from the facts or circumstances that he or she was participating in the activities of a criminal group. It must also be noted that the offence in no way fetters the exercise of the court's discretion on sentence. It will be able to assess the person's criminal culpability and reflect that in the sentence that is ultimately imposed for the offence.

Question—That The Greens amendment No. 1 [C2012-026] be agreed to—put and resolved in the negative.

The Greens amendment No. 1 [C2012-026] negatived.

Mr DAVID SHOEBRIDGE [10.12 p.m.]: I move The Greens amendment No. 1 on sheet C2012-025:

No. 1 Page 6, schedule 1 [9], proposed section 93Y. Insert after line 8:

- (g) consorting that occurs principally for the purpose of genuine advocacy, protest, dissent or industrial action.

One of the aspects of the bill that is most troubling is its provision of a very limited set of defences for any person to make a case that they ought not to be convicted of a breach of this consorting law. The list of defences that can be made are if the person is consorting with family members, consorting in the course of lawful employment, consorting in training, consorting in the provision of a health service, consorting in the provision

of legal advice, or consorting in prison or in the course of complying with a court order. The bill does not allow for organisations such as Justice Action and other prisoner advocacy groups and organisations that engage in activities of dissent here in New South Wales.

Perhaps the most extreme example would be that of Justice Action, an advocacy group actually run by ex-prisoners. This is an advocacy group run by people a great many of whom would fall within the category of a convicted offender for the purpose of these consorting laws. On any view, this is a group of people, all of whom are convicted offenders, who get together. If they are given a warning by police, they have no grounds on which to defend their continued operation as a prisoner advocacy group, or even as Justice Action. That is a group of people who almost by definition will be convicted offenders for the purpose of this bill. If the police, in their discretion, do not like what those people are doing and want to shut down the organisation, they could issue them with a warning, and if they meet again they will have engaged in a criminal offence. That is a remarkable state of affairs.

That is why The Greens move this amendment: to limit this outrageously broad police discretion. The Greens amendment would insert into this law some principles. The amendment provides that it would be a defence if you could reasonably prove that what a person was doing was consorting that occurs principally for the purpose of genuine advocacy, protest, dissent or industrial action. We need this safeguard in the law. If we do not, those kinds of organisations survive subject to police discretion and no more. They have no defence. They should have a defence. This Parliament should recognise that. I commend the amendment.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [10.14 p.m.]: The Opposition does not support The Greens amendment. The legislation as it exists, and as proposed by the bill, hinges on the notion of a criminal group whose activities are organised and ongoing with a view to conducting criminal activities. It is a contradiction in terms that, in that context, there could be any consorting for any kind of genuine or law-abiding purpose. So there is a disconnect at the heart of the proposed amendment. We do not see the legislation as it stands, or as it would be amended by this bill, in any way providing for any attack upon an association of citizens for purposes of advocacy, protest, dissent or industrial action. The legislation is directed at criminal groups. I do not see that the fears or concerns said to be at the heart of this amendment arise. So we are not persuaded to support the amendment.

The Hon. DAVID CLARKE (Parliamentary Secretary) [10.16 p.m.]: The Government does not support the amendment moved by The Greens. The inclusion of a defence relating to advocacy or protest would have a significant impact on the operation of the new consorting offence. The defences currently proposed in the bill represent an exhaustive list of circumstances in which consorting behaviour might be excused, provided that the consorting was reasonable in the circumstances. The circumstances in the bill are easily identifiable, everyday relationships. The amendment proposed by The Greens would introduce an additional defence that potentially incorporates a broad range of behaviours. It is inconsistent with the stated intention of the bill, as noted in the agreement in principle speech given by the Attorney General on 14 February this year:

... the goal of the offence is not to criminalise individual relationships, but to deter people from associating with a criminal milieu.

Further, proof is fairly straightforward for the existing defences; it would be a simple matter for a defendant to prove, or for the prosecution to refute, that consorting occurred in the context of employment or medical treatment and that it was reasonable in all the circumstances. The proposed additional defence would introduce an unnecessary degree of complexity to the offence and add to the cost and uncertainty of prosecuting these matters. The purpose of the amendments in the bill is to modernise and simplify the offence, not to make it more complicated.

Mr DAVID SHOEBRIDGE [10.18 p.m.]: I note the contributions of the Government and the Opposition on The Greens amendment. The Government effectively concedes that it wants the capacity to criminalise people who gather together for advocacy or dissent. It is for that very reason that The Greens are pressing this amendment and the defence it proposes. The contribution from the Opposition misunderstands the provisions of the bill to which The Greens amendment relates. This is not about section 93T; this about division 7, consorting, and section 93X. It does not require some criminal organisation to be in place. The test is whether a person habitually consorts with convicted offenders. I said in my contribution to the second reading debate that the concept of consorting does not require any criminal intent. It may be just driving someone to court or meeting up with them for a coffee. It does not require any criminal element or criminal activity at all. All that is required is just meeting with, texting or talking to someone who is a convicted offender.

