LEGISLATIVE COUNCIL

Wednesday 14 March 2012

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

The President read the Prayers.

CENTENNIAL PARK AND MOORE PARK TRUST AMENDMENT BILL 2012

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Duncan Gay, on behalf of the Hon. Greg Pearce.

Motion by the Hon. Duncan Gay 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.

DEATH OF THE HONOURABLE WALTER JOHN HOLT, QC, A FORMER MEMBER OF THE LEGISLATIVE COUNCIL

The PRESIDENT: I announce the death of the Hon. Walter John Holt, QC, aged 82 years, a member of this House from 1972 to 1984. On behalf of the House I have extended to John Holt's family the deep sympathy of the Legislative Council in the loss sustained.

Members and officers of the House stood in their places as a mark of respect.

RADIO STATION 2CH

Motion by the Hon. AMANDA FAZIO agreed to:

1. This House notes:

   (a) at 10.00 a.m. on Monday 15 February 1932, radio station 2CH first went to air, broadcasting at 1210 on the AM radio dial,

   (b) the station was owned by the NSW Council of Churches, the CH in the name standing for church,

   (c) the very first program on 2CH that day was the broadcast of a service from the Pitt Street Congregational Church, and at 7.00 p.m. that night the Lord Mayor of Sydney, Alderman F. Walder, declared 2CH officially open, and

   (d) 2CH became part of the AWA network of radio stations just over a year after it first went to air in February of 1932, as the first owners of the 2CH radio licence, the NSW Council of Churches, found the day to day running of a radio station outside their area of expertise, so they entered into an agreement with AWA to run the station but set aside air time for religious programs, and this arrangement continues today following integration with the Macquarie Radio Network.

2. That this House commends the management of 2CH for having a talk back free station.

WOMEN'S ELECTORAL LOBBY

Motion by the Hon. AMANDA FAZIO agreed to:

1. That this House notes that:

   (a) the Women's Electoral Lobby [WEL] was formed on the 27 February 1972 just prior to a Federal election when a meeting was held in the home of feminist Beatrice Faust,

   (b) the Women's Electoral Lobby in Australia is an organisation dedicated to creating a society where women's participation and potential are unrestricted, acknowledged and respected, and where women and men share equally in society's responsibilities and rewards,

(c) the policies of Women's Electoral Lobby are based on the premise that a just society must recognise that women's rights, responsibilities, contributions and needs are of equal value with men's, though not necessarily identical, and economical, technological, scientific, social development and achievement must be pursued in ways that give the goals of justice for all the highest priority,

(d) Women's Electoral Lobby policies are directed to two basic ends:

(i) redressing resistant and persistent inequities in the current position of women in Australian society,

(ii) ensuring that women can make an equal contribution to its future development,

(e) Women's Electoral Lobby's first survey of political candidates revealed a gross lack of knowledge or even interest in the many issues affecting women in Australia, and further surveys gained public notoriety and encouraged the formation of branches in all capital and many regional cities, and

(f) since the publication of these surveys, winning government has often been attributed to the women's vote, and

(g) since its formation, Women's Electoral Lobby has continued to provide detailed submissions to both sides of the political divide on a range of issues, from economics and employment, to health and human relationships.

2. That this House notes that:

(a) the role of Women's Electoral Lobby as an advocate for Australian women is recognised in the political and social history of Australia, and

(b) Women's Electoral Lobby has been at the forefront of the struggle for equal employment opportunity, access to quality child care, sex discrimination legislation, equal representation on boards and women's election to Parliament.

3. That this House congratulates the many women who have worked for and participated in Women's Electoral Lobby over the past 40 years and recognises the gains that women in Australia have made as a result of their advocacy.

FILMLIFE PROJECT

Motion by the Hon. AMANDA FAZIO agreed to:

1. This House notes:

(a) the FilmLife Project funded by the Organ and Tissue Donation Authority and supported by the Information and Cultural Exchange, which is designed to capture the stories of organ donation and transplantation through the eyes of young filmmakers, and

(b) that the aim of the project is to encourage more people to be asking and knowing their loved one's wishes, and to have passionate people to spark these conversations by creating films about organ and tissue donation.

2. That this House:

(a) congratulates Jessica Sparks, a transplant recipient who is now studying a law and journalism double degree and diploma of French at university, and who represented Australia at the 2011 World Transplant Games in Sweden, for winning the Nepean ICU's People's Choice Award for her film *One Life, One Decision*, and

(b) urges all members to raise the issue of organ and tissue donation in their local communities.

The PRESIDENT: Order! I remind members of staff sitting in the President's Gallery that their mobile phones should be switched onto silent mode.

ASSYRIAN PARLIAMENTARY FRIENDSHIP GROUP

Motion by the Hon. SHAOQUETT MOSELMANE agreed to:

1. That this House notes that:

(a) the Assyrian Parliamentary Friendship Group was formed on Thursday 8 March 2012,

(b) the first meeting was chaired by the Hon. Don Harwin, MLC, President of the Legislative Council of New South Wales, and attended by a large number of parliamentarians,

(c) the group elected Mr Andrew Rohan, MP, as Chair, and Mr Guy Zangari, MP, and the Hon. David Clarke, MLC, were elected as Deputy Chairs,

(d) representing the Assyrian Universal Alliance, Deputy Secretary Mr Hermiz Shahen acknowledged the large gathering of members of Parliament and thanked all in attendance, in particular expressing his sincere gratitude to Mr Guy Zangari, MP, for calling the parliamentary friendship group meeting, and

(e) the Assyrian Parliamentary Friendship Group aims to:

(i) promote amongst members of Parliament an awareness and appreciation of the issues impacting upon the Assyrian community of New South Wales,

(ii) promote a greater understanding and appreciation of the Parliamentary process within the Assyrian Community of New South Wales,

(iii) facilitate engagement between the Parliament of New South Wales and the Assyrian community of New South Wales.

2. That this House congratulates Mr Guy Zangari, MP, for instigating the formation of the Assyrian Parliamentary Friendship Group and wishes the group, the Assyrian Universal Alliance and the Assyrian community success in their future endeavours.

DISTINGUISHED VISITORS

The PRESIDENT: I draw the attention of honourable members to the presence in the gallery of the Hon. Richard Bull, a former Leader of the National Party in this place. I welcome him to the Parliament.

NEIGHBOUR DAY

Motion by the Hon. JOHN AJAKA agreed to:

1. That this House notes that:

(a) Sunday 25 March 2012 is the tenth annual Neighbour Day,

(b) Neighbour Day is Australia's annual celebration of community that unites residents of all ages and backgrounds wherever they choose to call home, by encouraging Australians to connect with the people next door, across the street or on the next farm to celebrate their community,

(c) Neighbour Day has evolved into a series of street parties, community barbecues, open days, morning or afternoon tea and lunches as well as events run by councils, shires and resident groups, and

(d) information is available on how to become involved in Neighbour Day at the website *www.neighbourday.org*.

2. That this House congratulates the founder of Neighbour Day, Andrew Heslop, on this wonderful initiative that brings together communities across Australia.

TRIBUTE TO MRS ELLIE KAMBOS

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes that:

(a) on Sunday 11 March 2012 at the Kypria 2012 Symposium conducted by the Women's Committee on the Cyprus Community of New South Wales, Mrs Ellie Kambos was recognised with the distinguished service award for her 50 years of service to the Cyprus Community of New South Wales,

(b) Mrs Kambos is currently a board member and former Women's Committee President of the Cyprus Community of New South Wales,

(c) Mrs Kambos arrived on 16 February 1951, to marry her beloved Kosta, just 19 years old,

(d) Ellie and Kosta's life began in Paddington, with Ellie working in a factory as a piece worker, while Kosta worked as a wharfie on the docks,

(e) in August 1952, their first child Kathy was born, followed by Vicky in 1959 and Andrew in 1967,

(f) in the early 1960s, Ellie and Kosta ran one of the few continental delicatessens in Sydney, and in the early 1970s both became heavily involved with the Cyprus Community of New South Wales,

(g) after Kosta passed away suddenly during his presidency of the Cyprus Community on 8 February 1975, Ellie mourned heavily the loss of her soulmate and did not return to the club for some years,

(h) in 1979, Ellie married Yianni Kambos and once again become involved in the Cyprus Club, along with her son-in-law, Tasos Iona, who sadly passed away in 1991,

(i) Ellie served as president of the Cyprus Community's Ladies Committee for many years, then became involved in the main committee in various roles, and then served as Vice President until recently when she had to step back from active duty due to ill health,

(j) Ellie is the guiding force behind the proposed Home for the Aged of the Cyprus Community, where in the last decade, using her vast knowledge and experience to create and run innumerable events and assisted by the generous efforts given by many volunteers past and present, she has raised over $900,000 to assist in the development of such a project for the community,

(k) in her fifties, Ellie discovered acting and had a lead role in the acclaimed mini-series *Five Times Dizzy* going on in her sixties to host groups of likeminded travellers on adventures all over the world, and

(l) in her seventies, Ellie created promotions for the Cypriot Club with the Cypriot Community talkback radio show, promotions for the Cyprus Club and scripts for shows.

2. That this House congratulates and commends Mrs Ellie Kambos on her outstanding work for the Cyprus Community of New South Wales over the last 50 years.

ROCKDALE STATE EMERGENCY SERVICE UNIT

Motion by the Hon. SHAOQUETT MOSELMANE agreed to:

1. That this House notes that:

(a) State Emergency Service volunteers from the Rockdale State Emergency Service [SES] Unit responded to out of area assistance requests [OOAA] during the recent flood events in Moree, Grafton, Narrabri, Dubbo, and Walgett in January and February 2012, and

(b) the following members of Rockdale State Emergency Service worked on out of area assistance during the aforementioned natural disaster events:

(i) Alan Hoynes, Team Leader and Level 3 Swift Water Technician at Rockdale State Emergency Service, assisted with Swift Water Rescue for five days,

(ii) Simon Brown assisted with Advanced RFA Online for five days,

(iii) Rebecca English, Training Coordinator at Rockdale State Emergency Service assisted with Storm Damage Operations for six days,

(iv) Peter McLannen assisted with Storm Damage Operations for three days,

(v) Jessica Brown assisted with Storm Damage Operations for seven days,

(vi) Sam Zorbas, Local Controller at Rockdale State Emergency Service, assisted with administration for the members on out of area assistance requests,

(vii) Andrew Jenkins, Deputy Local Controller (Training & Rescue) at Rockdale State Emergency Service assisted with administration for the members on out of area assistance requests,

(viii) Michael Hoynes, Team Leader at Rockdale State Emergency Service assisted with administration for the members on out of area assistance requests,

(ix) Spencer Steinwede, Deputy Local Controller (Operations) assisted with administration for the members on out of area assistance requests.

2. That this House congratulates all members of the Rockdale State Emergency Service Unit for their tireless service to the New South Wales community.

ROYAL AUSTRALIAN AIR FORCE NO. 3 SQUADRON

Motion by the Hon. JOHN AJAKA agreed to:

1. That this House recognises the Royal Australian Air Force [RAAF] No. 3 Squadron's long serving military service of Australia,

2. That this House notes that:

(a) the Royal Australian Air Force No. 3 Squadron was established in 1916,

(b) 2012 marks the No. 3 Squadron's 95th year of military service,

(c) the No. 3 Squadron base is located at the Royal Australian Air Force Base Williamtown,

(d) the F/A–18 Hornet is the aircraft flown by the No. 3 Squadron, and

(e) on 1 March 2012, Roads and Maritime Services presented to the Royal Australian Air Force No. 3 Squadron an Australian flag which was flown on the Sydney Harbour Bridge for display in the F/A–18 maintenance hangar with a plaque explaining the related history,

3. That this House notes that the many achievements of the Royal Australian Air Force No. 3 Squadron include:

(a) in 1917 it was the first Australian Flying Corps Squadron to be deployed to France, where it supported British, Canadian and Anzac forces in bombing and reconnaissance missions,

(b) during World War II the Squadron was utilised in Egypt to provide support to the Eighth Army during the ebb and flow of the desert campaign,

(c) the Squadron later served in the liberation of Italy and Yugoslavia, where it became the highest scoring fighter squadron of the Air Force with 217 enemy aircraft destroyed,

(d) in 1958 the Squadron operated in Malaya as part of the five-power defence arrangement,

(e) in 2002 the Squadron performed air defence operations as part of the coalition in the international war against terrorism, and

(f) the Squadron has performed the Australia Day flypast over the Sydney Harbour Bridge for the past three years,

4. That this House commends the Royal Australian Air Force No. 3 Squadron for its commitment to military service of Australia.

LYMPHOEDEMA

Motion by the Hon. MARIE FICARRA agreed to:

(1) That this House acknowledges that:

(a) March is Lymphoedema Awareness Month and a time to raise awareness and support for the families, patients, and organisations that are bravely fighting this terrible disease,

(b) Lymphoedema Awareness Month seeks to ensure that every Australian is aware of the symptoms of lymphoedema,

(c) Dr Debbie Geyer and Brenda Lee, together with other clinicians, healthcare professionals, nurses, healthcare community advocates and patients with lymphoedema, are conducting awareness campaigns via their Iced Tea Party Fundraising program, for which attendance can be registered by visiting *www.lymphoedema.asn.au*,

(d) the Australasian Lymphology Association is a leading organisation for lymphoedema awareness, support, advocacy and research,

(e) the association is a national not-for-profit organisation founded in 1994 with a vision of making a difference in all aspects of lymphology,

(f) lymphoedema is the accumulation of excessive amounts of protein-rich fluid that results in the swelling of one or more regions of the body,

(g) lymphoedema usually affects the limbs, and may affect the trunk, breast, head and neck or genital area,

(h) the functions of the lymphatic system are to maintain the volume and protein concentration of the extracellular fluid in the body and to assist the immune system in destroying pathogens and removing waste products from the tissues,

(i) lymphoedema may arise because lymphatic vessels or nodes have been damaged or were not formed correctly,

(j) secondary lymphoedema is the most common type of condition, developing after damage to the lymphatic system as a result of some cancer treatments such as lymph node removal, radiotherapy, or the progression of a malignant disease,

(k) secondary lymphoedema may also arise without a cancer diagnosis as a result of trauma and tissue damage, venous disease, immobility and dependency, infections such as cellulitis, factious (self-harm), or lymphatic filariasis,

(l) the National Breast and Ovarian Cancer Centre review of research evidence has found that conservative estimates suggest that 20 per cent of breast, genitourinary, gynaecological, or melanoma survivors will experience secondary lymphoedema,

(m) early warning signs of lymphoedema may include swelling of a limb or other region of the body, aching, heaviness, stiffness, limitation of movement, tightness or temperature changes,

(n) although lymphoedema cannot yet be cured, it can be reduced and managed with appropriate intervention,

(o) the stage, location, and severity of lymphoedema and the individual circumstances of the patient will influence the most appropriate intervention, and

(p) it is important that high risk groups and cancer survivors continue regular visits with their doctor in order to detect the early signs and symptoms of lymphoedema.

2. That this House recognises:

(a) the fine work undertaken by the Australasian Lymphology Association in supporting patients and their families through advocacy, fundraising and research, and thanks them for its commitment to medical research and the betterment of our society, and

(b) Dr Debbie Geyer and Brenda Lee, clinicians, healthcare professionals, nurses , healthcare community advocates and patients with lymphoedema who are conducting awareness campaigns via their Iced Tea Party Fundraising program.

COMMONWEALTH DAY

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes that:

(a) on Monday 12 March 2012, Commonwealth Day was celebrated in the Parliament of New South Wales in the presence of Her Excellency Professor Marie Bashir, AC, CVO, Governor of New South Wales, and Mr Edmund Capon, AM, OBE, former Director of the Art Gallery in Sydney, as guest speaker,

(b) Commonwealth Day is the annual celebration of the Commonwealth of Nations held on the second Monday in March, and marked by a multi-faith service in Westminster Abbey, normally attended by Her Majesty Queen Elizabeth II, Head of the Commonwealth, with the Commonwealth Secretary-General and Commonwealth High Commissioners in London,

(c) the theme for 2012 is "Connecting Cultures", of which Her Majesty in Her Commonwealth address stated:

> "Connecting Cultures", our Commonwealth theme this year, encourages us to consider the special opportunities we have, as members of this unique gathering of nations, to celebrate an extraordinary cultural tapestry that reflects our many individual and collective identities. The Commonwealth treasures and respects this wealth of diversity. Connecting cultures is more, however, than observing others and the ways in which they express themselves. This year, our Commonwealth focus seeks to explore how we can share and strengthen the bond of Commonwealth citizenship we already enjoy by using our cultural connections to help bring us even closer together, as family and friends across the globe.

(d) the Tom Harvey Award for Citizenship for 2012 was bestowed on Brittany Joyce, an outstanding young person who has dedicated her time to assist those in need in a small Kenyan village of Kisumu, and

(e) the New South Wales Public Schools Team debated the Combined Associated Schools Team in the Legislative Assembly.

2. That this House acknowledges and commends:

(a) Her Majesty Queen Elizabeth II for her strong leadership of the Commonwealth and continued efforts for harmony and cooperation amongst Commonwealth countries, and

(b) the New South Wales Commonwealth Day Committee for its outstanding work in promoting the benefits of the Commonwealth and its countries and supporting the Australia Youth Trust, including: Ms Janet Stewart, President; Mr David Harvey, Vice President; Mr Jason Collins, Vice President; Mr Andrew Isaacs, Secretary; Councillor Peter Cavanagh, Treasurer; Ms Suzanne Blake, Mr David Bennett, Ms Marilyn Cameron, Mr David Elliott, MP, Councillor Simon Frame, Sir Trevor Garland, AM, Mr Frank Gartrell, Mrs Pat Keill, OAM, Dr Paul Scully-Power, AM, DSM, Sir Ian Turbott, AO, CMG, CVO, and the Hon. Max Willis, RFD, ED, CSI.