The Opposition either wilfully or, perhaps even worse, unwittingly does not understand the nature of the amendment or the nature of the offence that it seeks to create through supporting this legislation. It is not about criminal activities. This is just about meeting with, talking to or texting someone who was convicted previously. When you do that with more than two people more than twice then the police, in their discretion, can issue a warning. Then if you do it again—and maybe you want to continue to meet with other advocates for prisoners' rights and maybe the police and this Government do not want you to—

The Hon. Catherine Cusack: Luckily, a judge gets to decide these things.

Mr DAVID SHOEBRIDGE: The Hon. Catherine Cusack suggests that a judge gets to decide these things. There is no defence in that case. The prosecution case would be proven: There would be no defence. A judge would only determine the sentence. There is no defence. The Greens are trying to insert a defence. The Government said that giving people like this a defence would make for uncertainty. It would not; it would make for actual liberty and civil liberties in New South Wales. I commend the amendment.

Question—That The Greens amendment No. 1 [C2012-025] be agreed to—put.

Division called for and Standing Order 114 (4) applied.

The Committee divided.

Ayes, 5

Ms Faehrmann
Dr Kaye
Mr Shoebridge

Tellers,
Ms Barham
Mr Buckingham

Noes, 23

Mr Brown
Mr Clarke
Mr Colless
Ms Cotsis
Ms Cusack
Mr Donnelly
Ms Ficarra
Mr Gay

Mr Green
Mr Harwin
Mr MacDonald
Mr Mason-Cox
Mrs Mitchell
Mr Moselmane
Mrs Pavey
Mr Primrose

Mr Searle
Mr Secord
Ms Sharpe
Mr Veitch
Ms Westwood
Tellers,
Ms Fazio
Dr Phelps

Question resolved in the negative.

The Greens amendment No. 1 [C2012-025] negatived.

Schedules 1 and 2 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. David Clarke, on behalf of the Hon. Michael Gallacher, agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. David Clarke, on behalf of the Hon. Michael Gallacher, agreed to:

That this bill be now read a third time.

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

ADJOURNMENT

The Hon. DUNCAN GAY (Minister for Roads and Ports) [10.26 p.m.]: I move:

That this House do now adjourn.

PORTRAIT PROJECT

The Hon. PENNY SHARPE [10.26 p.m.]: Tomorrow marks International Women's Day. I bring to the attention of the House an important report that examines where women and girls in Greater Sydney find themselves in 2012. It is easy to imagine that the issues that galvanised the suffragettes and feminists of the twentieth century have been largely addressed in Sydney in 2011. However, I refer members to the following:

Our city streets are full of working women the life expectancy of women is rising, women are much more likely to survive childbirth and are achieving well in schools and universities ...

Women are no longer voiceless, voteless and without their own bank accounts. In many ways, and especially in contrast to 100 years ago, it is easy to feel a sense of optimism, to feel that women have truly benefitted from the work of women in past generations.

Beneath the comfort of the picture, however, all is not well.

These are the words of Alison Ziller and Elizabeth Delaney, in their introduction to the Portrait Project: A Portrait of Women and Girls in Greater Sydney. The Portrait Project was commissioned by the Sydney Women's Fund to take a comprehensive look at the status of women and girls in Greater Sydney. The Sydney Women's Fund recognised that there are significant gaps in understanding the needs of women and their children in Sydney. We know a lot about different groups in our society, but we do not really have a full understanding of what it means to be a woman or a girl in Sydney. The fund must be congratulated on bringing together all the available research and examining what it tells us about the lives of our mothers, daughters, sisters, friends, neighbours, workmates and the strangers we share this city with. Without this knowledge, governments are left to create policies based on assumptions.

The report found that, while things might seem like they are better than 100 years ago, when one looks at women and girls not as a cohesive group but through the prisms of ethnicity, age and economic status, there are some worrying trends. Chair of the Sydney Community Foundation and Sydney Women's Fund, Rosalind Strong, says in the report:

Sydney has some of the most influential, most educated and wealthiest women in Australia, and it also has some of the least powerful, most disadvantaged and poorest women in Australia. Today's reality for many women and girls in Greater Sydney is one of constraint, insecurity and challenge.

The report found that for all women the issues of equal pay, access to affordable and quality child care, and domestic violence are a constant, with little or no improvement in recent times. There are a number of reasons for this but the common thread throughout the report was inequality, particularly inequality due to gender-based discrimination. The report shows that inequality is widening. It states:

Over and over again, the lives of women and girls can be shown to be profoundly affected by relative inequality, affecting their life chances, their opportunities, their access to resources, their opportunity to feel valued and respected and in a deep sense their capacity to participate in all that Sydney has to offer.

If you are an Aboriginal woman, if you are an older single woman, if you are a woman from western or south-western Sydney, if you are a refugee woman, or if you are a carer who is a woman, the chances are that things are getting even tougher. The authors outline the seismic shifts to social structures over the past 50 years that have had a profound impact on women. In many cases these have been very negative. With the demise of

extended family support structures and a rise of single-parent and blended families, the responsibilities for care are still falling predominantly on women. Increased costs of living in Sydney and high house prices also are having a disproportionate impact on women.

While there is very little data about the impact of house prices on women and girls specifically, the report identifies single people and single-parent households as at greatest risk of unstable housing, and of course the greatest proportion of single parents are women. The report notes that single older women will become the new face of homelessness in New South Wales within a generation. Divorce, separation and inadequate superannuation, coupled with high housing costs in Sydney, are the main causes for women having difficulty maintaining affordable housing later in life. The authors also highlight the vulnerabilities for refugee women in their search for stable accommodation, made more difficult by the double-edged sword of cultural prejudice and prejudice in their new residential communities.

Some of the report's most concerning findings relate to Aboriginal women. These statistics are shocking and must not be ignored. In Sydney Aboriginal girls and women have a life expectancy that is 7½ years shorter than other women, they are more likely to suffer from a chronic illness, they are more likely to have babies as teenagers and those babies are more likely to have a lower birth weight and are less likely to be breastfed. Aboriginal women and girls in Sydney are significantly overrepresented as victims of crime. On the eve of International Women's Day this report should be a call to action for all of us who believe that greater equality will improve the lives of women and girls. I call on the New South Wales Government to take this report and seek advice from women in Sydney about what actions can be taken to tackle gender-based discrimination and improve equality in Sydney. As a State we can and must do better.

FRENCHS FOREST HOSPITAL

Dr JOHN KAYE [10.31 p.m.]: In 2006 the then New South Wales Labor Government pledged to build a level five hospital at Frenchs Forest on the northern beaches. The proposal rapidly gained enthusiastic and ongoing support from local Liberal members of Parliament. A coalition of community groups, doctors and The Greens have joined together to call on the O'Farrell Government to place a moratorium on any further development of the hospital project until a number of serious concerns about the project are addressed. Opposition to the Frenchs Forest hospital and industrial park has come from the Save Mona Vale Hospital group, including the former Independent member of Parliament and mayor of Pittwater, Alex McTaggart; clinicians such as Dr Tony Joseph from Royal North Shore Hospital and Dr Paul O'Farrell from Mona Vale Hospital; local Frenchs Forest residents who would be affected by the project; and local Greens groups on the northern beaches peninsula, who are responding to community concerns about the loss of local services and environmental impacts of the development.

The concerns of each of these groups range from the consequences of the quality of clinical services to the impacts on the stand of Duffys Forest. The hospital is inappropriately located, which will inevitably lead to the duplication of services and pressure to close services at other hospitals. The Minister for Health admitted to me in budget estimates last year that as a consequence of the Frenchs Forest hospital proposal Manly Hospital will be shut down and Mona Vale Hospital will provide only "complementary health services". In the absence of a comprehensive study of the clinical services needs of the northern beaches and the North Shore, it cannot be claimed that the proposed site will be the most cost-effective reallocation of resources. Last week at a public forum in Dee Why a group of Coalition Ministers and members of Parliament, including the Minister for Health, the Hon. Jillian Skinner, confirmed that the project is continuing despite the total costs of the project remaining largely unknown.

The Government has indicated that a large portion of the money needed for the hospital would be generated by entering into a public-private partnership. While providing a cheap fix to the budget, inevitably the community will pay more both in taxes and in reduced quality of services. Even though the Government has not called for any tenders for investment in the facility, \$125 million of public money already has been set aside for the hospital proposal. This money should be redirected to the existing funds-starved hospitals on the northern beaches. The proposal would also have unacceptable environmental impacts. An important stand of the Duffys Forest Ecological Community, which has been scheduled as endangered, will be badly affected, and the proposed developments around the hospital will place further burdens on the ecological community. At the forum last week in Dee Why the Minister for Planning, the Hon. Brad Hazzard, said that the Government would shift the Duffy's Forest Ecological Community forest elsewhere to accommodate the new hospital.