AUBURN GALLIPOLI MOSQUE LEGAL YEAR SERVICE

Motion by the Hon. SHAOQUETT MOSELMANE agreed to:

1. That this House notes that:

(a) in February 2012, the Muslim community marked the beginning of the legal year by an Arabic recitation from the *Koran* in a service hosted by the Auburn Gallipoli Mosque at Auburn,

(b) the service was attended by a large gathering of members of the Muslim community, in particular judges, solicitors, and barristers including Attorney General the Honourable Greg Smith, MP, Chief Justice Tom Bathurst, Law Society President Justin Dowd, legal network President Zian Khan, the Hon. Shaoquett Moselmane, MLC, and the Hon. Barbara Perry, MP,

(c) the service was also attended by the following honoured guests from the Supreme Court of NSW: the Hon. Justice Margaret Beazley, AO, Acting President of the Court of Appeal; the Hon. Justice Peter Young, AO, Judge of Appeal; the Hon. Justice Michael Adams, Judge; the Hon. Justice Stephen Rothman, AM, Judge; the Hon. Justice Peter Johnson, Judge; the Hon. Justice Ian Harrison, Judge; the Hon. Justice Peter Garling, RFD, Judge; the Hon. Justice Geoffrey Bellew, Judge; the Hon. Justice Henric Nicholas, Judge; the Hon. Justice Richard White, Judge; the Hon. Justice John Sackar, Judge; the Hon. Associate Justice Richard

Macready, Associate Judge; the Hon. Associate Justice Joanne Harrison, Associate Judge; the Hon. Acting Justice Ken Handley, AO, QC, Acting Judge of Appeal, and Mrs Handley; and Federal Court judges the Hon. Peter Jacobson and the Hon. Arthur Emmett, and

(d) this ceremony was seen as testimony to the ability and willingness of people of goodwill to share traditions, to build bridges and to work together for a better society.

2. That this House:

(a) notes the significance of the Muslim community marking the 2012 legal year, and

(b) congratulates each and every member of the legal fraternity who attended this bridge-building initiative of the Muslim Legal Network and His Honour the Chief Justice of the Supreme Court of New South Wales, the Hon. Thomas Bathurst, QC.

KYPRIA 2012 SYMPOSIUM

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes that:

(a) on Sunday 11 March 2012 at the Cyprus Community of NSW in Stanmore, in celebration of International Women's Day, a symposium "Kypria 2012" was held and Irene Marinos and Ellie Stassi were the masters of ceremony,

(b) there was a special presentation of documentaries at the event from Australian women film producers Mrs Kay Pavlou,

(c) Mrs Ellie Kambos was recognised with a Distinguished Service Award in recognition of her 50 years commitment and dedication to the Women's Committee and the Cyprus Community of New South Wales, and

(d) an address was given by the Hon. Marie Ficarra, MLC, Parliamentary Secretary to the Premier of New South Wales, and

2. That this House acknowledges and commends:

(a) the Women's Committee of the Cyprus Community of New South Wales for its continued outstanding work and service, including:

(i) Stella Pitsiatari, President,

(ii) Ellie Stassi, Vice President,

(iii) Androulla Elia, Secretary,

(iv) Androulla Dimou, Treasurer,

(v) Maria Poullaos, Assistant Treasurer,

(vi) Rodoula Athanasi,

(vii) Stavroulla Tsopani,

(viii) Christina Christou,

(ix) Maria Georgiou,

(x) Pepa Georgiou,

(b) film producers Mrs Kay Pavlou and Ms Tasoula Kallenou for their work on the documentaries presented, and

(c) Irene Marinos and Ellie Stassi for the excellent job undertaken as masters of ceremony of the event.

SING TAO DAILY

Motion by the Hon. SHAOQUETT MOSELMANE agreed to:

1. That this House notes that:

(a) *Sing Tao Daily* in Australia was established on 3 March 1982 and this year it marks its thirtieth anniversary on 1 August 2012,

(b) *Sing Tao Daily* was first established in Hong Kong in 1936,

(c) *Sing Tao Daily* was the first Chinese language newspaper to be established in Australia and it has the largest newspaper distribution behind the mainstream English language newspapers,

(d) currently, *Sing Tao Daily* has a daily circulation of about 30,000 copies Australia wide,

(e) on Wednesday and Saturday, *Sing Tao Daily* provides the current affairs magazine East Weekly and *Sing Tao Weekly* together with the daily newspaper,

(f) *Sing Tao Daily* is not only a voice but an important link between the Australian Chinese community and the wider Australian community,

(g) *Sing Tao Daily* also engages in charity work by providing help to local Australian communities and participating in overseas disaster relief activities through Red Cross, and

(h) *Sing Tao Daily*'s Chief Executive Officer is Simon Ko, who joined *Sing Tao Daily* in 1998 and has been working on the daily to date.

2. That this House congratulates *Sing Tao Daily* Chief Executive Officer Simon Ko and all at *Sing Tao Daily* for their commitment to keeping the Australian Chinese community informed, and wishes the newspaper all the best for the next 30 years of service.

TRIBUTE TO MRS ELVIRA MELIM

Motion by the Hon. SHAOQUETT MOSELMANE agreed to:

1. That this House notes that:

(a) Elvira Melim was born in the seaside town of Afife in the north of Portugal on 11 January 1927 and passed away at the Prince of Wales Hospital Randwick on 16 February 2012,

(b) Elvira was married to Joaquim on 28 December 1960 and in 1965 the Melim family had their first and only child, Jose Luis,

(c) due to difficult economic conditions at the time in Portugal, Mr Melim migrated to France in January of 1964 to provide for his family,

(d) in March of 1967, Elvira migrated with two-year-old Jose Luis to join Joaquim in France,

(e) in June of 1967, the family's application for migration to Australia was approved, so they set out on a month-long journey by ship to Australia, arriving on 1 August 1967, and

(f) Elvira Melim obtained work as a machinist in a clothing factory in Surry Hills and worked hard so as to provide for her family and give her son, Jose Luis, a good education.

2. That this House expresses its condolences to Mrs Melim's husband, Joaquim, her son, Jose Luis, and her two nephews, Jose Santo and Jeronimo Santo.

TRIBUTE TO MR ANTOINE KAZZI

Motion by the Hon. SHAOQUETT MOSELMANE agreed to:

1. That this House notes that:

(a) Antoine (Tony) Kazzi is the co-founder of the Australian Christian-Muslim Friendship Society and a distinguished Middle Eastern poet, author and journalist,

(b) Mr Kazzi was born in Jieh, Lebanon in 1959 and migrated to Australia in 1988,

(c) on arriving in Australia, Mr Kazzi began writing a weekly column in *Sada Loubnan* in 1989, in the monthly magazines *Ishaa Elmarouni* and *Al-Bairak*, and wrote for a prominent political broadsheet, *An-Nahar* in Lebanon,

(d) Mr Kazzi has had a successful career, working as editor of *El-Telegraph* before being promoted to editor-in-chief in 1996, and he is often called upon to give commentary on Middle Eastern issues by BBC Radio, Al Jazeera, SBS Radio and 2GB, and

(e) Mr Kazzi:

(i) received the Khalil Gibran International Cultural Award from the Arabic Heritage League in 1993,

(ii) co-founded the Australian Christian-Muslim Friendship Society in 2002,

(iii) received an Award for Excellence in Ethnic Media from the Australia Day Council in 2003,

(iv) published 14 books, five of which were published in Australia.

2. That this House recognises Antoine Kazzi's hard work and dedication to furthering the Lebanese community in Australia.

TRIBUTE TO MR SAM ZORBAS

Motion by the Hon. SHAOQUETT MOSELMANE agreed to:

1. That this House notes that:

   (a) following a diagnosis of terminal cancer and a miracle recovery, Mr Sam Zorbas joined the Rockdale State Emergency Service [SES] unit in October 1979 and became a member of the rescue team with the hope of helping the community,

   (b) in August 1981, Mr Zorbas became acting local controller, followed soon after by the position of local controller in February 1982, a position which he has held to this day 30 years later,

   (c) in 2006, Mr Zorbas became Rockdale City Citizen of the Year for his outstanding community work as the controller of the Rockdale State Emergency Service,

   (d) as the local State Emergency Service Controller, Mr Zorbas also ensures that his volunteers are appropriately trained and is responsible for their welfare during times of trauma,

   (e) Mr Zorbas runs a very well organised unit and enjoys the respect of all who meet him, and it takes a very special person to command the respect of not only his fellow volunteers, but also the broader community, and

   (f) in addition to providing local assistance during storms, flooding and searches, Mr Zorbas has also assisted in some of the major disasters including the Newcastle earthquake, the Boral gas explosion, wind storms in the North Shore and Holroyd, hail storms in western Sydney and the eastern suburbs, the Thredbo landslide, the wind storm at Manyana and Ulladulla in the South Coast, a landslide and flooding in the Wollongong area, the Father's Day storms in the Rockdale area, the Queensland floods and Rural Fire Service assistance during the 1994 fires.

2. That this House congratulates Sam Zorbas for his 33 years of unqualified dedication to Rockdale State Emergency Service and wishes him the best of health and every success in his future endeavours.

LEGISLATIVE COUNCIL SENIOR MANAGEMENT APPOINTMENTS

The PRESIDENT: On 14 February 2012 I informed the House of the appointment of Mr Stephen Frappell as Clerk Assistant, and that the House would be advised of the allocation of responsibilities to the Clerks Assistant following the conclusion of a review of senior management roles and responsibilities of the Department of the Legislative Council. That review has concluded and I am pleased to inform the House of the following appointments: Clerk Assistant-Committees, Ms Julie Langsworth, and Clerk Assistant-Procedure, Mr Stephen Frappell. The Deputy Clerk, Mr Steven Reynolds, will continue as Usher of the Black Rod for the time being.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Notices of Motions Nos 1 and 2 postponed on motion by the Hon. Duncan Gay.

CRIMES (CRIMINAL ORGANISATIONS CONTROL) BILL 2012

Second Reading

The Hon. DAVID CLARKE (Parliamentary Secretary) [11.25 a.m.], on behalf the Hon. Michael Gallacher: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Crimes (Criminal Organisations Control) Bill 2012. The Australian Crime Commission estimates that organised crime costs Australia between $10 billion and $15 billion per year, and its impact on public safety in New South Wales cannot be understated. This bill represents part of the Government's response to this threat. The Crimes (Criminal Organisations Control) Act 2009 commenced on 3 April 2009 and introduced a scheme for the declaration of criminal groups by an eligible judge of the Supreme

Court on the application of the Commissioner of Police. Under section 9 of the Crimes (Criminal Organisations Control) Act 2009 an eligible judge could make a declaration in relation to an organisation if he or she was satisfied that the members associated for the purposes of organising, planning, facilitating, supporting or engaging in serious criminal activity and that the organisation represented a risk to public safety and order in New South Wales. Once an organisation was so declared the activities of its members could be restricted through control orders issued by the Supreme Court.

In 2010 the constitutional validity of this Act was challenged in the High Court by Mr Derek Wainohu, then president of the Hells Angels Motorcycle Club in New South Wales, the first organisation against which a declaration was sought. On 23 June 2011 the High Court ruled the Act to be invalid, focusing on the lack of a requirement in the legislation for an eligible judge to give reasons for his or her decision to make a declaration. Section 13 of the Act stated that an eligible judge is not required to give reasons for the decision. The High Court was of the view that the legislation created the appearance of a judge of the Supreme Court making a declaration while denying a hallmark of that office, the requirement to give reasons, and that this perception was to the detriment of the court itself.

Due to the decision of the High Court the Crimes (Criminal Organisations Control) Act 2009 will have to be repealed. The Crimes (Criminal Organisations Control) Bill 2012 will do that and re-enact the Act in a form which repairs the identified constitutional shortcomings. The Crimes (Criminal Organisations Control) Bill 2012 will specify that where an eligible judge makes a declaration, revokes a decision or refuses an application, the eligible judge is required to provide reasons for doing so. The Government believes this will be sufficient to address the constitutional issue identified in the decision of the High Court. Now that eligible judges are to be required to give reasons for their decision to declare an organisation steps have also been taken in the bill to clarify the extent of the confidentiality requirements under the new Act.

Section 28 of the old Act required a determining authority, that is, an eligible judge making a declaration or a court making a control order, to take steps to maintain the confidentiality of information that is properly classified by the Commissioner of Police as criminal intelligence. Criminal intelligence is material which, if disclosed, could prejudice criminal investigations, enable the discovery of the existence or identity of a confidential source of information or endanger a person's life or physical safety. It is proposed that section 28 will be amended to clarify that the requirement to take steps to maintain the confidentiality of the criminal intelligence will extend to the eligible judge's determination and, therefore, the reasons for the decision.

Judges are experienced in dealing with the issues that arise in cases involving confidential material. Dealing with such information in reasons for a decision is not an uncommon occurrence and judges have developed practices that will assist in working out how to best maintain the confidentiality of criminal intelligence in matters heard and determined under the new Act. In many cases it may be that the determining authority takes steps to maintain the confidentiality of criminal intelligence by preparing two sets of reasons. This means that the determining authority would prepare a full set of reasons containing criminal intelligence and access to it would be limited to those persons specified in the Act. In practical terms this may be achieved by the full set of reasons being held on the court file marked, "Confidential: Disclosure subject to the Crimes (Criminal Organisations Control) Act." The second set of reasons would be one from which the criminal intelligence has been redacted. The confidentiality of the sensitive material will be maintained, as the redacted version will be the reasons available to the respondent and other interested parties. At the same time, full and proper reasons will be available to those with a responsibility to review the operation of the Act or the determining authority's decision.

The Act will specify those persons to whom criminal intelligence may be disclosed, and who may therefore receive a full copy of the reasons. They include a court, such as a court reviewing the determining authority's decision, a person conducting a review under the Act, such as the Ombudsman, the Attorney General, and other persons to whom the commissioner authorises disclosure. The last category is important in practical terms because it will allow the Commissioner of Police to authorise disclosure to individuals who may need to see the criminal intelligence, such as a judge's associate or staff in the Ombudsman's office. In this last category it will be up to the commissioner to decide to whom the criminal intelligence can be disseminated and under what conditions. The obligation to maintain the confidentiality of the criminal intelligence will extend to those persons to whom information has been disclosed under the Act.

I now turn to the detail of the bill. Part 1 deals with preliminary matters such as the commencement of the proposed Act on the date of assent, the definition of certain words and expressions used, and provision for the extraterritorial operation of the bill. Part 2 of the bill reintroduces the provisions dealing with declared

organisations. Clause 5 provides for judges of the Supreme Court who consent to being eligible judges for the purposes of the proposed part to be declared to be eligible judges by the Attorney General. The clause makes it clear that the selection of the eligible judge is not made by the Attorney General or any other Minister. The Attorney General merely promulgates the judge's selection by declaration. Clause 6 enables the Commissioner of Police to apply for a declaration in relation to a particular organisation and sets out the requirements for such an application.

Clause 7 requires notice of the application to be given by the commissioner no later than three days after the application has been made. Notice is given by publishing in the *Government Gazette* and in at least one newspaper circulating throughout the State. The notice must specify certain things set out in the Act and invite members of the organisation concerned and other persons who may be directly affected, whether or not adversely, by the outcome of the application to make submissions to the eligible judge at a hearing to be held on a date specified in the notice. Clause 8 provides for the attendance of people at the hearing. Persons specified in the application have the right to be present and to make submissions at the hearing. People who may be directly affected may be present and make submissions with leave. The commissioner may object to these people being present at a hearing in which criminal intelligence is disclosed. Provision is also made to enable submissions to be made in private in certain circumstances.

Clause 9 enables the eligible judge to make the declaration sought by the commissioner if the eligible judge is satisfied that members of the organisation associate for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity and the organisation represents a risk to public safety and order in New South Wales. The proposed section sets out the matters the eligible judge may take into account in deciding whether to make a declaration. These include any information suggesting that a link exists between the organisation and serious criminal activity; any criminal convictions recorded in relation to current or former members of the organisation; any information suggesting that current or former members of the organisation have been or are involved in serious criminal activity, whether directly or indirectly and whether or not such involvement has resulted in any criminal convictions; any information suggesting that members of an interstate or overseas chapter or branch of the organisation associate for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity; any submissions made in relation to the application by the Attorney General or as referred to in section 8; and any other matter the eligible judge considers relevant.

Clause 10 requires notice to be given of the declaration in the *Government Gazette* and in at least one newspaper circulating throughout the State. Clause 11 provides for the duration of declarations. Clause 12 provides for the revocation of declarations. Clause 13 provides that the rules of evidence do not apply to the hearing of an application under part 2. The clause contains a new provision explicitly requiring the eligible judge to give reasons for making or revoking a declaration or refusing an application. Part 3 of the bill re-enacts the provisions dealing with the control of members of declared organisations. Division 1 of part 3 deals with interim control orders. Clause 14 enables the Supreme Court, on the application of the Commissioner of Police, to make an interim control order in relation to one or more members of a declared organisation pending the hearing and final determination of a confirmatory control order in relation to the member or members concerned. The order may be made in the absence of, and without notice to, the member concerned but takes effect only when the member is notified of its making in accordance with proposed sections 15 and 16.

Clause 15 states that an interim control order takes effect when notice of it is served on the member concerned. Clause 16 sets out the time frame within which the notice must be served and the information that must be included in the notice served on the member. This includes the grounds on which the interim control order was made, an explanation of the ramifications of the making of the order and an explanation of the right to object to the making of the order at the hearing for the application for a confirmatory control order. It also provides police with powers to request the identity of persons reasonably suspected of being persons on whom interim control orders must be served and to require such persons to remain at a particular place for a period not exceeding two hours in order to effect service.

Clause 16A allows the Commissioner of Police to apply to the court for an extension of the time frame within which the notice must be served provided it is satisfied that all reasonable steps have been taken to effect service during the ordinary time frame. Clause 17 provides for the duration of interim control orders. Clause 18 requires the Supreme Court to hear applications for confirmatory control orders as expeditiously as possible in hardship cases. Division 2 of part 3 deals with the making of final control orders. Clause 19 provides for the making by the Supreme Court of confirmatory control orders. Clause 20 enables the member who is the subject of an order to object to appearing at the hearing for the making of the order and to make submissions in relation to the application for the control order.

Clause 21 provides for the form of a control order, including a requirement that it specify the right to appeal against its making. Clause 22 provides that a control order takes effect when the order is made if the person is present in court, or when persons are served personally with a copy of the control order in cases where they are not present when the order is made. Clause 23 provides for the duration of control orders—namely, that it remains in force until revoked. Clause 24 provides for appeals against the making of control orders. Clause 25 provides for the variation and revocation of control orders. Division 3 of part 3 deals with the consequences of making control orders.

Clause 26 makes it an offence for a controlled member of a particular declared organisation to associate with another controlled member of the same organisation. This is punishable by up to two years imprisonment. It is also an offence for a controlled member to associate with another controlled member on three or more occasions within a three-month period, which is punishable by up to three years imprisonment. Any subsequent contravention of either offence is punishable by up to five years imprisonment. The clause also provides police with powers to require the disclosure of identity from persons suspected of committing offences under the clause. Clause 26A creates an offence punishable by up to five years imprisonment for a controlled member to recruit another person to become a member of the organisation.

Clause 27 provides for the suspension and cancellation of authorisations to carry on prescribed activities held by a controlled person when interim control orders and control orders take effect, respectively. The prescribed activities cover a range of industries that are well known to be associated with outlaw gangs and related intimidatory practices, including the security industry, pawnbrokers, commercial agents and private investigators, liquor, racing and casinos, motor traders, repairers and tow trucks. It also includes possessing or using a firearm under the Firearms Act 1996.

Part 4 of the bill contains a number of miscellaneous provisions. Clause 28 provides protections for criminal intelligence. The requirement to give reasons in clause 13 will be subject to the steps taken by the eligible judge or court to preserve the confidentiality of confidential material. Clause 28 requires a determining authority to keep criminal intelligence confidential. There are exceptions, such as when the material is provided to a subsequent court, or to the Ombudsman when he conducts a review pursuant to clause 39. Clause 29 protects certain submissions. Clause 30 provides for the commissioner to keep a register of information relating to declared organisations and controlled members. Clause 30A permits the commissioner and regulatory authorities to enter into arrangements for the provision of police information concerning criminal organisations, and any members or associates of such organisations that apply for authorisation to participate in regulated industries.

Clause 31 requires the Attorney General to be given notice of applications under the proposed Act and the right to be present and to make submissions at the hearings of the applications. Clause 32 states that questions of fact in proceedings under the proposed Act are to be decided on the balance of probabilities. Clause 33 enables the Commissioner of Police to delegate functions with respect to the categorisation of information as criminal intelligence. Clause 34 provides immunity from civil and criminal liability for persons exercising functions under the proposed Act and for the Crown. Clause 35 prevents challenge or review by a court—other than by way of appeal under proposed section 24—or administrative body. Clause 35A creates an offence, punishable by 20 penalty units, of failing to comply with a request for identity made under the proposed Act. Clause 36 provides for proceedings for offences under the proposed Act or regulations made under the proposed Act.

Clause 37 enables the making of rules of court, while clause 38 enables the Governor to make regulations for the purposes of the proposed Act. Clause 39 provides for the Ombudsman to keep under scrutiny, and report on, the exercise of powers by police under the proposed Act for a period of four years after the commencement of the proposed Act. Clause 40 provides for a retired judicial officer to review and report on annually the exercise of powers under the proposed Act. Clause 41 provides for the Attorney General to review the proposed Act after five years. Schedule 1 to the bill contains amendments to other Acts, including the Criminal Assets Recovery Act 1990, the Criminal Procedure Act 1986, and the Freedom of Information Act 1989. I commend the bill to the House.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [11.43 a.m.]: I lead for the Opposition in debate on the Crimes (Criminal Organisations Control) Bill 2012. The Opposition supports the legislation before the House. As the Parliamentary Secretary indicated in his contribution, the bill repeals and essentially re-enacts the Crimes (Criminal Organisations Control) Act enacted by the previous Labor Government. In 2009 the previous Labor Government created the legislation colloquially referred to as the "bikie laws". The

legislation was introduced into Parliament in response to an escalation in violent crime and only 10 days after the Sydney Airport incident that saw Terminal 3 become the scene of a brawl involving two rival bikie gangs, the Hells Angels and the Comancheros. The brawl left one person dead and was witnessed by more than 50 travellers. That swift response by the previous Government stands in contrast to the current Government's response. The legislation was struck down by the High Court in June 2011—

Mr David Shoebridge: Some might think you put it in too quickly as it got struck down by the High Court.

The Hon. ADAM SEARLE: I acknowledge the interjection and I will come to that point. But this Government has waited some 33 weeks, or 236 days, before bringing forward its magnum opus—its well thought-out, well-considered approach to this important issue—and what has it produced? It has produced the same legislation, with two minor changes that I will address. The Government seeks to address the decision of the High Court in Wainohu by addressing the single point that was said to be the cause of the invalidity of the legislation. The legislation provided in section 13 (2) that an eligible judge in making a declaration was not required to give reasons. That was because it was thought that the decision made at that point was made by a person who is a judge but acting not as a judge but as a persona designata; it was more in the nature of an administrative decision, hence there was no obligation to give reasons.

That was in conformity with the High Court's approach in *Osmond v Public Service Board of New South Wales,* which says that decision-makers are not ordinarily required to give reasons, unless required by statute. In considering that, the High Court said that, although the person is not sitting as a judge, the fact that they are a judge creates problems and therefore that part of the legislation was deemed to be invalid. Because the remainder of the legislation rested on that point, the High Court then proceeded to invalidate the whole of the Act, as I read the decision, which is why this bill repeals the existing Act and then re-enacts it.

To take the point raised by Mr David Shoebridge about haste versus the current Government's leisurely approach, the Government has approached the issue in a simplistic way and in a way that we on this side of the House feel could give rise to further litigation and create further vulnerability in the legislation. In the original Act the eligible judge did not have to give reasons for making a declaration. In discharging functions under the Act, the eligible judge was not sitting as a court. However, the High Court decided that because they were judges the absence of a duty to give reasons so impaired the integrity of the court of which they were a member that the legislation was incompatible with chapter III of the Australian Constitution. While the jury is still out on whether chapter III extends to State courts, per se, it is clear that it does extend to all State courts and members of State courts that do or can exercise Federal judicial power. The New South Wales Supreme Court is such a court and each eligible judge under the original Act is affected.

The Government seeks to remedy this by reversing section 13 (2) to provide that eligible judges do have to give reasons. That provision is subject to some amendments to section 28 of the legislation, which requires that confidential police intelligence is not disclosed. The Opposition does not question the public policy underpinning section 28. It was in the original legislation for good and cogent reasons and we say it is clearly in the public interest. The Opposition also notes the proposed change to section 28 regarding how confidential police criminal intelligence may be treated and clarifying that the requirement to take steps to maintain the confidentiality of the police criminal intelligence extends to the determination of an eligible judge and to the reasons for the decision to make a declaration.

The Opposition is concerned that there will be created a tension between proposed section 13 (2) and section 28, such that the High Court could determine that proposed section 13(2), despite what it says, does not really constitute a duty to give reasons, and that it may be held to be a fiction or mere device to circumvent the High Court's decision in Wainohu. If so, the new Act is potentially at risk of being struck down—as was the current Act—and the Opposition does not want that to occur. Superior courts, including the High Court, have held that the extent of any statutory duty to give reasons depends on the nature of the decision to be made and also of the nature of the body making it. Historically a much higher standard is required of superior courts, and the judges constituting those courts, than has been required of inferior courts and statutory tribunals, and their members.

Eligible judges, being judges of the Supreme Court, are subject to the highest standard in the reasons required of them for their judgements. In discharging their functions under the proposed new law they will not be making judgements. However, in Wainohu the High Court clearly decided that the same rules and standards must apply across all the functions exercised by superior court judges, no matter what law confers those

functions upon them. The fact that they are judges imposes the required standard. There is no reason to think that the seven justices of the High Court will reconsider this view at any time in the near future. The Opposition is concerned that the duty to give reasons imposed by this bill, and the standard that would be required for those reasons, may not be able to be satisfactorily reconciled in the mind of the court under proposed section 28.

For that reason the Opposition is of the view that, given the reasoning of the High Court in Wainohu, there may well be a fatal flaw at the heart of this proposed new legislative regime, similar to the previous legal difficulty. But the Opposition, in the spirit of bipartisanship on this crucial issue of public safety, is proposing a solution. The Opposition will be moving a series of amendments in the Committee stage that hopefully, with the leave of the House, will be dealt with in globo as they are essentially related. So instead of reposing jurisdiction to make a declaration in an eligible judge, it should be placed in a deputy president of the Administrative Decisions Tribunal. This tribunal was the creation of the former Labor Government and the former Attorney General, the late Jeff Shaw, QC. Like a court, it is independent of government.

Under section 18 (2) of the Administrative Decisions Act 1997 the holder of the office of deputy president is required, by law, to have the same qualifications as a Supreme Court judge, but they are obviously not Supreme Court judges. Further, in the context of reviewing decisions of the Commissioner of Police to refuse security industry and firearms licences, the deputy presidents of Administrative Decisions Tribunal already have significant experience in dealing with confidential police criminal intelligence or other criminal information. They are well experienced, albeit in a different context, in receiving such material in closed proceedings and in delivering decisions that do not disclose such material. As deputy presidents of the Administrative Decisions Tribunal are not judges of a superior court, it is more likely that such an arrangement will survive the scrutiny of the High Court whereas the model proposed by the Government may not.

However, if the Opposition's amendments are not successful it is hoped that the legislation will hold up. Importantly, the safeguard of having an independent person review the material relied upon by the Commissioner of Police in deciding whether to make a declaration can be maintained because of the necessary qualifications to be a deputy president. As I said earlier, the making of these declarations is more in the nature of an administrative decision, which can be sensibly reposed in this statutory tribunal. However, the Opposition does not seek to change divisions 1, 2 and 4 of part 3 of the bill, which provides for the Supreme Court to make interim and confirmatory control orders. The Opposition accepts that decisions of the seriousness proposed in those divisions should be considered only by the Supreme Court and its judges.

Mr David Shoebridge: So the Administrative Decisions Tribunal can outlaw an association?

The Hon. ADAM SEARLE: It can make the declaration but the control order will have to be made by the court. The Opposition's proposal is carefully considered and balanced. It meets the necessary public policy objectives embodied in both the existing and the proposed legislation but does it in such a way as to reduce the likelihood of further legal challenge. The Opposition urges all members to consider this proposal in an open way, with the public interest as its guide. The Opposition supports the bill, with those caveats.

The Hon. PAUL GREEN [11.54 a.m.]: The Christian Democratic Party supports the Crimes (Criminal Organisations Control) Bill 2012.

Mr DAVID SHOEBRIDGE [11.54 a.m.]: The Greens oppose the Crimes (Criminal Organisations Control) Bill 2012. It is again notable that on the question of fundamental civil liberties The Greens are the only party that opposes this extraordinary attack on civil liberties. The bill reintroduces previous New South Wales so-called anti-bikie laws, which the High Court quite properly struck down in the middle of last year. The bill is very unlikely to assist in addressing meaningfully the problem of violent criminal gangs in New South Wales. However, it will seriously impinge on the rights and freedoms that most of us would expect this Parliament to stand up for in a free and democratic society.

Fundamentally, it is likely to face further constitutional challenges. In the period between now and when it stands a good chance of being struck down by the High Court, literally thousands of hours of police work and countless millions of dollars of taxpayers' money will be spent defending laws directed at criminalising association, when they should properly be directed to current criminal laws that these kinds of people are flouting—for example, the laws on the statute books against murder, extortion and drug dealing. Resources and money should not be misapplied to a misconceived attack on rights and liberties such as that proposed in this bill.

Under the bill, the Commissioner for Police can apply for an organisation to be considered a "declared" organisation—effectively, an illegal organisation. A hearing of the application will then be held. The test is whether the organisation, or a significant minority of members of the organisation, associates in whole or in part for the purpose of criminal activity. The better part of an organisation, or the great majority of members of an organisation, can be directed to do something entirely legitimate but if, in the mind of an eligible judge, a significant minority are engaged in some kind of criminal activity then the entire organisation can be a declared organisation and thus be declared criminal. Let us be very clear: It is not limited to bikies. This legislation will apply to any association against which the Commissioner of Police wishes to bring an application. Once the test is met and the organisation is declared to be an illegal organisation, the court can then make interim and final control orders in respect of members of the organisation. If those control orders are breached, it can lead to substantial periods of prison time.

In July 2010 the NSW Police Force applied for a declaration under the previous Act and, as the Parliamentary Secretary and the Deputy Leader of the Opposition indicated, Mr Wainohu challenged those laws. Those previous laws were declared to be unconstitutional. They were struck down by the High Court because it held that they inappropriately made Supreme Court judges do the bidding of the Government without requiring them to give reasons. Under the new bill, eligible judges will be required to give reasons when making a declaration as to an association. That is the wrong focus and the wrong strategy for dealing with crime in New South Wales. Only yesterday, figures were released confirming that increased prison sentences do not have a meaningful impact on reducing crime. The report released yesterday showed statistically that the most meaningful way of reducing crime is by reducing poverty and inequality.

In today's *Sydney Morning Herald* the Attorney General said that the Government's focus is apparently not to build more jails or to have more criminal sentences. But, to date, all we have seen from the Government is a bunch of punitive criminal laws that go entirely against the rhetoric of the Attorney General about doing things differently and getting rid of the law and order auction in New South Wales. Members know that if police were to direct their attention to genuine crimes, not new crimes of criminal association, it would have a real and important impact.

In fact, past operations targeting bikie gangs—such as Operation Ranmore and Strike Force Raptor—delivered more than 1,200 charges and more than 500 arrests under existing laws in 2008. Only last week the Minister for Police commented that Strike Force Raptor has continued to operate using existing laws, existing criminal intelligence techniques and has now placed thousands of charges directed towards these bikie gang elements. Police have the powers and the laws, and they are using them. This assault on civil liberties is far from required. Indeed, this Parliament is pandering to the law and order rhetoric of the previous Government. Members of this Parliament should direct police resources to genuine crimes and should stand up, as those who elect us expect us to do, for civil liberties and the rights of freedom of association.

As I said earlier, this bill is far from limited to addressing bikie gangs. Any association can be the subject of a declaration if only some of its members engage in criminal activity. This is true whether or not they and other members get together for other legitimate purposes. This law could easily apply to genuine protest groups. For example, Lock the Gate is opposed to coal seam gas mining and is openly calling for farmers to resist legal moves by coal seam gas companies to enter their land and drill for gas. It is not far-fetched to see a future government, whipped up by someone like the Government Whip, alleging that farmers' groups blockading coal seam gas drilling rigs are engaged in serious criminal activity that is hindering what it describes as a major industry. The future government could have that organisation deemed a declared organisation under this Act.

Let us be clear: this law would allow that to happen. This law has no safeguards to protect genuine protest or genuine political dissent. This law is not limited to bikie gangs. This law allows for organisations to become declared organisations when only a minority of members for a minority purpose are engaged in criminal activity, regardless of the otherwise general legitimate activities of an organisation. Importantly, hearings for declarations of organisations do not even apply the rules of evidence. They can be based on rumour and hearsay. The Greens opposition to the bill is not isolated. The New South Wales Bar Association has made representations strongly opposing this bill, as has the Law Society of New South Wales. I shall read onto the record a submission from the Law Society's criminal law committee and human rights committee. Those committees have made this strong representation in relation to this legislation:

> The Committees submit that there is no objective evidence to support the need for the proposed offences, particularly as the bill will have a broad-ranging effect on individuals' fundamental rights. The Committees' view is that the proposed legislation would criminalise a person's associations and interactions rather than their conduct, and that the bill constitutes a denial of the fundamental rights of freedom of association, freedom of speech, equal treatment before courts and tribunals, the presumption of innocence and the entitlement to fair hearings.

That is a damning summation by the lead legal organisation in New South Wales.

The Hon. Dr Peter Phelps: You are kidding.

Mr DAVID SHOEBRIDGE: I hear the Government Whip say, "You are kidding." It is remarkable that members of this House pay so little regard to such a strident submission from a peak legal organisation in New South Wales. The submission continues:

> The Committees submit that the bill is unnecessary as the NSW Police Force already has wide powers to fight organised crime. A wide variety of modern powers of investigation are already available to the NSW Police Force, including those allowing the tapping of telephones and computers, satellite tracking, facial identification technology, DNA testing and other investigative techniques that were not available even 25 years ago. Given this, the Committees submit that this bill does not add any value. Rather, the Committees submit that a concentrated effort to enforce the existing law is a more effective response to the problem of gangs.

I not only read that submission onto the record, I endorse it. I note that it contains three pages of specific concerns about the drafting of the bill. I now turn my attention to the provisions of the bill. However, given the length of the bill and that the House has reduced the time members may speak to bills to only 20 minutes, I will not cover the entirety of it. Part 2 of the bill deals with declared organisations. This is the meat and potatoes of the bill that allows organisations to be declared organisations and basically criminalises association in New South Wales.

This bill sets up a kangaroo court, as the Opposition's foreshadowed amendments prove. It does not have the Supreme Court authority to declare these organisations, but it co-opts the authority of the Supreme Court and the judges of the Supreme Court and it makes them administrative functionaries of the Executive. They will not sit as Supreme Court judges, but when a person appears before them they will have all of the appearance and the authority of the Supreme Court. They will carry, for those litigants who are before the judges, a long history of impartial justice delivered through the Supreme Court. The judges who put their hand up to be eligible judges under part 2 will not be providing that historical impartial justice that the Supreme Court has provided.

They will, in fact, be sitting as a kangaroo court that does not apply the rules of evidence and operates on rumour and innuendo, and nothing more. The judges must consent to be a part of this. The Greens are calling on the judges of the Supreme Court to stand up for the rule of law and for the traditions of that institution, and to not consent to be part of this kangaroo court or this Government's attack, together with the help of the Opposition, on our fundamental civil liberties. I point out how sensitive the Attorney General and the Government are in noting the constitutional prohibition of co-opting the Supreme Court into these kinds of administrative and non-judicial activities in light of decisions such as *Kable*. Proposed section 5 (7) states:

> To avoid doubt, the selection of the eligible Judge to exercise any particular function conferred on eligible Judges is not to be made by the Attorney General or other Minister of the Crown, and the exercise of that particular function is not subject to the control and direction of the Attorney General or other Minister of the Crown.

The Government is creating a fiction that these judges are operating as judicial members. They are not. They will be co-opted administrative agents of the Executive and nothing more. An application will be made in writing under proposed section 6 by the Commissioner for Police. As I noted earlier, it is not limited to bikie gangs. It can be in relation to any particular organisation identified by the commissioner. There is a broad set of information in affidavit that has to be set out by the commissioner but few, if any, real protections to limit the kinds of associations that will be the subject of this legislation. Proposed section 8 provides for submissions to be made at the hearing of this kangaroo court when determining whether an organisation is to be a declared organisation. It provides no effective right of appearance for members of the organisation before an order is made declaring it to be a declared organisation.