In late 2010 the New South Wales Department of Planning and NSW Health placed on exhibition a State significant site study proposing new zonings and planning controls to facilitate the growth of Frenchs

Forest around the future hospital. It was estimated that the centre would employ up to 25,000 people and provide an additional 1,300 homes. The business park was seen by many observers as an essential component of the development of the hospital. Without the services and value-add of nearby biomedical businesses, it was considered unlikely that a hospital in an isolated location would be viable. The overwhelming majority of submissions were opposed to the new zoning and increase in high-rise development, including new 40 metre high buildings.

The proposed hospital would also require major, expensive upgrades to the road network, including flood mitigation works, estimated to cost hundreds of millions of dollars that have not yet been budgeted for. The increased traffic due to a major hospital would have unacceptable impacts for the community of Frenchs Forest and commuters from the entire peninsula. Two traffic studies commissioned by Transport for NSW overwhelmingly concluded that the transport network around Frenchs Forest is already at capacity and needs significant investment in road infrastructure and public transport improvements to accommodate both the hospital and population growth over the next five years.

Since these reports were completed the Minister for Planning announced that the Government was abandoning the proposed specialised centre but was still proceeding with the hospital. This was a great victory for the campaign by local activists, including the Save Frenchs Forest community group. However, according to a report by Warringah Council staff to councillors, the results of the transport studies remain relevant as an indication of the public transport and road infrastructure upgrades which are likely to be required as part of the future planning and development of the proposed northern beaches hospital.

The member for Manly, Mike Baird, commented at the Dee Why forum, and as reported in the *Manly Daily* on 2 March, that "associated infrastructure would be built to support the project", which means that the concept of the industrial park around the hospital is far from dead. The Greens enthusiastically support greater investment in the State's public hospital system but are concerned about this money being used wisely and targeted where it is needed. The proposed northern beaches hospital at Frenchs Forest risks being a white elephant that is difficult to access, duplicates services already available, places at risk the future of the existing hospitals on the northern beaches and has unacceptable impacts on the local environment and residents.

ENVITE NATIONAL GREEN JOB CORPS PROJECT

The Hon. CATHERINE CUSACK [10.36 p.m.]: Last Thursday, with the State Emergency Service mobilising along the banks of thousands of flooding New South Wales rivers and creeks, a very different ceremony took place at Riverside Park on the banks of Lismore's Wilson River. Nine young students graduated from Lismore EnviTE's National Green Jobs Corps Project and were awarded certificate 2 in conservation and land management. I congratulate the students on their accomplishment, including Jesse Schoer, Carla Nurse, Arron Hodges, Frances Lollback, Guy Lynch, Shane Endrody and Zac Grott of Lismore; Justin Tunsted of Dunoon; and Ron Stroud-Watts of Eltham. I pay tribute to EnviTE and its respected supervisor Garth Kindred, who has successfully guided these students through the course requirements and is personally credited with turning troubled young lives around. I note the comments of the national Green Job Corps' coordinator, Peter Brown, reported in the Lismore *Northern Star*. Mr Brown stated that the six Green Job Corps projects run concurrently from Tweed Heads to Coffs Harbour will have a completion rate of 70 per cent compared with a national completion rate of 15 per cent. He said:

We've already got five employment outcomes from this group and one guy's also doing further study.

These are simply fantastic results. EnviTE has delivered more than 500,000 hours of environmental service to our region—cleaning beaches and rehabilitating strategic sections of degraded reserves—occupying thousands of young unemployed people, boosting their resumes and giving them new skills recognised with formal qualifications, and leading to healthy positive outcomes. The benefits in relation to mental health and young people with disabilities have been phenomenal and their personal stories are very moving.

On 5 February 2012 I participated in WetlandCare Australia's working bee to restore East Ballina Reserve. This North Creek reserve is a crucial wetland vital to the health of our local environment but also home to migratory shorebirds such as the bar-tailed godwit which flies non-stop for thousands of kilometres to grace our shores in the warmer months between September and April. The working bee was organised by WetlandCare and EnviTE as an International Wetlands Day activity under the Coastal 20 Wetlands restoration project. The North Creek Wetlands are benefiting from a \$2.5 million grant under the Caring for Our Country

program. I certainly thank the Federal Government for this important support. I acknowledge and thank Nicci Carter and her fabulous team at WetlandCare, which is a national non-government organisation with headquarters in Ballina.

It is one of the most expert and valuable services I have encountered. It not only provides collaboration and delivers solid outcomes on the ground, but also provides one of the strongest environmental education programs I have ever seen. By partnering with EnviTE, and other not-for-profit groups such as the Lions Club, WetlandCare was able to plant 1,000 trees in the East Ballina Reserve during the working bee. It was a wonderful day, spent working with children and adults from all sectors of my community. All of us who participated were enriched by the experience and look forward to revisiting the scene of our efforts.