The Hon. Scot MacDonald: That is not true.

Mr DAVID SHOEBRIDGE: I note the interjection of the Hon. Scot MacDonald. Proposed section 8 (2) states:

> Any member of the organisation who was not specified in the application under this Part and any other person who may be directly affected (whether or not adversely) by the outcome of the application may, with the leave of the eligible Judge, be present and make submissions at the hearing, subject to subsection (3).

There is no requirement for them to be notified and there is no right to be heard. With leave, they can be heard if they find out about it. Of course, leave can be refused. There is no right of appearance and no right even of

being notified, other than a notification in a newspaper. The Commissioner of Police will make these applications largely based upon criminal intelligence. Criminal intelligence provided by the police can be rumour, innuendo, hearsay, second-hand hearsay, third-hand hearsay, fourth-hand hearsay. There is no limit on the nature of the evidence that can be relied upon by the commissioner and declared as criminal intelligence.

Proposed section 28 provides that in respect of any criminal intelligence provided by the Commissioner of Police there is absolutely no right for those persons who are the subject of either a control order or members of a declared organisation to see the material that is put in against them. In fact, the legislation is designed so that those organisations that will be the subject of a declaration and those individuals who will be the subject of a control order effectively are prima facie not entitled to see the criminal intelligence evidence provided against them. I will not go into the detail of proposed section 28, which effectively means that not only the decision to make a declared organisation will be happening in a kangaroo court but also the evidence and the submissions put before an organisation to be declared will never be seen by those persons who are the subject of the declaration or a control order.

The eligible judge can make a declaration under proposed section 9 if, on the making of an application by the commissioner under this part in relation to a particular organisation, the eligible judge is satisfied that members of the organisation associate for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity and the organisation represents a risk to public safety and order in this State. The eligible judge may make a declaration under this part that the particular organisation is a declared organisation for the purpose of this Act. It is important to note that proposed section 9 (4) makes it very clear that a declaration can be made when only a minority of individuals in the organisation are engaged in criminal organisation and it can be for a subsidiary purpose. Proposed section 9 (4) states:

> The eligible judge may, for the purpose of making a declaration, be satisfied that members of an organisation associate for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity:
>
> (a) whether or not all the members associate for that purpose or only some of the members (provided that, if the eligible Judge is satisfied that only some of the members associate for that purpose, the eligible Judge must be satisfied that those members constitute a significant group within the organisation, either in terms of their number or in terms of their capacity to influence the organisation or its members), and
>
> (b) whether or not members associate for the purpose of organising, planning, facilitating, supporting or engaging in the same serious criminal activities or different ones, and
>
> (c) whether or not the members also associate for other purposes.

That is where the analogy with Lock the Gate clearly comes to the fore. There are elements within organisations such as Lock the Gate that call for protests that could be described as unlawful. If it interferes with the Government's much-loved coal seam gas industry, it may be declared a serious criminal activity. This is just one example of many.

The PRESIDENT: Order! Members who are interjecting will have an opportunity to contribute to the debate. They will listen to the Hon. David Shoebridge in silence.

Mr DAVID SHOEBRIDGE: It allows these declarations to be made when a minority of members for a subsidiary purpose are engaged in criminal activity and provides few, if any, directions to the court to determine the meaning of a significant minority. I note that under proposed section 13 the rules of evidence do not apply. The fact that rules of evidence do not apply before we criminalise an association should send warning bells to any parliamentarian or anyone interested in protecting civil liberties. I said before and I say again: this means that rumour, innuendo and hearsay evidence, often never seen by persons who will be the subject of an order, can be sufficient to declare organisations as criminal under this bill. It is a gross attack upon our freedoms and liberties.

Once the kangaroo court makes a declaration, it is then open to the Commissioner of Police to make applications to have control orders made against members of those organisations. I will not have sufficient time to deal in detail with the effect of the control orders. Suffice it to say that these are serious criminal offences which will see people in jail for two, three or five years. Although they are serious criminal offences this Government has seen fit not to apply the standard criminal test for fact finding, that is, not beyond reasonable doubt. Proposed section 32 states that the burden of proof on any question of fact is to be decided on the balance of probabilities. People will be sent to jail after a kangaroo court has heard evidence in private and has declared an organisation to be a criminal association. Those people can then face a criminal prosecution and be convicted

on the balance of probabilities, not even the criminal standard. This bill is supported by both the Government and the Opposition. It should never be passed by this Parliament. It is an offence to the rule of law; it is an offence to basic civil liberties. It proves the need for a bill of rights in this State.

The Hon. SCOT MacDONALD [12.14 p.m.]: I speak on the Crimes (Criminal Organisations Control) Bill 2012. The Australian Crime Commission estimated in its 2011 report that organised crime costs this country between $10 billion and $15 billion annually. That could pay for a national disability scheme and a nationwide dental scheme. Every business and every individual pays either directly or indirectly for organised crime. It undermines our institutions and weakens our economy. The object of the bill is to re-enact the Crimes (Criminal Organisations Control) Act 2009. This legislation was declared invalid by the High Court on 23 June 2011 in the matter of *Wainohu v State of New South Wales*. The flaw in the 2009 legislation will be remedied in the new bill by imposing an obligation on the Supreme Court judge to provide reasons for making a declaration that an organisation is criminal.

The bill enables an eligible judge of the Supreme Court to declare an organisation to be subject to the Act if its members associate for the purposes of organising, planning, facilitating, supporting or engaging in serious criminal activity and it represents a risk to public safety and order in New South Wales. I hardly think that will draw into the net the Country Women's Association or Lock the Gate. As a consequence of the declaration of an organisation, the Supreme Court may, on the application of the Commissioner of Police, make a control order against a member of the organisation that prevents the person from associating with other controlled members of the organisation and from holding a number of statutory authorities, for example, security, firearm and liquor licences.

The re-enacted Act requires an eligible judge to give reasons for his or her decision to make or revoke a declaration of a criminal organisation, or to refuse an application for such a declaration. Part 2 of the Act outlines opportunities for affected persons to be heard and make submissions at a hearing—again, hardly restricting targeted people from having the opportunity to put their case. Even within the constraints of privacy and the preservation of crime intelligence these avenues give affected persons a mechanism to give reasons why they should not be subject to a control order. Clause 12 outlines the means available to an eligible judge to revoke a declaration. A member of the declared organisation can apply for a revocation in writing setting out the grounds, with supporting information.

Part 3 of the bill enables the Supreme Court to make an interim control order in relation to one or more members of a declared organisation pending the hearing and final determination of a confirmatory control order. The interim control order takes effect when notice of it is served personally on the member concerned. Division 3 of the bill covers the consequences of making interim control orders and control orders. Clause 26 (1) states that a controlled member of a declared organisation who associates with another controlled member can face a maximum imprisonment of two years. Clause 26 (lB) states that the maximum imprisonment can escalate to five years if a controlled member of a declared organisation who associates with another controlled member of the declared organisation after being convicted of an offence under this section is guilty of an offence.

Clause 26A is extremely important. It states that a controlled member of a declared organisation who recruits another person to become a member of the organisation can face maximum imprisonment of five years. This is an important bill from the Liberal-Nationals Government. It pushes back on a cancer in our society that is the criminal organisations. The members of these organisations have some efficacy as a group. By isolating declared individuals, stifling recruiting and fragmenting the criminal organisations, we can degrade their momentum and strategies. I commend the bill to the House.

The Hon. MARIE FICARRA (Parliamentary Secretary) [12.18 p.m.]: I speak on the Crimes (Criminal Organisations Control) Bill 2012. The majority of people in the community welcome this bill. Anything that tightens law enforcement against the recent escalation in criminal activity in this State is welcomed. Indeed, the Government received a resounding mandate to do so. The bill re-enacts the Crimes (Criminal Organisations Control) Act 2009. In the High Court decision to strike down the 2009 Act, His Honour Justice Gummow specifically noted:

> Another course readily available in the present case would be to cast section 13(2) in a form which, at least with respect to declarations under section 9 and revocations under section 12, required as well as permitted the provision of grounds or reasons.

The bill includes amendments to section 13 (2) so that eligible judges are now required to give reasons when making declarations. I note that section 16 (2) (a) also requires that notice of an interim control order must include a statement on the grounds on which the order was made. I understand that, in respect of the 2009 Act,

the rationale behind not requiring reasons arose from concerns that criminals may be inadvertently provided with details of confidential criminal intelligence. I will explain in more detail: In applying to the court for a declaration, police are able to provide a range of information that shows a link between an organisation and serious criminal activity. This could include past criminal convictions. It can also include other information showing that current or former members, or members of interstate or overseas branches of an organisation, have some involvement in serious criminal activity. Part of this other information could consist of confidential criminal intelligence.

What I speak of here is information and intelligence that, if it were made available to criminals, could jeopardise current and future operations and name or expose witnesses, informants or undercover operatives, and by doing so endanger those people's lives and safety. Clearly this information should not be made publicly available. For this reason the bill, in addition to amending section 13 (2), has also included safeguards for criminal intelligence. In this regard I refer to subsections (1) to (7) of proposed section 28. This applies to information provided to the court regarding both declarations and control orders. Proposed section 28 (3) provides that the determining authority, being the judge and the court, must take steps to maintain the confidentiality of information it determines is properly classified criminal intelligence.

Proposed section 28 (4) permits the commissioner to withdraw information where the court determines that information is not criminal intelligence. Proposed section 28 (5) provides that information withdrawn in this manner is not to be disclosed to any person. However, proposed section 28 provides that information can be disclosed to a person conducting a review in accordance with the Act or to the Attorney General. These are important and appropriate safeguards for sensitive information and intelligence. They are sensible changes and they effectively protect information that, if it were disclosed publicly, would present a real risk to people's safety and to the effectiveness of police operations. I commend the bill to the House.

The Hon. ROBERT BROWN [12.22 p.m.]: I will be very brief. The Shooters and Fishers Party does not have much to contribute to debate on the Crimes (Criminal Organisations Control) Bill 2012. In fact, I probably would have come into the Chamber to say that I support it. However, I heard Mr David Shoebridge's contribution to the debate, and a very erudite contribution it was from the champion of civil liberties. I draw members' attention to a bill I put forward in 2007, the Administrative Decisions Tribunal Amendment (Confidential Documents) Bill. Briefly, the bill proposed an amendment to the Administrative Decisions Tribunal Act 1997 to enable legal representatives of any party to proceedings heard by the Administrative Decisions Tribunal to see and challenge otherwise confidential evidence. It also dealt with a couple of other matters.

The Hon. Adam Searle: Firearms licensing?

The Hon. ROBERT BROWN: Wait a minute. I will now read into *Hansard* the response from Ms Lee Rhiannon—

The Hon. Scot MacDonald: Do you have to?

The Hon. ROBERT BROWN: It is very brief. She said:

> We are concerned about these amendments. We understand that, if adopted, the amendments will grant access to people who are applying for firearms licences to information about criminal investigations.

When it came to the vote there were no surprises: The Greens voted against the bill. So much for consistency and so much for hypocrisy.

The Hon. DAVID CLARKE (Parliamentary Secretary) [12.24 p.m.], in reply: I thank honourable members for their contributions to this debate. I note that Mr David Shoebridge, on behalf of The Greens, opposes the Crimes (Criminal Organisations Control) Bill 2012 because The Greens support civil liberties. We say to the holier-than-thou Greens, "We support civil liberties too." The Australian Labor Party supports civil liberties by having introduced the bill in the first place. The Christian Democratic Party supports civil liberties and the Shooters and Fishers Party supports civil liberties too.

This bill is full of protections for civil liberties and legal rights and human rights. We support civil liberties but we also support public safety. We support the public safety of millions of men, women and children who make up the State of New South Wales—safety from criminals and their criminal actions. We get the

balance right. The Greens say that the bill may face a further constitutional challenge. That may well be. There are people out there who oppose the bill—people in criminal gangs who oppose it and a few sadly and pitifully misguided people who oppose it.

Mr David Shoebridge: Point of order: I believe the Parliamentary Secretary has just called the High Court a criminal gang by saying in voting down the bill they oppose the bill—

The PRESIDENT: Order! The member knows that he must take a point of order, not make a debating point.

The Hon. DAVID CLARKE: We support civil liberties. I am not talking about the sort of civil liberties they had in the old Soviet Union. The truth is that we get the balance right in this bill between civil liberties and public safety. But The Greens never get it right; the balance is always weighed down against public safety and the protection of the mainstream community. It is always civil liberties for the people who want to work as termites to undermine mainstream Australia, and for criminals.

The bill repeals the Crimes (Criminal Organisations Control) Act 2009, which was declared invalid by the High Court on 23 June 2011 in *Wainohu v The State of New South Wales*. The bill re-enacts the Act in a form that repairs the identified ground of constitutional invalidity. Following the delivery of the High Court's decision in Wainohu, the Government has consistently stated that it would not, as the previous Government did, rush the decision about what to do with organised crime in New South Wales. The Government has used its time since the High Court decision to seek advice from some of the most senior legal and law enforcement figures in New South Wales and examine alternatives.

Since the High Court decision, organised crime has been discussed at a national level at the Standing Council on Law and Justice in July and November 2011 and at the Senior Officers Group on Organised Crime in December 2011. I am advised that the Department of Attorney General and Justice has worked closely with senior legal and law enforcement officials from New South Wales and overseas to canvass a range of responses to organised crime. This work was not simply a matter of sorting out how to fix what was broken but to ensure that whatever was put in place was best for New South Wales. New South Wales has closely observed developments in others States and has discussed them with State and Territory counterparts. There is more to Australia than just The Greens. We have been able to discuss and review legislation introduced in the Northern Territory and Queensland, and examine the bills introduced in Western Australia and South Australia.

The Act is being re-enacted in a form that reflects the need to give police in New South Wales tools to prevent the formation and activities of criminal gangs and to prevent members of criminal groups from conspiring to commit offences and put the lives and safety of people at risk. The bill reflects careful consideration of how to address the issues identified in the High Court's decision. It reflects careful consideration of what is being done overseas and in other Australian States and Territories and supports continued endeavours at a national level to combat organised crime. This bill is going to pass with the support of every party in this House, with the exception of The Greens. When it comes to law and order and upholding the rights and safety of the overwhelming majority of the people of New South Wales The Greens are always on the wrong side. They are never on the right side. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

Progress reported from Committee and consideration set down as an order of the day for a later hour.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 2 to 4 postponed on motion by the Hon. David Clarke.

ROAD TRANSPORT LEGISLATION AMENDMENT (OFFENDER NOMINATION) BILL 2012

Second Reading

Debate resumed from 22 February 2012.

The Hon. SOPHIE COTSIS [12.35 p.m.]: I speak on behalf of the Labor Opposition, representing the shadow Minister for Roads, Mr R. A. Furolo, to the Road Transport Legislation Amendment (Offender Nomination) Bill 2012. The main purpose of the bill is to increase the penalty fines—both the maximum court fines and penalty notice fines—for camera-detected offences when the offence is in a company's name and the company has not nominated the offender. The bill makes a number of other changes in relation to the administration of penalty fines, the blood alcohol limit applying to those with an expired licence and the confiscation of vehicles involved in burn-out offences.

Members may recall that in March and April 2010 a lot of media coverage was about a particular case that relates to the main reform proposed in this bill. The case involved a company-registered car that was subject to a number of camera-detected offences. Instead of nominating the person who was driving at the time the offences were detected the fines—thousands of dollars worth—were paid by the company. It was claimed that the fines were paid and the driver of the company-registered car was not nominated so that the driver could avoid the loss of demerit points and the loss of his licence. A police investigation at the time was not able to find an offence.

The Hon. Duncan Gay: They found an offence; they could not find the offender.

The Hon. SOPHIE COTSIS: Anyway, while a minority of people complain about the road rules and the cost and inconvenience of obtaining and renewing our licences, I think most of us accept that there are good reasons for those rules and regulations. We on this side recognise that speed limits are imposed not to raise revenue but to ensure a safer environment for all road users, drivers and pedestrians. If people break those rules then they should be subject to penalties. If they choose to break those rules over and over again and demonstrate that they cannot use our roads in a safe and responsible manner then they lose the privilege to share the roads. The rules apply to all drivers equally and no-one should be above the law.

If people avoid demerit points or avoid losing their licence because they have the financial means to just pay the fines and hide behind the cover of a corporation this affronts the community's sense of fairness. The Opposition supports this bill, which enacts reforms that the former Labor Government started in 2010. In 2010 the Labor Government initiated a number of measures to encourage companies to do the right thing and nominate the driver of the vehicle at the time of the offence. The penalty for failing to nominate the driver was doubled to $5,500 for an individual and $11,000 for a company.

The previous Government also commissioned a working group made up of the former Roads and Traffic Authority, the State Debt Recovery Office and the Department of Attorney General and Justice to consider ways to further strengthen the provisions relating to nominating the responsible driver. The bill's main reform—to increase the penalty for a company to five times that of an individual if the driver is not nominated—was announced by the former Labor Government in late 2010. The Opposition congratulates the Coalition Government on implementing a good reform and Labor policy even though it has taken a while to do it.

The Hon. Duncan Gay: It has taken a change of government to do it.

The Hon. SOPHIE COTSIS: No, we started the process. This is great and it is very important. The bill makes a number of other changes to the processing of penalties. A penalty notice is currently deemed to have been received after 21 days. This bill reduces that to seven days, which is consistent with the time applied to penalty reminder notices. The rationale for this change is that unscrupulous people have been known to use the 21-day period to delay processing beyond the 12-month statutory limitation period for prosecution for falsely nominating a driver. The Labor Opposition does not oppose this amendment, because a 21-day period will still be available to deal with the penalty notice.

The bill also allows the registered operator of a vehicle to provide one statutory declaration when nominating the same driver for more than one offence if detected by a single camera. This change brings the process up to date with new technology that allows a camera to capture more than one offence at the same time. This new technology, such as the safety camera that can catch vehicles running a red light and speeding, was

introduced by the former Government. The bill allows an authorised person or a prosecutor to direct a person to provide additional information to help identify an offending driver or to appear before the authorised person or prosecutor to provide additional information. The rationale given for these new powers is that a stronger prosecution case can be a made with the additional information where it is believed a false nomination has been made.