However, I was dismayed to learn that the Green Corps program we have come to know and love for 20 years will come to an end on 30 June. The Commonwealth Government advised groups of a new funding formula that will reduce payments from an average of \$8,250 per participant to between \$500 and \$1,850 per participant. Needless to say this means our local Green Corps cannot possibly continue under the proposed new formula and will cease to operate. Payments as low as \$500 cannot possibly meet the cost of operating a bus to transport the most disadvantaged members of my community who have no transport options of their own. It is insufficient to provide the clothes and equipment needed to meet occupational health and safety requirements, let alone provide for ongoing supervision of the work groups.

The new scheme is called Green Corps, but it is not really Green Corps because the core values of the program have been axed. The focus on youth aged from 17 years to 24 years has changed to adults aged 18 to 49 years. Teenage unemployment is 26.1 per cent nationally and 28.3 per cent in my local area. These kids need and deserve the camaraderie and special benefits of a targeted Green Corps program. The voluntary nature of Green Corps is being replaced with a compulsory component. That change will guarantee that the new regime will fail. Outcomes will no longer be required and measured by the attainment of formal qualifications. This dumbing down is a clear acknowledgement that the new funding is insufficient to achieve the high standards we have come to expect. My community is staggered that one of our best loved and most efficient and effective job programs is about to collapse.

The dedication of staff at organisations such as EnviTE should be celebrated and not tossed away with little understanding of or thought about the knock-on losses not only for job seekers and their families but also for our environment and the cost effectiveness of numerous other projects supported by EnviTE. In conclusion, I seek leave of the House to incorporate into *Hansard* several case studies that highlight individual success stories of Green Corps, which has for the relatively paltry sum of \$8,250 per participant over six months turned young lives around, connected people and programs and improved our environment. I urge Prime Minister Gillard to reconsider the future of this wonderful program.

Leave granted.

National Green Jobs Corps Case Studies

Dylan - National Green Jobs Corps participant 2011, Illawarra NSW

Dylan participated on the Bush Regeneration Illawarra NGJC project. Prior to participation in NGJC Dylan spent most of the day asleep and the night playing Xbox. He had sporadic casual employment but was not in a good place mentally.

Now he is working at the Royal Botanic Gardens in Sydney with an apprenticeship, a position that is highly sought after. Dylan was told that he got the job out of all the 100's who applied because he had been participating in NGJC.

He loves his new job, is positive and is participating fully in life again. He is also setting up his own small business growing Bonsai, and propagating other plants.

Daniel - National Green Jobs Corps participant 2011, Geelong VIC.

Daniel told the team leader that he had regularly stolen cars from the age of 13. He has been involved in at least one serious assault that hospitalised his victim. His NGJC team leader believes that he had been a drug dealer until recently. His teeth were in poor condition from drug abuse. He frequently told the team leader that if his daughter had not been born he would be dead now. Cars were his only outlet.

Daniel worked hard on his anger management while with NGJC. He was a young man that refused to come to theory days but would attend all practical days. He eventually came to enjoy the theory days and even took work home to complete. He became a valuable mentor for some of the other team members and a great teacher of all things that were of a practical nature.

Though he did not complete the full Certificate II whilst in NGJC, he achieved a full time job in the domestic house construction industry. Daniel is proud of his new job, how much money he is making and how easily he had taken to the job. He wants to stay away from his old ways and has even stopped swearing in public places. Before he would never stand straight or look a supervisor in the eye, now he does this readily. He is a very clever young man who would not have discovered his potential if it were not for NGJC.

Ashley - National Green Jobs Corps participant 2011, Casino NSW

Ashley is an Indigenous female from Casino NSW who graduated from NGJC with a Certificate II in CLM. Prior to this Ashley was unemployed for a year and a half.

Ashley was assisted by EnviTE to apply for a traineeship as an Environmental Worker at Richmond Valley Council. She received coaching with EnviTE Employment staff who simulated a "panel-of-4" interview and anticipated likely questions while also preparing her to answer questions about any weaknesses, skill gaps etc. She was among a short-list of six candidates. Ashley got the job.

"I really enjoyed being part of the project, being outside and being allowed to be one of the boys. I've never had to face an interview panel before so it was nerve-racking. I was gob-smacked to be given the job!"

"My NGJC experience definitely helped prepare me for this job"

Ashley's mother (Belinda): "I am over the moon at what EnviTE and Des (NGJC Supervisor) have done for Ashley.

Recent feedback from Richmond Valley Council staff indicated they continue to be greatly impressed by Ashley and grateful for the ongoing post placement support provided by EnviTE Employment which has assisted her to obtain a drivers licence and an OHS White Card. "If all your graduates were like Ashley we would be happy to take more". EnviTE Employment is currently preparing well performing participants in the final NGJC project to be ready to present themselves to Council.