The bill also seeks to address the so-called oversights that occurred under the previous Government. I suggest that such oversights be forgiven because of the Labor Government's significant reform and legislative agenda. The bill also amends the burnout offences in section 41 of the Road Transport (Safety and Traffic Management) Act 1999. It will implement the Labor Government's intention in 2008 to provide for police to seize vehicles used in aggravated burnout offences. The bill also seeks to reduce the blood alcohol limit for drivers with an expired licence from the current 0.05 per cent blood alcohol content to 0.02 per cent. As the Minister is aware from discussions, the Labor Opposition had some concerns about this amendment.

The Hon. Duncan Gay: We believe they were appropriate concerns.

The Hon. SOPHIE COTSIS: I thank the Minister for that acknowledgement. We do not question that drivers who have had their licence cancelled or suspended should be subject to lower blood alcohol limits: they are responsible for offences serious enough for their licence to have been cancelled or suspended. However, a licence may expire because of circumstances beyond the control of the licence holder. One of the examples we raised with the Minister's officers is the case of a licence holder who was moving residence when the licence expired. Of course, there are other circumstances that occur that result in a licence not being renewed within the appropriate time frame. We all know that we must advise of a change of address to myriad government agencies. However, I do not believe that members would see it as unreasonable that in the chaos of moving or for some other family-related reason that such things are overlooked. I do not believe that people are deliberately trying to break the law; they are simply dealing with stressful situations.

There could also be a technical glitch with a computer or the payment system, which happened in a number of agencies on 29 February this year because 2012 is a leap year. My colleague the shadow Minister, Robert Furolo, raised those concerns with the Minister's officers and we appreciate that they took them on board. We also appreciate the briefing that was provided. I understand that the Government will move an amendment to provide that the reduced blood alcohol limit will apply six months after the expiry of a licence. I congratulate my colleague the shadow Minister on raising this sensible change, which the Government has taken on board. Given that this bill implements reforms initiated by the Labor Government, the Opposition supports it.

The Hon. JEREMY BUCKINGHAM [12.45 p.m.]: The Greens support the Road Transport Legislation Amendment (Offender Nomination) Bill 2012. This bill makes sensible changes to the Road Transport Act to make it much more difficult for companies that operate a fleet of vehicles to shield their drivers from traffic offences caught on camera. The Minister outlined in the second reading speech how section 179 of the Road Transport (General) Act 2005 provides that when a camera-recorded public transport lane, traffic light or speeding offence is committed the responsible person for the vehicle is taken to have committed the offence. I am sure all members are aware of how this works.

If the registered operator was not the driver the Act requires the registered operator to nominate the person who was. If the registered operator fails to nominate a person when they should have, or falsely nominates a person as being in charge of the vehicle, it is an offence. However, in the case of the registered operator being a company, responsibility for a traffic offence cannot be assigned to a real person unless the company nominates the real person. Previous reforms to address this have increased the fines for companies that fail to nominate persons responsible and increased statutory time limits for an offence. However, as we have heard today, sometimes companies avoid nominating a person responsible through various means, such as not providing sufficient details when they do nominate persons to the State Debt Recovery Office.

The Greens agree that further changes to the Act are required to ensure that truck drivers are compelled to drive safely and to the speed limit, because it goes without saying that if some truck drivers know that the company they are driving the truck for will cop the fine if they drive over the speed limit the incentive for some drivers to stick to the speed limit disappears. For the sake of the safety of everybody on the roads we cannot allow companies to continue copping the fines rather than having their drivers lose demerit points and their licence. What this practice essentially amounts to is some trucking companies saying to their employees, "Don't worry mate, we'll cop the fine. Your job is to deliver our freight on time."

Roads and Traffic Authority statistics show that in 2010 heavy trucks were overrepresented in New South Wales road fatalities compared with the percentage of New South Wales motor vehicle registrations and motor vehicle travel. In 2010 the road toll decreased by 7 per cent while heavy truck crash fatalities increased by 21 per cent. Crashes involving heavy trucks accounted for 17 per cent of all fatalities on New South Wales roads in 2008, 15 per cent in 2009 and 19 per cent in 2010. A total of 6,603 heavy truck crashes were recorded in New South Wales over the three-year period 2008 to 2010. Of these 6,603 crashes, 176 were fatal crashes and 2,573 were injury crashes, resulting in 211 persons killed and 3,260 persons injured. These statistics demonstrate why The Greens support this bill.

The bill proposes changes to section 179 by providing that a person who nominates another person as the offending driver, if directed, be required to appear before an authorised person or prosecutor for the purposes of interview to provide additional information that may lead to identification of the driver. The Greens also support reducing the time in which a penalty notice is deemed to be served by post from 21 days to seven days to ensure that companies or persons are not able to defeat prosecution because the statutory time limit has expired. We also support allowing one statutory declaration to be used for multiple offences by one driver detected in a single camera event acknowledging the desirability of legislation keeping up with advances in technology.

The bill increases the monetary penalty applying to a camera-detected offence where the offence remains in the company name. In other words, if companies fail to notify the individual driver's name they will incur an increasing maximum court fine of $16,500 for speeds more than 45 kilometres over the limit—five times the current maximum fine of $3,300. The fine will remain at $3,300 for individuals. The Greens support this. The Greens support the additional provisions of the bill, including amendments that deal with burnout offences and what is essentially another tidying-up provision relating to novice drivers with expired licences caught driving with alcohol in their blood. The bill also brings in the process of nominating the driver of a vehicle caught with the latest camera technology, which can capture multiple offences in a single camera event, and the Greens support that.

Last month we heard that the Australian Trucking Association made an application to the State Government for trucks up to 35 metres in length to travel on more of our highways. B-triples and AB-triples can currently operate in western New South Wales. Companies must realise the cost to the community of unsafe driving practices, and that fines need to reflect that cost. We all know the cost to the community of huge B-double trucks tearing down highways and overtaking drivers who are sticking to the speed limit. It is worth taking a minute to personalise the word "driver", because it can often sound impersonal during debates such as this. Drivers are mums and dads, someone's loved one, a friend or colleague. And often with drivers are their families or friends. You have to wonder whether freight companies sometimes lose sight of the vulnerability of us all when we hop behind the wheel of a car and head to our destination—in particular, the vulnerability of people travelling along regional and rural roads in vehicles that never stand a chance when hit head-on by a B-double tearing along at 130 kilometres an hour.

The Greens support the Government's efforts to ensure that trucking companies send a very strong message to their drivers that speeding will not be tolerated. However, we urge the Government to go much further towards making our roads safe and to prioritise shifting freight off roads and on to rail. In this area, this Government, like the Labor Government before it, is not doing enough to encourage companies and industry to send their freight via rail instead of road. Unfortunately, despite what this bill may do to get companies to encourage their drivers to stick to the speed limit, an increase in the size and number of trucks can only mean an increase in fatalities caused by trucks on our roads.

It was recently reported that the Australian Trucking Association applied to the State Government for a number of routes to accommodate modular B-triples, including all roads currently approved for use by road trains as well as between Narrandera and Sydney on the Sturt and Hume highways, on the Hume Highway from the Sturt Highway intersection to Albury on the Victorian border, and the length of the Newell Highway within New South Wales. The Australian Trucking Association has proposed that the modular B-triple route to Sydney would terminate in the industrial areas adjacent to the M7. The association has stated publicly that increasing the number of trailers on trucks would mean fewer trucks on the road.

Having fewer trucks on the road is extremely unlikely given the expected increase in freight movements within New South Wales in the coming years and decades. Allowing more B-triples to travel our highways just means more freight capacity for freight companies to be able to shift an ever-increasing amount of

freight. The words of Mr Norman Mann from Nambucca Heads, who drove heavy vehicles for 50 years, are worth noting. He told the ABC on 24 February last year that the idea of moving more freight onto the Pacific Highway in B-triples was "a total disaster". He said:

> They're major sized vehicles. Probably in excess of 30-40 metres long, upwards of 90 tonnes gross and they'll be allowed to 100 kilometres an hour. This is terrifying for our local residents. The Pacific Highway, we all want to live near the coast. We're going to have these things screaming up and down the highways doing these terrific speeds.

Legislating to ensure trucks slow down is important and that is why The Greens have no problem with this bill. We look forward to seeing what this Government brings forward to create incentives for companies to move freight by rail rather than by road, while at the same time investing in rail infrastructure to meet the demand. In the meantime we are happy to give our support to this important bill.

The Hon. JOHN AJAKA (Parliamentary Secretary) [12.54 p.m.]: I support the Road Transport Legislation Amendment (Offender Nomination) Bill 2012 and congratulate the Minister, the Hon. Duncan Gay, on bringing the bill before this House. The objects of the bill are, first, to increase the maximum monetary penalty that a corporation will be liable to pay for a certain type of camera-recorded traffic offence under section 179 of the Act when the corporation is liable for the offence because of a failure to nominate the actual offender; secondly, to enable an authorised officer or prosecutor to obtain additional information concerning the identity of the offender nominated; thirdly, to reduce the time when a penalty notice served by post on a responsible person under the section is taken to have been served, and, fourthly, to enable a single nomination to be made under section 179 of the Act where more than one camera-recorded traffic offence was detected by the same camera at about the same time. The Act also makes consequential amendments and amendments in the nature of statute law revision to the Fines Act 1996 and certain road transport legislation.

Section 179 of the Road Transport (General) Act 2005 provides that the responsible person for a vehicle is deemed to have committed a camera-detected offence in the absence of the responsible person nominating another person as the driver. This is because the actual offender is not spoken to or identified at the time these camera offences are committed. Penalties also apply to the responsible person for failing to nominate the driver or for falsely nominating a driver. A responsible person can be either a corporation or a natural person. Where an offending driver is not correctly identified demerit points and any subsequent driver licence suspension cannot be applied. A number of amendments have been made to section 179 of the Act in the last few years in an effort to combat this sometimes deliberate ploy to shield drivers. These changes have included increased fines for failure to nominate offences and registration suspension action against companies that fail to nominate the driver on two or more occasions.

Despite these changes there have continued to be occasions where registered operators, particularly companies, have been prepared to absorb the increased fines to protect the offending driver. The bill before the House proposes to make further amendments to the Act to strengthen these provisions for companies who fail to nominate offenders, and provide for administrative efficiencies in the processing of penalty notices and subsequent nominations. The most significant change will see the introduction of penalty notice fines and maximum court imposed fines for companies that are five times higher than those that apply to an individual person where a camera-detected speeding, red light, or public vehicle lane offence is committed. If the company does the right thing and nominates the offender those increased penalties will not apply as a penalty notice in the lesser amount will then be sent to the person nominated.

The proposed amendments to introduce administrative efficiencies will allow an authorised officer to request additional information that is the provider's power to give and that would assist in identifying the nominated offender, allow a single statutory declaration to be accepted where multiple offences are captured by a single camera image, and reduce the time a penalty notice is deemed to be served from 21 to 7 days to align with similar provisions that apply to penalty notice reminder letters. The opportunity is also being taken to make some minor corrections to road transport legislation. These include the removal of the reference to a "burnout" offence as a relevant offence for which vehicle sanctions may be imposed. It was only intended that aggravated offences be included. A further amendment will also ensure that novice drivers continue to be subject to lower blood alcohol provisions regardless of the status of their licence. I note the Government amendment, which I understand deals with some of the proper concerns that were raised by the Opposition in this regard, to quote the Minister, and we will deal with the proposed amendments during the Committee stage.

Debate adjourned on motion by the Hon. Lynda Voltz and set down as an order of the day for a later hour.

[*The President left the chair at 1.00 p.m. The House resumed at 2.30 p.m.*]

DISTINGUISHED VISITORS

The PRESIDENT: Order! I welcome to the public gallery a delegation of auditors-general from Australia and overseas, including Canada, Hong Kong and countries from the Pacific region and Europe. They are here as guests of the Auditor-General, Mr Peter Achterstraat, who is hosting the International Public Sector Audit Forum in Sydney this week.

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

QUESTIONS WITHOUT NOTICE

SYDNEY WATER OPERATIONAL AUDIT

The Hon. LUKE FOLEY: I direct my question to the Minister for Finance and Services. Will the Minister advise the House of the reasons for the 30 per cent increase in unplanned water interruptions exceeding five hours, which were reported in the recent operational audit of Sydney Water? What steps are being taken to reverse the clear underlying negative trend?

The Hon. GREG PEARCE: I am pleased to address that question. The answer is simple: 16 years of neglect, mismanagement and waste by the mob on the other side of the House.

SPEED CAMERA AUDIT

The Hon. JOHN AJAKA: I address my question to the Minister for Roads and Ports. Will the Minister update the House about speed cameras in New South Wales?

The Hon. DUNCAN GAY: What a fabulous question. I am pleased that there are auditors-general in the public gallery.

The Hon. Walt Secord: Stop playing to the gallery. They will be taking you away in shackles.

The Hon. DUNCAN GAY: The difference is that—

The PRESIDENT: Order! The Minister will be orderly and he will ignore interjections.

The Hon. DUNCAN GAY: Mr President, I will take up my time with good news. The New South Wales Liberals and The Nationals made a clear commitment to the community that, if elected, a Coalition Government would ensure that speed cameras were positioned in places where they improved road safety, not just raised revenue. That is why, upon winning government, we asked the Auditor-General to undertake an independent investigation of fixed speed cameras, mobile speed cameras and safety cameras. The audit found that:

> … while fixed speed cameras have a positive road safety impact overall, crash results vary for individual cameras … [and] for some camera locations, the number of crashes did not reduce.

The Auditor-General's report found that 38 of the fixed speed cameras were not delivering the desired road safety outcomes, which is why I made the difficult decision to switch them off. Speed cameras have their place in the suite of road safety measures but the Government is determined to ensure that they are located only in places where they make roads safer. An analysis by the NSW Centre for Road Safety of the then Roads and Traffic Authority showed that at the location of the 38 cameras that I directed to be switched off there was an overall increase in the number of fatalities and injuries, which is a clear indication that the cameras were not improving road safety and that alternative road safety measures needed to be considered.

The Hon. Luke Foley: Tell us what the Centre for Road Safety told you.

The Hon. DUNCAN GAY: I just told you; the member is not listening.

The PRESIDENT: Order! The Minister will ignore interjections.

The Hon. Michael Gallacher: This calls for a supplementary, I think.

The Hon. DUNCAN GAY: Yes, I think so. The NSW Centre for Road Safety, in conjunction with the NSW Police Force and the NRMA, has been working on a route review of the decommissioned sites to find alternative safety measures. This will include looking at the crash history, traffic volumes, road conditions, land use and high-risk road user behaviour at each location. Alternative safety measures will include road improvements such as shoulder widening, realignment, safety barriers, line marking, signs and speed zone reviews. These alternative safety measures will be implemented based on findings from the review, which is due to be finalised later this month.

A program of works has also been developed to deliver road safety measures and to allow the ineffective cameras to be progressively removed. The Government is taking action to ensure that our roads are kept as safe as possible whilst giving motorists a fair go. I make no apologies for keeping an election commitment. It is a lesson that those opposite should have heeded. If they had they may well still be in government. Instead, they face at least 16 years in opposition. Let me be clear: Despite claims to the contrary, the Government has not turned—

The Hon. Greg Donnelly: How is the Sydney Harbour Bridge going?

The Hon. DUNCAN GAY: Ask me a question on it. Despite claims to the contrary, the Government has not turned any of the 38 decommissioned speed cameras into fine mode. [*Time expired*.]

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

The Hon. DUNCAN GAY: As publicly announced, four cameras, which are located at Gymea, Epping, Urunga and Clunes, remain in warning mode. Those opposite are in a spin over this issue—frankly, that is the only thing they do well. Before the Auditor-General's report was handed down Labor's roads spokesman—and this one is worth noting—

The Hon. Rick Colless: Who is it?

The Hon. DUNCAN GAY: Captain Furolo.

The Hon. Penny Sharpe: That would be the member for Lakemba.

The Hon. DUNCAN GAY: Thank you. The member for Lakemba said:

> The Premier has said he will rip out any speed cameras found to be ineffective in the Auditor-General's report and he must keep that promise.

He is now criticising the Government for doing just that. Labor's spokesman cannot have it both ways: Mr Furolo cannot demand that the Government honour its promise and then criticise it for doing just that! Unfortunately, I fear those opposite may be relying on information from Harold Scruby, who practises megaphone diplomacy and takes things out of context. Let me clear up other misleading information that is being circulated. The cameras referred to in media reports and releases as having, over three years, prevented 153 crashes and 160 injuries and saved seven lives, are still operating in fine mode—they are still operating. It was not proposed to switch off these cameras, which reinforces my point that where cameras are producing a positive road safety outcome they will remain in place.

ELECTRICITY ASSETS SALE

The Hon. ADAM SEARLE: My question is directed to the Leader of The Nationals in this place. In its Start the Change election manifesto the Coalition promised to prepare and release a rural impact statement on every policy that went before Cabinet. Has a rural impact statement been done on the electricity sale that the Government announced in December? If so, why has it not been released?

The Hon. DUNCAN GAY: After 16 years in government those opposite are now seated on the losers' lounge, and are doomed to stay there for a long time. Those opposite are on that lounge because not only did they not listen to the people of New South Wales but when they turned up to Parliament they did not listen to what was happening here either. A similar question was asked only yesterday. My answer was that anything that goes through the Cabinet process must have a rural and regional impact statement. Let me be clear: The matter that the member has asked about went through Cabinet.

STRIKE FORCE MAXWORTHY

The Hon. RICK COLLESS: My question is directed to the Minister for Police and Emergency Services. Can the Minister advise the House on the activities of Strike Force Maxworthy and recent arrests in relation to organised crime and illegal firearms imports?

The Hon. MICHAEL GALLACHER: I thank the member for that very timely question. I am pleased to advise the House that yesterday New South Wales police arrested three people following investigations into a criminal syndicate allegedly involving the importing of illegal handguns from Europe to Sydney. I am pleased to advise that in February Strike Force Maxworthy was established specifically to investigate the importation of illegal firearms from Germany to Australia after police traced a number of illegal firearms to the same batch manufactured in Austria. I am advised that the activities of the strike force have included detectives working closely with the German federal criminal police to investigate the import racket. Detectives made extensive inquiries both within Australia and overseas, and as a result found that numerous Glock handguns manufactured in Australia had been onsold through a number of companies to a German firearms dealership. It is alleged that those firearms were then imported into Australia by a criminal syndicate using forged documentation.

Yesterday a number of search warrants were executed across both hemispheres, here in Sydney and abroad in Germany. I am advised that at approximately 2.00 a.m. Australian eastern standard time German police and detectives from the NSW Firearms and Organised Crime Squad executed search warrants in Remscheid, Germany. As a result one man was arrested and a range of documents and parcels were seized. Then at about 11.00 a.m. yesterday 12 simultaneous search warrants were executed at addresses at Sylvania Waters, Greenacre, Wetherill Park, Fairfield West, Guildford, Greystanes, Dulwich Hill, Lidcombe, Wentworth Point and Rose Hill. The addresses included a post office, an import business and a range of home addresses, with police seizing a parcel containing 140 Glock firearms magazines, several firearms, ammunition, small quantities of steroids and prohibited drugs, numerous mail items, documents and computer equipment.

As a consequence three men were arrested and charged with a range of firearms, organised crime and fraud offences. All three were refused bail and will appear in court today, with police alleging that the firearms were being imported specifically for use by criminals, including outlaw motorcycle gang members and organised crime groups. It is important to acknowledge the multi-agency and international efforts that have been undertaken to deliver these arrests. On behalf of the Government I extend my congratulations to all officers involved with this operation, both those who have contributed directly to the strike force's activities as well as those across the globe, on their outstanding efforts to crack down on this type of organised crime. As I have outlined before in this House, New South Wales is not an island and gun crime is certainly not limited to this State. That is why New South Wales is championing these issues—to ensure a national approach, a consistent approach.

Certainly, this operation highlights that when it comes to keeping our borders safe the Commonwealth Government is asleep at the wheel. There is a lack of attention given to this serious issue through inappropriate resourcing and not actively supporting relevant Federal agencies undertaking this important task. I must admit that I have had meetings with Minister Jason Clare, who is a new Minister who is prepared to get in and have a go on this issue, but the Federal Government has certainly been exposed as being negligent in terms of identifying the importation of guns. Listen to the bleating from those opposite—they do not want to hear good news. They hate police. They hate stories about police.

The Hon. RICK COLLESS: I ask a supplementary question. Will the Minister elucidate his answer about the importation of illegal firearms?

The Hon. MICHAEL GALLACHER: We all remember the sad faces opposite over the past couple of weeks when the New South Wales police were working positively to tackle gun crime. Those opposite did not want to hear about it; they did not want to support it. Only a very short time ago in the lower House the Opposition police spokesperson was forced to get reluctantly to his feet and offer very belated congratulations to the NSW Police Force on the job they have done over the past few years and the job that they will continue to do. Those opposite do not like police. They do not like good news about police because they want to politicise the issue. They want to stand in front of people's homes and make claims about needing additional resources to take care of the problem.

When it comes to taking advice on policing strategies, I will not listen to those opposite, who suggest that we should offer $50,000 rewards to criminals who are prepared to pay $40,000 for gold coffins. That is the

sort of advice we get from those opposite. I am not going to listen to the member for Fairfield, who wants every additional police officer—no matter where they are stationed—sent to his electorate because he does not care about anyone else in this State and their local law and order issues. Those opposite have no idea. I will take my advice from the Commissioner of Police, not these fools—particularly the mouthpiece sitting opposite.

The Hon. Amanda Fazio: You're a disgrace; you're an absolute disgrace.

The Hon. MICHAEL GALLACHER: The Hon. Amanda Fazio has absolutely no idea what she is talking about in terms of policing. Not one Labor member has congratulated the police.

The PRESIDENT: Order! Opposition members will cease interjecting. I call the Hon. Steve Whan to order for the first time.

The Hon. MICHAEL GALLACHER: Now the Federal Government has been exposed as being negligent in allowing paucity of our borders to see guns coming through— [*Time expired*.]

OUT-OF-HOME CARE

The Hon. JAN BARHAM: My question without notice is directed to the Minister for Finance and Services, representing the Minister for Family and Community Services. Will the Minister clarify whether there was an ultimatum given or a threat made to non-government organisations in relation to the signing of contracts for the out-of-home care transfer arrangements that meant that the failure to sign the contracts for the $37,000 per child per year would result in deregistration of the non-government organisation and the removal of children in its care to other agencies that accepted the terms?

The Hon. GREG PEARCE: I thank the honourable member for her question. I am informed that an email has been sent to a number of members of Parliament claiming that the Minister for Family and Community Services had threatened non-government agencies with an ultimatum either to sign new, improved transport out-of-home care contracts or lose their contracts. This claim is absolutely and entirely false.

The Hon. Steve Whan: So they're telling lies, are they?

The Hon. GREG PEARCE: Someone is telling lies, and if the member would like to produce the email I would be very happy to have its veracity checked. Perhaps the Minister for Police and Emergency Services could help us do that.

The Hon. Mick Veitch: So you're threatening them, are you? You're threatening them.

The Hon. GREG PEARCE: No, we are happy to check the veracity.

The Hon. Mick Veitch: You are threatening whistleblowers. That's good, Greg.

The Hon. GREG PEARCE: If the member doubts what I am saying then give me the email and I will have it checked. There have been calls to transfer out-of-home care to the non-government—

The PRESIDENT: Order! I call the Hon. Mick Veitch to order for the first time.

The Hon. GREG PEARCE: There have been calls to transfer out-of-home care to the non-government sector for decades, including by Justice James Wood. We supported this reform in opposition and now we are delivering on our commitment to improve services. The Public Service Association remains opposed to the transfer and will do whatever it can to stop the reform. However, the Government wants the association to cooperate to produce real reform and to assist in improving conditions for the caseworkers it represents. We encourage the Public Service Association—which, like this Government, wants us to improve the way we protect vulnerable children, young people and families—to cooperate in making reforms that deliver improved services, as this Government is doing.

TAFE REVIEWS

Dr JOHN KAYE: My question is directed to the Minister for Roads and Ports, representing the Minister for Education. Will the Minister list all the reviews, studies and reports into TAFE that are currently

being conducted or have been completed since 1 January 2011, commissioned either by the O'Farrell Government or any of its predecessors? For each review, will the Minister name the organisation conducting the review, the aspect of TAFE being reviewed and the completion date or expected completion date?

The Hon. DUNCAN GAY: I thank the member for his question and refer him to my responses to a question and supplementary question asked by him on 6 March. Dr John Kaye may very well be alluding to the Massaro report, which was commissioned by the previous Government for Cabinet. We are conducting our own skills review through the Smart and Skilled consultation, which I referred to last week in my responses to questions asked of me. A report on that review, which includes consideration of the role of TAFE New South Wales, will be released later this year. The Massaro report was commissioned by the previous Government and I understand it was for a submission to the Cabinet of that Government.

NSW TRADE AND INVESTMENT REGIONAL OFFICE CLOSURES

The Hon. MICK VEITCH: My question is directed to the Minister for Roads and Ports. In response to a question in this place yesterday in relation to the decision to close Department of Trade and Investment, Small Business and Regional Development offices in regional New South Wales the Minister stated that his answer to "whether a rural or regional impact assessment was conducted" was "Yes, there was." Will the Minister publicly release this statement as was promised by the Coalition in the lead-up to the 2011 State election?

The Hon. DUNCAN GAY: I thank the honourable member for his question.

The Hon. Greg Donnelly: It was an aspirational promise.

The Hon. DUNCAN GAY: Oh, come on. Does the member mean just like some of the stuff put out by the former Government? In answer to the question whether we conducted rural and regional impact statements, I indicated that anything that went through Cabinet was subject to a rural and regional impact statement. With particular emphasis on the staff and offices in Parramatta, Broken Hill, Coffs Harbour, Goulburn and the Tweed, the Government is delivering responsible and stable government after many years of reckless financial management in New South Wales. The New South Wales Government is taking the hard decisions, the right decisions, to get the budget back on track so that we can build much-needed infrastructure and improve front-line services to our business community.

The PRESIDENT: Order! I cannot hear the Minister. Members will cease interjecting.

The Hon. DUNCAN GAY: Under Labor the New South Wales economy performed at the back of the pack.

The PRESIDENT: Order! I call the Hon. Steve Whan to order for the second time.

The Hon. DUNCAN GAY: The Australian Bureau of Statistics shows that in New South Wales jobs growth was the lowest of any State over the past decade, economic growth was the slowest of any State over the past decade and confidence was the lowest of any State for most of the last five years. The New South Wales Government is committed to backing small business and growing regional economies. We want to restore confidence and ensure that businesses in New South Wales are given the best opportunity to thrive and grow in today's highly competitive and versatile marketplace.

Upon coming to office last year the New South Wales Government appointed Ms Yasmin King as the State's first Small Business Commissioner, an independent voice and advocate for small business in this State. In her listening tour of the State Ms King found that the business support system left by the former Government—the members of which included the loud mouth opposite who is making all the noise, the Hon. Walt Secord—was full of gaps, overlooked some small businesses and left businesses in important economic regions of New South Wales having only limited or no access to local support services.

In an effort to correct these issues and better support small businesses across the State the New South Wales Government is replacing the Business Advisory Service and other small business support programs with Small Biz Connect, a single new small business support and advisory program. Small Biz Connect will introduce a new approach to the delivery of advisory and support services to small businesses in New South Wales that provides simple, user-friendly access for clients and access to a statewide network of skilled advisers.

Small Biz Connect is a contemporary business advisory program that will be targeted at addressing the needs of small businesses and focused on achieving strong outcomes for small business. Under the $5 million Small Biz Connect program each region in regional New South Wales will see an expansion of small business service delivery at a grassroots level. As part of our reforms to streamline and improve small business service delivery a restructure is taking place within NSW Trade and Investment. In some locations the Department of Trade and Investment, Regional Infrastructure and Services has multiple offices and a streamlining of these will occur. [*Time expired*.]

The Hon. MICK VEITCH: I ask a supplementary question. With regard to the rural impact assessment for this decision, will the Minister make that document public?

[*Interruption*]

The PRESIDENT: Order! I ask the Leader of the Opposition to hand to the Clerk the item that was thrown into the Chamber from the public gallery. I ask the Hon. Mick Veitch to restate his question.

The Hon. MICK VEITCH: With regard to the rural impact assessment for this decision, will the Minister make that document public?

The Hon. DUNCAN GAY: My answer yesterday covered that. I indicated that anything that goes through Cabinet has been the subject of a rural and regional impact statement. I indicate also that confidentiality attaches to anything that comes before Cabinet.

The Hon. Mick Veitch: But you are not going to make it public.

The Hon. DUNCAN GAY: Does the member want an answer about this or not? In some locations the Department of Trade and Investment, Regional Infrastructure and Services has multiple offices and a streamlining of these will occur. NSW Trade and Investment will retain a strong presence across New South Wales, with a total of 12 Enterprise, Small Business and Regional Development offices continuing to operate throughout the State. The New South Wales Government is committed to backing small businesses and we will ensure that they are provided with the best levels of support in the fairest, most equitable business environment possible.

The PRESIDENT: Order! There is far too much audible conversation in the Chamber and in the President's Gallery. The Minister will be heard in silence.

The Hon. DUNCAN GAY: These reforms have been welcomed by industry, including by the Executive Director of the Council of Small Businesses Australia, who said:

> It's really good. Rather than having events where they've got to wait for small business people to turn up somewhere advisers are now going to go and visit the small business operators. Rather than waiting for people to turn up to meetings, the NSW Government is focusing on going out into the businesses. We're all so busy that getting to small business events is hard yakka. It's a really good change and it's something we've been asking for.

WORKERS COMPENSATION SCHEME

The Hon. MATTHEW MASON-COX: My question is addressed to the Minister for Finance and Services. Will the Minister update the House on medical costs in the New South Wales workers compensation scheme?

The Hon. GREG PEARCE: I thank the member for his question. It is interesting that I do not get any questions from the Opposition or The Greens about the workers compensation scheme even though the scheme has become unsustainable. In response to the question I can report that one issue significantly hampering optimal scheme performance is that a significant amount is spent on medical services and benefits that do not contribute to improved health or a return to work. As I have said repeatedly, we need to be returning people to work as soon as possible. We need to strive for a scheme that is driving return to work outcomes and adopting best practices in rehabilitation.

In New South Wales, workers compensation benefits cover the cost of any medical or related treatment that is reasonably necessary for the treatment and rehabilitation of the compensable injury. There are no effective limits on the amount of time that these benefits remain available or to the total cost that can be

expended. Medical liabilities have increased over the last five years and now represent a significant proportion of the scheme's liabilities, placing upward pressure on premium costs. This trend is likely to continue as medical treatments become more sophisticated and expensive. The most recent national data available, the Comparative Performance Monitoring Report for the 2009-10 financial year, shows New South Wales had the highest expenditure on services to workers. These services encompass medical treatment, rehabilitation, legal costs, return to work assistance, transportation, employee advisory services and interpreter costs. Given current return to work results, this demonstrates a relatively poor return on investment in medical services.

Several Australian jurisdictions limit medical cost entitlements more effectively than New South Wales does. For example, in Victoria medical entitlements cease 12 months after the injury occurs or 12 months after incapacity payments cease, whichever is later, with some exceptions, such as a severe injury. The New South Wales workers compensation scheme provides insurance cover to over 267,000 New South Wales employers and their employees in the event of work-related injury. We need to get back to the fundamental aim of the scheme—that of returning injured workers to safe and durable employment. That is why this Government considers the improved management of the scheme is a matter of the highest priority.

BUS VANDALISM

The Hon. PAUL GREEN: My question without notice is addressed to the Minister for Roads and Ports, representing the Minister for Transport. In relation to my question without notice regarding bus vandalism on 20 October last year and the Minister's response on 24 November, in the last 12 months how many infringement notices have been issued for bus vandalism, how many of these were the actions of repeat offenders and what further actions will the Government be taking to reduce this problem?

The Hon. DUNCAN GAY: I thank the member for his question. With the best will in the world I am having difficulty remembering the question asked of me in November and my response to it. It is a serious question from a good member about an issue of importance for his region and the State as a whole. I will take it on notice and seek a response from the Minister for Transport.

NSW CENTRE FOR ROAD SAFETY

The Hon. PENNY SHARPE: My question is directed to the Minister for Roads and Ports. I refer to comments made yesterday by the former head of the NSW Centre for Road Safety that the Minister was advised that the centre disagreed with the assessment process used by the Auditor-General to determine which speed cameras should be turned off. The Centre for Road Safety believed that switching off these cameras would have a negative impact on safety. Does the Minister have full confidence in the NSW Centre for Road Safety? If not, why did he not follow its advice?

The Hon. DUNCAN GAY: First of all, the comments referred to were not those of the former head of Centre for Road Safety; they were comments in an email—

The Hon. Penny Sharpe: Stop debating the question.

The Hon. DUNCAN GAY: I am not debating the question. I am putting the question in the proper context. If the member wants to ask a question, she has to get it right. Frankly her question is wrong.

The Hon. Penny Sharpe: Point of order: This Minister has a habit of doing this. He constantly debates the question. He should answer the question, not debate it.

The PRESIDENT: Order! The Minister is not debating the question. The Minister is in order.

The Hon. DUNCAN GAY: Thank you, Mr President. The key to my answer is that they were not comments that the former head of the Centre for Road Safety made yesterday. They were comments contained in an email that he sent to my chief of staff last year. Let us get the context right. The former head passed on comments from another officer within the road safety area referring to the methodology used by the Auditor-General in his report. That officer had a different view about the type of methodology that should be used. Let us be clear about this. We made a firm commitment to conduct an independent audit, and I suggest that there is no better person qualified to conduct such an audit than the Auditor-General of New South Wales. There may well be differences of opinion about methodology, and that email did nothing more than express a difference of opinion about methodology. [*Time expired.*]

The Hon. PENNY SHARPE: I wish to ask a supplementary question.

The PRESIDENT: Order! The House will come to order so that I can hear the supplementary question.

The Hon. PENNY SHARPE: Can the Minister elucidate his answer on whether he has full confidence in the Centre for Road Safety?

The Hon. DUNCAN GAY: Absolutely. The Centre for Road Safety has been and is doing a great job. Having said that, I remind the member that we came to government with a policy of conducting an independent audit, without apology, into the effectiveness of road safety cameras in New South Wales—that is, speed cameras and mobile cameras—and that is what we did.

[*Interruption*]

The Hon. Duncan Gay: In response to that interjection—

The PRESIDENT: Order! The Minister will resume his seat. His time for answering the question has expired. I call the Hon. Eric Roozendaal to order for the first time.

HUNTER REGIONAL ACTION PLAN

The Hon. TREVOR KHAN: My question is directed to the Minister for the Hunter. Can the Minister update the House on the recent community consultations for the NSW 2021 Hunter Regional Action Plan?

The Hon. MICHAEL GALLACHER: Last year the Government released NSW 2021, our 10-year strategic plan to rebuild New South Wales and make it number one again. NSW 2021 sets out the Government's priorities for services and infrastructure to rebuild the economy, return quality services, renovate infrastructure, strengthen our local environment and communities, and restore accountability to government. The Hunter Regional Action Plan is being developed to identify the immediate actions the Government can take to deliver on community priorities, increase opportunities and improve the quality of life for people living in the Hunter.

The Hunter region is extremely important to New South Wales and its economy, boasting a $10 billion a year coal industry, with the world's largest coal export port, world-class medical and research institutes, and thriving beef, wine and tourism industries. The Regional Action Plan will seek to further capitalise these key strengths. Importantly, the Hunter Regional Action Plan will be linked to NSW 2021 to ensure a coordinated and community-driven approach based on priorities that will deliver the changes expected from this Government.

Two community forums were held in the Hunter, the first in Newcastle on the evening of 28 February 2012, and the second in Maitland the following evening. Participants at the forums were given two key tasks in helping to shape directions of the plan: to articulate their broad priorities for the Hunter region, and to set out the specific actions the New South Wales Government can take to achieve these priorities. At the Newcastle forum the Lower Hunter community indicated some of their ideas focusing on economic growth for the region, which included planning for the Newcastle central business district to revitalise the city and resolve its transport issues, providing support for the most vulnerable members of the Hunter community, and many more. In Maitland, the community of the Upper Hunter set out their regional priorities for infrastructure and transport, competing land use, population growth, and expansion of services for the aged, health and education.