Ben - National Green Jobs Corp participant, Tweed Heads NSW 2011

Ben left school in year 10 after a difficult learning experience and often finding himself in trouble. Ben is profoundly deaf.

Ben was unemployed but not collecting a benefit as he had not interviewed with Centrelink nor connected with a JSA. He had also been in trouble with the police and was facing charges and a court hearing.

Ben self-referred to National Green Jobs Corps after a friend who was connected with Nortec mentioned the program. The EnviTE Tweed Supervisor explained to EnviTE management Ben's circumstances and that he believed Ben had the determination to complete the program. The Tweed NGJC Supervisor was prepared to support Ben through the program but was concerned about his hearing impairment and potential consequences. The EnviTE General Manager had recent DES experience and ensured Ben could be connected and supported with ON-Q (a Disability Employment Service provider) without affecting his Work Capacity status and rendering him ineligible for NGJC activity.

Ben undertook NGJC training and work experience under the guidance of the Tweed NGJC Supervisor.

During the project, Ben faced court and was equipped with a character reference from his Supervisor, who had retained his belief in Ben's commitment. Ben was extended leniency and allowed to complete the program.

Ben applied himself willingly and capably throughout the project. He graduated with a Certificate II in Conservation & Land Management and also completed an additional chemical accreditation (AQF Level 3) course.

Following his graduation, the Tweed NGJC Supervisor provided a job specific reference for Ben. Ben gained work in a local nursery.

Ben's mother Sue recently spoke to the Tweed NGJC Supervisor and reaffirmed her gratitude. "Ben continues to remain self-confident. This program has been the making of him."

This case is unique because participants of Ben's profile are often designated with a Limited Work Capacity (LWC) of 8-15 hours per week. With the EnviTE GM's intervention, Ben's ability to deliver a full week's work was recognised and allowed him to complete a training and work experience program which was most suitable to his abilities.

Adrian - National Green Jobs Corps participant 2010, Geelong VIC.

Adrian was a 19 year old NGJC participant who suffered from schizophrenia. His NGJC team leader suspected he had a chronic issue with marijuana. He would never take his mirror sunglasses off and lacked self-confidence. We worked hard on his feelings of self-worth and what is expected by employers and fellow workers. Following his placement in NGJC he achieved full time work. He has been with the same employer for over a year. He even rode his bicycle 20kms round trip to get to work for its 6am start until he achieved his car licence.

NURSE RETRAINING

The Hon. PAUL GREEN [10.41 p.m.]: I draw to the attention of the House a bureaucratic barrier that is robbing New South Wales of a number of competent and talented nurses. A few years ago nursing registration and accreditation was moved from the State level to the Federal level. The key purpose of the national scheme is

to protect public safety. Only nurses educated and able to demonstrate that they are qualified to practice their profession in a competent and ethical manner are registered. Among a number of components required to secure registration is a new recency of practice standard. According to information provided by the New South Wales Nurses' Association, this requirement is new to nurses and midwives in this State.

Before the new system was introduced, nurses and midwives who wanted to return to work could apply to the Nurses and Midwives Board of New South Wales and, at the board's discretion, they were reintegrated into the workforce through a period of paid, supervised employment. That no longer applies. Under the new system nurses have to demonstrate that they have nursed for a minimum of three months full time within the past five years, successfully completed a program or assessment approved by the board, or successfully completed a supervised practice experience approved by the board.

At first glance this looks like a fair and safe system for New South Wales. But what are the problems? The new recency of practice standard is being retrospectively applied. That has huge implications for any nurses and midwives who have taken extended breaks from their professions under the old regulatory regime. A large proportion of nurses are women and many left the profession to start a family five or more years ago. Those nurses have been effectively knocked off the register and are unable to practice. This situation would not be so bad except that there is only one way they can be re-registered and return to our hospitals. The main option for nurses seeking to re-enter practice in New South Wales is an eight-week course in Sydney at an outrageous cost of \$10,000. Given that most nurses would want to return to work because of current economic conditions—which are likely to deteriorate when the carbon tax is implemented—it is most unlikely that they would have \$10,000 in savings to draw upon. The cost is prohibitive and bars nurses from re-entering our health care system. That is not helpful for our professional health carers.