The community forums have provided the Government with valuable local direction to drive the delivery of a regional action plan for the Hunter. The participation of a broad cross-section of businesses, government, environmental and community interests has provided great benefit to the forums, and this will help the Government to deliver a comprehensive regional action plan that is tailored to meet the specific needs of the Hunter community. I congratulate all of the representatives from the Hunter who participated in the best interests of the wider community.

DRIVE-BY SHOOTINGS

Mr DAVID SHOEBRIDGE: My question is directed to the Minister for Police and Emergency Services. Given that the figures of the Bureau of Crime Statistics and Research published just yesterday prove

comprehensively that increased prison terms have no impact at all on reducing rates of crime, does the Minister now accept that laws passed by this Parliament just last week that increase the maximum prison terms for some drive-by shootings from 14 to 16 years, unlike proven police initiatives like Strike Force Raptor, will have no impact at all on reducing drive-by shootings in this State?

The Hon. MICHAEL GALLACHER: I am happy to take that question from The Greens spokesperson against police who is building quite a reputation, I have got to say. "Old Buckets" Shoebridge, they call him.

The Hon. Amanda Fazio: Point of order: My point of order is that Minister should refer to members in this place by their correct titles and not by insulting titles.

The PRESIDENT: Order! The line of authority in Presidents' rulings that requires members to use the correct title of members of this place and members of the other place has a purpose. It maintains order and civility in the House and ensures a reasonable standard of debate. All members will observe that practice when they have the call.

The Hon. MICHAEL GALLACHER: I read with some interest the comments of Mr David Shoebridge yesterday in relation to drive-by shootings. He just does not get it. Put simply, the type of person who is prepared to shoot at a house, with children and other innocent victims potentially inside, can be treated in one way only: they must be sent to jail. No amount of slapping on the wrist or being talked to sternly will deal with such criminals, who are just one step away from being murderers if the bullets they fire into houses inadvertently kills someone. The Greens have no idea about the types of criminals that are being dealt with by the NSW Police Force. On the one hand Mr David Shoebridge wants to support the work of Strike Force Raptor and on the other hand he is blinded by the view that somehow we can stop crime if we give people a job and by sharing community wealth.

Mr David Shoebridge: Yes, that is right.

The Hon. Jeremy Buckingham: That is right.

The Hon. MICHAEL GALLACHER: That is right they say. They have has just stepped off the good ship Lollypop yet again. How innocent are these fools? They do not understand criminality, greed and violence. It cannot in any way be suggested that people involved in such violent crime should be dealt with in the same as we should deal with the young offender who is charged for the first, second, third or fourth time with graffiti offences. They are just not the same sort of people. But, of course, that does not stop Mr David Shoebridge from making the assertion that somehow if only we sat around the table—

The PRESIDENT: Order! Mr David Shoebridge has asked a question and he will give the Minister an opportunity to answer it. He has the opportunity to respond at another time, if he wishes to do so.

The Hon. MICHAEL GALLACHER: I make the following plea. If Mr David Shoebridge is interested, I would be happy for those who are involved in drive-by shootings to send their curriculum vitae to Mr David Shoebridge. They obviously want a job. They are looking for a job. They can work in his office. [*Time expired.*]

CATEGORY C NATURAL DISASTER ASSISTANCE

The Hon. STEVE WHAN: My question is directed to the Minister for Police and Emergency Services. The Minister previously advised that the areas of Walgett, Moree, Narrabri and Gwydir have been granted category C natural disaster assistance by the Federal Government. Will the Minister advise the House whether the Government has applied to the Federal Government for category C assistance for other natural disaster declared areas in the State? If the answer is yes, will the Minister advise which areas are involved? Will the Minister advise also the total amount of the grant available for each claimant?

The Hon. MICHAEL GALLACHER: I am pleased that finally the Hon. Steve Whan has asked a question about flood-affected country New South Wales. The Hon. Steve Whan purports to be a member of Country Labor but I remind him that there has been flooding for some weeks and he has not asked one question about flooding or what is happening in this regard. It is an important question because communities in 75 per cent of the State are looking for a response from government. They most certainly got quick a response

about natural disaster declarations. Not too members who would know—but I am sure the Hon. Steve Whan knows—that category C assessment is quite a lengthy process and it involves the Federal Government. It is a different approach from that taken by the New South Wales Government to natural disaster declarations.

It requires the Department of Primary Industries working with local farmers and local communities to assess the level of damage to communities in these areas. I assure the Hon. Steve Whan that the work is being done, the magnitude of which is not lost on members on this side of the House as it relates to 75 per cent of the State. I am told by experts among State Emergency Services personnel that the area affected by flooding in New South Wales equates to an area the size of Spain. As I have said, we have people from the Department of Primary Industries working with local farmers and local communities. Category C recovery grants may be provided to eligible primary producers and small businesses to contribute towards the cost of disaster recovery. These grants are reserved for natural disasters at the more serious end of the scale where communities, regions or sectors, such as industry sectors, have been severely affected. Category C grants are not intended for every natural disaster.

They are not automatically available when a disaster is declared. Importantly, category C recovery grants need to be approved in writing by the Prime Minister and the Premier on a case-by-case basis and usually only after disaster impact assessments have been completed. The amount of financial assistance that is provided under category C grants is determined at the time that the grants are activated. They also take into account the circumstances and impact of the disaster. New South Wales usually provides $15,000 grants, although grant maximums can be set to $25,000 under the natural disaster arrangements. Amounts of $25,000 are reserved for the upper range of disaster events.

Small business recovery grants are reserved for disasters where the business sector is severely affected and the community risks losing essential businesses. Primary producer recovery grants are reserved for disasters where the farming sector is severely affected, with threats to viability and disruption of production likely to extend beyond the current season. In relation to other natural disaster areas to which the Hon. Steve Whan referred, I will seek information about them and report back to the House.

DP WORLD TERMINAL

The Hon. DAVID CLARKE: My question is addressed to the Minister for Roads and Ports. Will the Minister update the House on the increase in rail capacity at the DP World terminal at Port Botany?

The Hon. DUNCAN GAY: Today after leaving Arncliffe railway station I joined senior executives of the DP World team at Port Botany to inspect the increased rail capacity at the DP World terminal. The just-completed expansion of rail yards at DP World's Port Botany terminal has the potential to increase rail moves by 500 a week, or 26,000 a year. If we equate that to truck movements, up to 20,000 trucks a year will be off our roads, and that would have a big impact on traffic around the port and the community. On behalf of members of the House I congratulate DP World for progressing rail capacity upgrades and the State-owned Sydney Ports Corporation for leading and implementing a rail strategy dedicated to improving the efficiency of the Port Botany rail supply chain.

The creation of a dual rail entry-exit point into the terminal and the new third operational rail siding will provide greater rail productivity in the terminal as multiple trains can be worked using equipment on both sides of each train at the same time. DP World is now able to accommodate longer trains in its rail yard without hindering the arrival and exit of other trains, which has led to a big increase in efficiency. Given that 85 per cent of containers originate from or are bound for a destination within 40 kilometres of Port Botany, it is imperative that new rail freight infrastructure is built to reduce the impact on local roads.

Sydney Ports Corporation, through the multi-stakeholder Port Botany Rail Team, is committed to supporting the New South Wales Government's goal of doubling the proportion of container freight moved by rail through New South Wales ports by 2020. A major part of that strategy is the development of the $300 million rail Intermodal Logistics Centre at Enfield, which will have the potential to handle 300,000 containers a year. When that facility is operational next year we will be a big step closer to reaching that 28 per cent target of freight on rail.

On a related note, today Stockland has announced that it has entered into an agreement to sell its interest in the Moorebank Intermodal Property Trust to QUBE Logistics. QUBE has a great deal of experience in the logistics field and its commitment to the purchase of Stockland's share demonstrates its commitment to the

Moorebank intermodal proposal. I encourage the Commonwealth Government to continue to work with QUBE to progress the development of an intermodal precinct at Moorebank incorporating both the privately funded Sydney Intermodal Terminal Alliance proposal and the Commonwealth Government's proposed intermodal facility. The New South Wales Government remains committed to supporting the intermodal project at Moorebank.

ENVIRONMENTAL DEFENDER'S OFFICE

The Hon. ROBERT BROWN: My question is directed to the Minister for Police and Emergency Services, representing the Attorney General. Is it a fact that in the past financial year the New South Wales Environmental Defender's Office has received funding of more than $1.8 million from the State Government, including $1.6 million from the Public Purpose Fund administered by the Attorney General? Is the Minister aware of claims that this same group provided legal advice for a campaign to "disrupt and discredit the Government's policy on mining and land use"? How much money has the Public Purpose Fund provided to the Environmental Defender's Office this financial year and will the Government now immediately terminate future funding arrangements?

The Hon. MICHAEL GALLACHER: I thank the honourable member for his question, which deserves a detailed answer from the Attorney General. As soon as I receive an answer I will bring it to the member's attention.

MINERALS COUNCIL

The Hon. PETER PRIMROSE: My question is directed to the Minister for Roads and Ports. Is the Minister aware that the chief executive officer of the Minerals Council—the former chief of staff of the Treasurer—told an exploration conference earlier this week that the New South Wales Minerals Council had "worked hard over the long consultation period to minimise the impact of the policy on explorers, including making sure the draft aquifer interference policy has a minimal effect on exploration activities"? Given that the Minister was responsible for writing this policy, did he intend exploration activities to be exempt from the aquifer interference policy?

The Hon. DUNCAN GAY: The member began his question by asking whether I was aware. The answer is, no, I was not aware, and I thank him for enlightening me. The gentleman to whom he referred is the chief executive officer of the Minerals Council and as such he is prosecuting the role he is charged with in an appropriate manner. He is a decent man with whom I worked in a past life, as have other members. People have a lot of respect for him because, frankly, he deserves it. Did he play a part in developing the policy that the Government put together? No, he most certainly did not. He was working for the then shadow Treasurer, I think. He may have been working somewhere else or he may not have been working at all. The Minerals Council had a different chief executive officer at the time—Nikki Williams. Her deputy chief executive officer, Sue-Ern Tan, was a former employee of Michael Egan.

The Hon. Penny Sharpe: She worked for Ian Macdonald.

The Hon. DUNCAN GAY: Sue-Ern Tan worked for Ian Macdonald. Sue-Ern Tan and Fiona Simpson—for whom I have a great deal of respect and who are outstanding representatives of their industry—both worked with me in developing that policy. As far as the premise of the question is concerned—that is, was I aware—no, I was not aware. I thank the member for making me aware. The policy that we developed in opposition was not developed with the current chief executive officer; the policy that has been implemented was developed by other members of the ministry.

UNPAID FINES

The Hon. CATHERINE CUSACK: My question is directed to the Minister for Finance and Services. What is the Government doing to recover overdue fines owed to the Office of State Revenue?

The Hon. GREG PEARCE: I have recently announced that the Government will be fast-tracking actions to address the unsustainable level of overdue fines owed to the Office of State Revenue. Along with the $5.2 billion black hole that we inherited from the Labor Government, we also inherited an unsustainable level of debts owed to the State Government. The level of outstanding fines currently stands at about $850 million, having escalated under the Labor Government to $1 billion in March last year. The level of outstanding fines is unsustainable both from a debt management and enforcement point of view.

The vast majority of people pay fines on time and it is not fair for a small minority to commit offences and leave the rest of us to foot the bill. It makes a mockery of the police officers and the courts who issue and impose the fines, and of those who do the right thing. The issue was simply left in the too-hard basket for too long. Some fines on the books date from when Labor came to power in 1995.

The Hon. Dr Peter Phelps: Shame.

The Hon. GREG PEARCE: Shame, indeed. I know that the Labor Government was negligent, that it did not care much about many issues and that it did not achieve much. However, this is one of the things that demonstrates that it could not even get the fundamentals right. Money owed to the State Government was simply not collected and fines were not pursued. This is money that funds teachers, police officers and nurses; it is money that keeps our schools and our hospitals operating. This Government wants to send a clear message that people can no longer pile their unpaid fines into the car glove box, especially if they have been caught travelling in a bus lane.

The Hon. Luke Foley: Did the Parliament bill you?

The Hon. GREG PEARCE: No, I was appointed Minister with responsibility for water.

The PRESIDENT: Order! The Minister will ignore the interjections and continue with his answer.

The Hon. GREG PEARCE: This Government is taking immediate action: it has established a central debt management division in the Office of State Revenue and it has appointed a chief recovery officer to oversee the division. We are taking a new approach under new leadership and pursuing the payment of fines. We are also trialling four external debt collection agents to help reduce the level of outstanding fines. External debt collection agents are used by a number of government agencies, including the Australian Taxation Office.

The Hon. Dr Peter Phelps: What, the Federal Labor Government outsources?

The Hon. GREG PEARCE: Yes, the Federal Labor Government outsources work. The agents will be contracted for a two-year period and will perform a controlled range of activities as agents for and under Office of State Revenue management. These activities include locating and contacting people with outstanding fines to encourage them to settle their debt and, if necessary, issue statements of demand. The agents will be bound by obligations under New South Wales privacy and fines legislation as well as the joint Australian Competition and Consumer Commission and Australian Securities and Investments Commission debt collection guidelines for collectors and creditors. People will still use the Office of State Revenue to make payments, lodge enquiries and to get payment options. The debts will not be assigned or sold to the agents and the contracts will include strict Office of State Revenue protocols. The Government is committed to reducing the number of unpaid fines and following through with fines that are issued.

The Hon. MICHAEL GALLACHER: The time for questions has expired. If members have further questions I suggest that they place them on notice.

Questions without notice concluded.

ASSENT TO BILLS

Assent to the following bills reported:

Crimes Amendment (Consorting and Organised Crime) Bill 2012
Criminal Case Conferencing Trial Repeal Bill 2012
Marine Pollution Bill 2012
Real Property Amendment (Public Lands) Bill 2012

ROAD TRANSPORT LEGISLATION AMENDMENT (OFFENDER NOMINATION) BILL 2012

Second Reading

Debate resumed from an earlier hour.

The Hon. LYNDA VOLTZ [3.31 p.m.]: I support the Road Transport Legislation Amendment (Offender Nomination) Bill 2012. The objects of the bill are to amend the Road Transport (General) Act 2005 to increase the maximum monetary penalty that a corporation will be liable to pay for a certain kind of camera

recorded traffic offence under section 179 of that Act when the corporation is liable for the offence because of a failure to nominate the actual offender; to enable a statutory declaration that nominates a person under the section to deal with more than one offence if each of the offences are camera recorded offences detected by the same camera device at approximately the same time; to provide that a penalty notice served by post on a responsible person under the section is taken to have been served seven days after it was posted, instead of the current 21 days, unless the person proves otherwise; and to enable an authorised officer or prosecutor to obtain additional information from a responsible person who makes a nomination under the section, including by means of a personal interview with the person, concerning identity of the nominee.

This bill follows the revelation that a loophole was being used by companies to avoid demerit points. In particular, it follows the revelation that Max Markson should have lost his licence multiple times after cameras caught his car speeding at least 20 times in the previous 20 months. Mr Markson spent at least $35,000 in 20 months. He did not bother to fill out a declaration; he opted to pay an extra penalty of more than $1,000 instead. This became known as the loophole for the rich. In October 2010 the then Minister for Roads, David Borger, announced that Cabinet had approved a set of laws quintupling fines for drivers not prepared to accept responsibility for their actions.

If a company vehicle was caught speeding at more than 20 kilometres an hour the fine would increase from the current $361 to $1,805, on top of the existing $1,089 for failing to nominate. If a company vehicle was caught speeding at more than 45 kilometres an hour the fine would increase from $1,865 to $9,325. The maximum court fine for failing to nominate would rise from $3,300 to $5,000 for an individual and $11,000 for a company. At that time, Mr Borger said that companies would have six months before penalties would be introduced.

I am surprised that the Government has not closed another loophole while bringing this legislation before the House. As noted in the Markson case, each speeding fine comes with a statutory declaration in which the driver is meant to be nominated. It would take some effort to ignore the statutory declaration that comes with the fine and instead find a Commonwealth statutory declaration form to fill in. Indeed, if one went to the Federal Attorney-General's Department website to download the Commonwealth form one would be clearly informed that a person wishing to use a Commonwealth statutory declaration should do so in connection with the law of the Commonwealth, the Australian Capital Territory or certain other Territories, and must act in accordance with the Statutory Declarations Act 1959 and the Statutory Declarations Regulations 1993. The form must be filled in for all matters arising under a law of the Commonwealth, the Australian Capital Territory or certain other Territories.

One would think that someone who was a member of the Legislative Assembly for eight years and was required to sign the nominations of numerous justice of the peace applications might have a passing acquaintance with the Oaths Act 1900. But not the former member Steve Cansdell, who sought out a Commonwealth statutory declaration, which the Attorney General has decided is a loophole within the law that means he cannot be charged. At no point has the Attorney General explained why Mr Cansdell could not be charged under section 330 for making a false statement not amounting to perjury. The Attorney General has not informed the public why he cannot be charged under section 11 of the Statutory Declarations Act 1959, where the penalty for making a false statement in a statutory declaration is four years imprisonment.

The Hon. Dr Peter Phelps: Point of order: My point of order is relevance. I understand that second reading debates usually have a wide degree of latitude. However, I cannot see, even given a broad interpretation, how this is directly relevant to the bill before the House.

The Hon. LYNDA VOLTZ: To the point of order: This bill directly relates to loopholes within the law that are being abused by people to avoid nominating drivers, to avoid losing points and having their licences taken away. When we are dealing with loopholes in the law and closing one loophole, we should be considering another loophole in regard to statutory declarations, given that this bill directly relates to statutory declarations and whether they are or are not filled in.

The Hon. John Ajaka: To the point of order: Put simply, this bill is specifically in relation to the actions of corporations, what corporations are required to do. It has nothing to do with individuals. I respectfully submit that this is clearly not relevant.

Mr David Shoebridge: To the point of order: Corporations act through people and if corporations wish to challenge or address any of these matters they will act through a statutory declaration signed by an officer of the corporation. Clearly, what the member is saying is absolutely relevant to the ongoing compliance problems with this legislation and is pertinent to the issue at hand in the second reading debate.

The Hon. LYNDA VOLTZ: Further to the point of order: Government members should be aware that these offences are not only fines given to companies but also individuals within those companies.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! I ask the member to be generally relevant in her remarks and to be mindful of the issues raised by others members.