Regional or rural nurses will be required to travel to Sydney to do this course, making it even more out of reach for those nurses. Furthermore, there is no accredited course available in New South Wales for midwives. I recently tried to re-register at the Nurses Registration Board and I found that if I wanted to return to nursing I would have to go back to university and get credits to regain my qualifications. That is ridiculous. I and many other nurses have worked extremely hard to get our qualifications. There is no doubt that we would need to undertake some formal training to update our knowledge and experience, but undertaking a program costing \$10,000 is ludicrous. I call on the New South Wales Government to absorb some of that cost to provide nurses with the opportunity to re-enter the health care workforce. This will not alleviate the nurse shortage across the State caused by the increased nurse to patient ratio and our rapidly ageing population. However, barriers like this will not encourage nurses back into the profession.

I support the requirement that health professionals demonstrate some recency of practice in order to maintain competency and their registration. However, the barriers that now confront a small cohort of nurses and midwives who have taken breaks from their profession under the old arrangements and who are now seeking to re-enter are impractical and inefficient and serve merely to deny the health system experienced healthcare professionals.

INTERNATIONAL WOMEN'S DAY

The Hon. SOPHIE COTSIS [10.46 p.m.]: Tomorrow we will celebrate the 101st International Women's Day. This is a time for women and girls, and men, across the world to celebrate the economic, political, social and environmental achievements of women and to build on those achievements for the future. The theme of this year's celebrations is economic empowerment of women. It has been established that 70 per cent of the world's poor are women. Women earn less than 10 per cent of the world's wages but perform two-thirds of the work. Women invest 90 per cent of their income in their family. Things are better in Australia than in many countries, but there is still room for improvement. If we can close the gap between male and female employment in this country, we can boost our GDP by 11 per cent.

There are several barriers to economic security for women around the world. Women in informal work lack basic rights and job security. Women in formal work face discrimination and very few are in management positions. Pay inequality on a global scale means that women on average earn between 10 per cent and 30 per cent less than men. Women lack financial independence, access to resources and assistance and opportunities when it comes to decision making. They also face challenges in the lack of business and land ownership. Although new land tilling rights are developing across the world, the enforcing of these rights has been problematic.

What is most disappointing is that the O'Farrell Government has not publicised International Women's Day very widely this year. In past years the New South Wales Woman of the Year Award was an opportunity for members of Parliament of all political backgrounds and community groups to nominate women who have made an outstanding contribution to society. These women are our unsung local heroes. These awards not only recognise the contributions of women in New South Wales to their communities, but also engage the public and increases awareness of women's issues and women's achievements and what we need to do to address future challenges.

Over the past few years Australia has passed some remarkable milestones. We have our first female Prime Minister, our first female Governor-General and several female Premiers. One of the most significant advancements for women this year—and I am very proud that a Labor Government delivered it—was the Fair Work Australia determination that wages in the social and community sector must increase. One of the issues which I am very passionate about and which I will continue to raise is the gap between men's and women's retirement savings. We must address this if we are to ensure that women are not disadvantaged in their careers because they choose to have a family and to work.

We are lucky to live in Australia where women have gained so many rights and freedoms by female pioneers advocating for them and fighting hard. It is up to my generation and the younger generations to fight for those pioneers who will retire with limited or no savings. Women are entitled to the same pay as men, to remain in the workforce after marriage, to take leave to care for their children and then return to work when they and their families are ready. Women should not be punished for this. Although we are lucky in Australia, for many women the reforms I have mentioned are only possibilities and we must work to make them realities. We must do more to support women to find the right work-life balance. We must resist the temptation to financially discriminate against women because they are raising their children, caring for their family, or mum and dad. We must harness their skills and not reject them.

The baby boomers are approaching retirement. That generation fought for change but will retire with little or no superannuation. They are at risk of homelessness or living in boarding houses. With the increasing cost of housing in Sydney they could find themselves moving to remote areas, away from their families and friends, to board in a stranger's house on a tiny pension. With the rising cost of fuel, women who have cars will be forced to sell them and will become socially isolated. Governments will face the challenges of delivering for these women in the next 15 to 18 years. Many of them have not had the benefit of paid maternity leave. They have worked part-time and that work has been fragmented by entering and leaving the workforce to care for others. They are retiring with \$10,000 or \$12,000 in superannuation. For women who are single and do not have the support of a partner's income or assistance from children this amount of money is not enough to get by on. Some of these women are staying in jobs they do not like because they have no choice.

We must work together to tackle these challenges. This is an opportunity to bring together governments, employers, academics, unions and peak women's groups to work out how to meet the needs of women who are preparing to retire. We must work together to preserve their legacies and to ensure that each generation of women leaves behind a world that is better than the one they were born into.

RURAL AND REGIONAL HEALTH SERVICES

The Hon. MELINDA PAVEY (Parliamentary Secretary) [10.51 p.m.]: Last week the Hon. Sarah Mitchell and I had the pleasure of being invited by the Chancellor of the University of New England, the Hon. Richard Torbay, to visit the University of New England School of Rural Medicine. Together with Professor Jim Barber, Vice Chancellor of the University of New England, Professor Peter McKeon, Head of the School of Rural Medicine, and Professor Minichiello, Pro Vice Chancellor and Dean, they provided an overview of the Bachelor of Medicine-Joint Medical Program offered by the School of Rural Medicine which is in partnership with the University of Newcastle, the Hunter New England Area Health Services and the Northern Sydney Central Coast Area Health Services.

One of the many challenges in regional and rural health is the chronic shortage of doctors and other primary health professionals. The unbalanced distribution of medical and health professionals in Australia is a huge concern. Rural and remote Australia has substantially fewer primary health professionals per 100,000 of population compared to major cities. This in part has been addressed by the \$3.5 million annual funding announced last year by Minister Skinner for the New South Wales rural generalist training program which will provide opportunities for general practitioners and general practitioner registrars to gain experience in procedural general practice to equip them to practice in rural areas. National and international evidence demonstrates that the most successful strategy for increasing the number of medical and health professionals in

rural practice is to train rural students in rural locations. Train in the bush, remain in the bush. A review of literature on predictive factors for entry to rural health practice found that a person with a rural background was around two to two-and-a-half times more likely to be in a rural practice than their urban counterparts.

The joint University of New England and University of Newcastle is now in its fourth year, with fifth year students now undertaking extensive clinical placement in health facilities across northern Sydney and New South Wales. The vision of this medical school was driven by the former Deputy Prime Minister and Leader of the Nationals, John Anderson, and was announced on 20 July 2006 by the then Federal Minister for Education, Science and Training, Julie Bishop, who visited the University of New England to launch the results and recommendations of the largest education survey concerning rural and regional issues ever carried out in Australia.

The university's medical school is the legacy of that announcement. It has also had a profound positive impact on Armidale and other local district health services. An academic paediatrician with visiting medical officer rights to Armidale, Tamworth, Inverell and Glen Innes hospitals was appointed in 2010. We also have an emergency department career medical officer working out of Armidale Hospital who lectures at the university and a senior lecturer in medicine with visiting medical officer rights in general medicine at Armidale Hospital. Interventional cardiology with Tamworth Rural Referral Hospital is under negotiation.

A recent comprehensive study by the Australian Centre for Education Research [ACER] on the characteristics of rural students found that 65 per cent of rural students who had attended a regional university were in regional employment 10 years after graduating. In relation to rural medical education, successful approaches to increasing the number of rural doctors and health professionals are multi-factorial, but successful recruitment and retention requires, among other things: location of medical and health programs in a rural region; a high proportion of students admitted to the medical school from rural areas; and a comprehensive rural experiential-focused learning within a strong and well supported rural education network. That is being achieved at the university.

We saw a presentation on their collaboration with the University of California, Irvine medical simulation program but undoubtedly the highlight of my visit was meeting some of the dedicated medical students such as Alicia Stellar from Armidale, Cassie Campbell from Port Macquarie, Rachel Ronthal from Urunga, Angus Hardy from Kempsey, Myles Kwa from Tamworth, Peter Ryan from Sydney and Chris Kearns from Warabrook. They were all excited about their studies and future work prospects in regional and rural New South Wales.

This year 75 students in total have been accepted to the course and 20 come from country towns such as Port Macquarie, Clarence Town, Narooma, Central Tilba, Emerald Beach, Toormina, Tamworth, Bathurst, Woodenbong, Upper Orara, Kyogle, Wagga Wagga, Urunga, Grafton, Armidale, Narromine and North Lismore. This special day highlighted to me the value of community regional training opportunities in medicine. The vision of the University of New England medical school is to become a centre of excellence for rural undergraduate and postgraduate medical education and research and to build a sustainable workforce for the long-term health of our rural communities.

VISIONCARE PROGRAM

The Hon. AMANDA FAZIO [10.55 p.m.]: I inform the House of some representations I received today from an elderly couple I know who live on the far North Coast. They contacted me because the wife had had a bad fall during which she injured herself and broke her glasses. These are people of limited means who help support their daughter who is on the disability pension. They rang me to see if they could receive any assistance to replace the wife's glasses. When they went to the local authorities to see what assistance they could get they were given a copy of a press release put out by VisionCare that stated that the O'Farrell Government had cancelled the VisionCare program. Unfortunately, there is no assistance for this poor couple who are suffering as a result of the O'Farrell Government's policy.

[Time for debate expired.]

Question—That this House do now adjourn—put and resolved in the affirmative.

Motion agreed to.

The House adjourned at 10.56 p.m. until Thursday 8 March 2012 at 9.30 a.m.