The Hon. LYNDA VOLTZ: I am happy to continue to be generally relevant. The Attorney General needs to inform the public, and perhaps this House and the other House, why under section 11 of the Statutory Declarations Act 1959 the penalty of four years imprisonment for making a false statement under the Commonwealth Act is not used. We should be mindful that Marcus Einfeld was given two years imprisonment for a similar kind of offence. Given this Government's penchant for harmonisation, perhaps it is time the Attorney General looked at the Standing Committee of Attorneys-General Working Group on Harmonisation of Statutory Declarations Regulation Options Paper of 2007, which goes directly to this matter and has a number of recommendations that should be taken up. The Government should, in this instance or another, in this bill or another bill, close the loophole that allows Commonwealth statutory declarations to be used rather than the statutory declaration that is provided if offenders are not going to be prosecuted, as is the case with the former member for Clarence, who has clearly stated—

The Hon. Dr Peter Phelps: Point of order: The member is again straying so far from the mark of what this bill is about. I ask that the member be drawn back to the substance of the bill. She should not go off on wild goose chases in relation to the interpretation and legal position of Commonwealth and State statutory declarations, which is clearly beyond the purview of this bill.

The Hon. LYNDA VOLTZ: To the point of order: I refer the Government Whip to the rules of debate of this House, which state that any debate on a bill before the House is to the long title of the bill. In this instance the Road Transport Legislation Amendment (Offender Nomination) Bill 2012 is the long title of the bill and statutory declarations are an integral part of the bill. I appreciate that the Government Whip wants to try to cover up this issue, but my comments relate directly to the bill. The Government should answer these questions.

The Hon. Dr Peter Phelps: To the point of order: The accusation has been made that there has been an attempted cover-up. There has been no attempt to cover anything up. I simply request that the Hon. Lynda Voltz, who is straying far and wide, be drawn back to the leave of the bill. There have been no proposals to amend the bill, as far as I am aware, to take account of the subject that the member is referring to. The Hon. Lynda Voltz is embarking on a wild goose chase, probably with the intention to defame a former member of the other place, and abusing the privileges of this place. I ask that she be drawn back to the leave of the bill.

Mr David Shoebridge: To the point of order: The Government Whip is abusing the standing orders by effectively challenging the Chair's earlier ruling on exactly the same point of order. The Chair directed the member to be generally relevant. The Hon. Lynda Voltz is being generally relevant. As I said before, ensuring the veracity of statutory declarations, and being able to enforce and penalise those who falsely fill in statutory declarations when those people are acting on behalf of a corporation, is a necessary element of the compliance regime set up by this bill. Surely the member can address that issue.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! Wide latitude has always been extended during second reading debates. Members' comments should be generally within the objects of the bill. The Hon. Lynda Voltz will confine her remarks to the leave of the bill. She should avoid personal observations of other cases that may be outside the context of the bill.

The Hon. LYNDA VOLTZ: I certainly would not refer to cases that are outside the context of the bill. I am happy to refer to cases within the context of the bill, particularly as the bill relates to the nomination of an offending driver and the use of statutory declarations. With this bill the Government has an opportunity to close loopholes within the statutory declaration regime. In fact, the origin of the bill was in response to the identification of a specific loophole where someone, who was rich and who wanted to avoid paying a fine, did not fill in a nomination form.

Another loophole has now been found where instead of filling in a form and paying an additional fine, another person has used a Commonwealth statutory declaration form. The Government should ensure that all these loopholes are closed. The Government should ensure that either the loophole for the use of a Commonwealth statutory declaration is closed or that it should be an offence to make a false statement within a Commonwealth statutory declaration form and that any such person should be prosecuted. The Government should be using bills such as this to close all known loopholes in the filling in of statutory declaration forms.

The Hon. JOHN AJAKA (Parliamentary Secretary) [3.43 p.m.], in reply: I thank all members for their contribution to this debate. Sadly, the contributions of some members were well outside the ambit of the bill. It is a shame that those members have taken this opportunity to attack a former member.

The Hon. Lynda Voltz: Point of order: The Hon. John Ajaka is clearly canvassing the ruling of the Chair in respect of my contribution to this debate. I ask that the Hon. John Ajaka be drawn back to the long title of the bill.

The Hon. JOHN AJAKA: To the point of order: I am doing exactly what I am required to do: I am speaking in reply to the contributions of all members to this debate.

The Hon. Lynda Voltz: To the point of order: The Hon. John Ajaka was clearly referring to a ruling of the Chair. Members are not allowed to reflect on directions from the Chair. I ask that the Hon. John Ajaka be drawn back to the long title of the bill.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! The Parliamentary Secretary is replying to the arguments raised during debate.

The Hon. Lynda Voltz: Point of order: The member is attacking the Chair.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! I doubt that the Hon. John Ajaka would take that position. If the member were to do so, I would address the issue.

The Hon. JOHN AJAKA: I have the greatest respect for the Deputy-President; that would never happen. I also take this opportunity to acknowledge the contribution of the shadow Minister for Roads and Ports, Mr Robert Furolo, in another place for his early consideration of the bill, which will result in a Government amendment during the Committee stage. That amendment will provide protection for those persons who may have simply overlooked the fact that their licence has expired from prosecution for a low-range drink-driving offence—I will speak more about this later. The increased fines proposed in the bill will apply only if a company does not nominate. If it does nominate, there are no fines to pay. The requirement to provide other information if directed will protect persons who have been wrongfully nominated as the offender. It will also ensure that persons who may be attempting to evade the responsibility for offences are correctly held accountable.

In response to a comment by the Hon. Jeremy Buckingham about companies continuing to pay fines, I would point out that other measures are already in place to suspend registration of a vehicle where a company has been issued three penalty notices for not nominating drivers. This additional measure will continue to apply. In closing, I thank members for their support of the reforms in this bill. These measures will provide further deterrents to those remaining companies from doing the wrong thing and not nominating offenders.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 and 2 agreed to.

Schedule 1 agreed to.

The Hon. JOHN AJAKA (Parliamentary Secretary) [3.48 p.m.]: I move Government amendment No. 1 on sheet C2012-031:

No. 1 Page 7, schedule 2.3 [1], lines 10–13. Omit all words on those lines. Insert instead:

(ii) the person (in New South Wales or elsewhere) has ceased to hold a relevant driver licence or authority as a result of the cancellation or suspension of the licence or authority, or

(iii) the person (in New South Wales or elsewhere) has ceased to hold a relevant driver licence or authority as a result of the expiry of the licence or authority (being a licence or authority that has been expired for a period of more than 6 months), or

This amendment to the Road Transport Legislation Amendment (Offender Nomination) Bill 2012 proposes an amendment to the Road Transport Safety and Traffic Management Act 1999. The proposal is to include a driver whose unrestricted licence has expired into the special category driver provisions. The special category driver has a legal blood alcohol limit of 0.02. Currently unauthorised drivers are special category drivers. Unauthorised drivers are those that are disqualified, who have had their licences cancelled, suspended or refused or who have never held a licence. The only anomaly is a driver that is unlicensed because the licence has expired. In this case the legal blood alcohol limit remains at 0.05, which is the same as when the licence is current.

The proposed amendment seeks to remove this anomaly and introduce consistency in the way all unauthorised drivers are treated in terms of their legal blood alcohol limit. Officers from the Minister's office along with representatives from Transport NSW provided a briefing to the Hon. Robert Furolo, the shadow Minister for Roads and Ports. During that briefing the impact that an immediate reduction in legal blood alcohol limits may have on a driver who overlooked the fact that their licence had expired was discussed. Subsequent to those discussions the Minister proposed an amendment to the bill. The Minister has asked that I thank the honourable member for his contribution.

A licence may expire because the holder simply overlooked the fact that the expiry date has been reached or because the holder was not in a position to renew the licence prior to expiry because of being, for example, in hospital or perhaps travelling overseas. It is acknowledged that a driver who is unaware that their licence has expired may unknowingly and unintentionally find themselves the subject of a serious alcohol offence even though their intention was to do the right thing and remain under the 0.05 limit.

In this regard the Government has requested an amendment to the bill as originally tabled. The amendment provides that the reduced blood alcohol limit of 0.02 will not apply from the date the licence expired but instead only after a period of six months from the expiry date. Roads and Maritime data shows that by far the majority of licences are renewed either before the expiry date or within one month after expiry. This change will ensure that only those persons who have not renewed their licence for a protracted period will be subject to the reduced legal blood alcohol level. There is little justification why these unauthorised drivers should be treated any differently from other unauthorised drivers, which is the intent of this proposal.

The Hon. SOPHIE COTSIS [3.52 p.m.]: The Labor Opposition supports the Government's amendment to schedule 2.3 of the bill changing the general definitions in new section 8 (3) (b) to treat persons with expired licences as special category drivers so that holders of expired licences will be subject to a blood alcohol limit of 0.02. Currently the blood alcohol limit applying to holders of expired licences is 0.05. The Minister has indicated in his second reading speech that schedule 2.3 corrects an oversight in 2009 when such an amendment was meant to be made during legislative changes made at the time. Nevertheless, Labor has concerns about due process and fairness.

We do not question that if you have had your licence cancelled or suspended then you should be subject to a lower blood alcohol limit. As I indicated in my speech on the second reading, we believe having an expired licence is different from having your licence cancelled or suspended. If you have had your licence cancelled or suspended it is a result of breaking the rules and regulations which help to keep our roads safe. This is not the case when a licence expires. There are cases where people deliberately allow their licences to expire. Whatever the reasons may be, the licence was not cancelled or suspended due to a breach of road regulations. Licences can expire as a result of circumstances not in the control of the licence holder.

Most of us in this place are lucky enough to have secure and permanent residences. However, there are many in our community that may not be so lucky. For many people moving residences is the norm. Under these circumstances people may inadvertently end up with expired licences. Would it be fair if under such circumstances they were pulled over for whatever reason and, believing that they are subject to a blood alcohol limit of 0.05, find themselves breaking the law after having a glass of wine with their dinner? Perhaps there was a computer glitch with the payment system used to pay for their licence renewal or there were computer problems at the bank.

While these situations do not happen frequently, they have happened. People should not be punished for circumstances beyond their control. A holder of a licence that has expired should not be treated the same as a person who has had their licence cancelled or suspended. One situation involves what could be called an administrative oversight but cancellation of a licence cancelled usually means that the holder has broken a law that possibly has involved a risk to other road users. Also, we should not expect people to know that simply because their licence has expired they are suddenly subject to different rules.

We appreciate very much that the Government has listened to the concerns of Labor and the shadow Minister, Robert Furolo, and, as a result, has moved this amendment to give holders of expired licences six months before the reduced 0.02 blood alcohol limit applies. It is not ideal as it does not address our concern that it is fundamentally unfair to suddenly change the rules applying to licence holders without good reason. We will support the Government's amendment as it gives licence holders time to renew their licence. The Labor Opposition also suggests to the Government that when Roads and Maritime Services writes to licence holders advising them that their licences have expired it inform them that after six months they will be subject to a 0.02 blood alcohol limit if they do not renew their licence.

Question—That Government amendment No. 1 [C2012-031] be agreed to—put and resolved in the affirmative.

Government amendment No. 1 [C2012-031] agreed to.

Schedule 2 as amended agreed to.

Title agreed to.

Bill reported from Committee with an amendment.

Adoption of Report

Motion by the Hon. John Ajaka, on behalf of the Hon. Duncan Gay, agreed to:

That the report be adopted.

Report adopted.

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

COURTS AND CRIMES LEGISLATION AMENDMENT BILL 2012

Second Reading

Debate resumed from 13 March 2012.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [3.59 p.m.]: I lead for the Opposition on the Courts and Crimes Legislation Amendment Bill 2012. The Opposition does not oppose the bill, the object of which is to amend the Criminal Procedure Act, the Criminal Procedure Regulation, the Director of Public Prosecutions Act and the Fines Act. In introducing this bill the Attorney General characterised it as making miscellaneous amendments to courts and crimes related legislation as part of the Government's regular legislative review and monitoring program. That program operates regardless of which government is in office or the nature of the political parties constituting the government. Such bills usually involve a disparate number of essentially unrelated provisions that are, for reasons of efficiency, located in an omnibus bill.

Amendments to section 267 of the Criminal Procedure Act make changes in relation to the maximum sentences able to be imposed by local courts. The bill provides that the maximum penalty a local court can impose when dealing with indictable matters being heard summarily is two years imprisonment. In Local Courts the present maximum for such offences is 12 months and for some others it is 18 months. The offences concerned are set out in tables to schedule A to the Criminal Procedure Act. If dealt with by way of indictment, and thus essentially in the District Court, the maximum possible penalty for these offences would be more than two years imprisonment. In the case of Doan in the New South Wales Court of Criminal Appeal the court made clear that this two-year limit was a jurisdictional limit, not a maximum penalty. Matters dealt with summarily in the Local Court should receive penalties reflecting the objective seriousness of the offence, not a lower jurisdictional limit.

The distinction between summary and indictable offences is often based largely on historical issues. If a matter is not strictly indictable, whether it proceeds summarily depends first upon whether the police officer or prosecuting authority thinks a matter is sufficiently serious to likely attract a sentence outside or in excess of the Local Court jurisdiction. Raising the jurisdictional limit would thus presumably increase the number of matters

dealt with in the Local Court and, on this logic, would not lead to materially different sentences. That at least is the logic of the December 2010 report of the Sentencing Council, which said that in the genesis of this proposal it considered a number of other issues including extending the jurisdictional limit of the Local Court to five years imprisonment. While there was some support for that proposal, there was also considerable opposition in a variety of submissions. At page 39 the Sentencing Council summarised its position as follows:

> The council is of the view that the sentencing statistics do not support the need for a general increase in the Local Court's jurisdiction. Additionally it accepts that there are sound policy reasons for preservation of the status quo, as identified in the submissions earlier noted.

That position also makes sense to the Opposition. It makes the obvious point that the key is appropriate and consistent consideration by prosecuting authorities about which matters go to the Local Court with its jurisdictional limit and which matters go to the higher courts. However, the council does recommend the change now contained in this part of the bill. At paragraph 4.14 the report states:

> The council notes that there are a number of offences for which the sentencing jurisdiction of the Local Court is limited to the imposition of imprisonment for 12 months or 18 months—as disclosed in Annexure B.
>
> It is assumed that the limit has been adopted so as to encourage election by the ODPP in these cases, on the basis that they are potentially more serious than the remaining offences for which a two-year limit applies.
>
> The council is of the view that the jurisdictional limit should be the same for all Table 1 and Table 2 offences (i.e. those that attract a maximum sentence of two years or more) and that the current system invites, or at least risks, errors on the part of the police or prosecuting authorities in assuming that as a Table 1 or 2 matter it is likely that an appropriate sentence can be imposed in the Local Court.
>
> Amendment of the *Criminal Procedure Act*, in this respect, would go a considerable way towards ensuring that the Local Court has adequate sentencing powers for these cases. Moreover, improvements in the procedure for referral of cases to the ODPP for election, as noted earlier in this chapter, should ensure that the more serious cases involving offences within this group are heard in the District Court.

If this proposed amendment were to be a generalised increase in penalties the Opposition would have significant reservations about it, not least because there has been no argument made in support of that. However, that is not the basis upon which the Government puts the case nor is it the view of the Sentencing Council. The Court of Criminal Appeal makes clear how a jurisdictional limit is to be interpreted. While this change might lead to a limited increase in the volume of work in the Local Court, it should not lead to longer sentences except in those presumably very rare cases where the police or the Office of the Director of Public Prosecutions mistakenly thought the jurisdictional limit for a particular offence was two years when in fact it was less.

Item [4] of schedule 1.1 makes changes to section 268 of the Criminal Procedure Act. Although not mentioned by the Attorney General in the other place in his agreement in principle speech, these changes increase the maximum fines that may be imposed by the Local Court in relation to a number of offences. The maximum fine that may be imposed by the Local Court when dealing summarily with offences under sections 51, 61 and 61N of the Crimes Act is increased from 20 penalty units to 50 penalty units. These offences relate to some assaults and acts of indecency.

There are also proposed amendments to the Criminal Procedure Act and Criminal Procedure Regulation in relation to the evidence able to be adduced in prosecutions relating to child abuse material offences. These alterations change the reference of an "authorised analyst" authorised by the Attorney General and the Director of Public Prosecutions to an "authorised classifier" who is a member of the Police Force and has undertaken training in the classification of child abuse material. The training provision is new. The sample to be classified is now a random sample of all the material seized, not just of the child abuse material. This may then include material that is not child abuse material. It will be then more representative of all the material seized. That change makes some sense. The legislation continues to provide that the defence has the opportunity to see all the seized material before the random sample evidence is admitted into evidence.

Section 299B of the Criminal Procedure Act is amended to clarify in relation to the protection of sexual assault communications that the court can consider documents subject to a claim of such privilege to determine whether in fact they contain a protected confidence. The regulation-making power is amended to allow regulations to be made in respect of subpoenas requiring production of a document recording a counselling communication in any criminal proceeding, not just in sexual assault proceedings. Further amendments to the Criminal Procedure Act will allow certain currently solely indictable offences under the Property, Stock and Business Agents Act and the Conveyancers Licensing Act to be dealt with summarily.

A sensible amendment is made to the Fines Act to take into account the introduction of JusticeLink in most New South Wales courts. This means court fines can now be automatically referred to the State Debt Recovery Office electronically. The remaining sections of the bill relate to the Director of Public Prosecutions. This set of amendments relates to the payment of the judges' pension to the person occupying the position of Director of Public Prosecutions. It seems to treat the director in the same way as a judge who is medically retired or who dies while in office. That is a very suitable and sensible change or clarification of the law. As I stated earlier, the Opposition does not oppose the bill.

Mr DAVID SHOEBRIDGE [4.06 p.m.]: On behalf of The Greens I indicate that we do not oppose the Courts and Crimes Legislation Amendment Bill 2012. Indeed, in large part The Greens wholly support the bill. The bill is another modest piece of criminal procedure reform by the Government. It is part of the ongoing standard reforms that we see come through this House on a six-month to 12-month basis. As with other reforms The Greens have supported, we commend sensible and rational law reform being introduced by any government, no matter what its political stripes.

The Hon. Melinda Pavey: And thank the Attorney General.

Mr DAVID SHOEBRIDGE: And I thank the Attorney-General's staff for their hard work in producing such a fine piece of legislation. I note that the first object of the bill is to provide a uniform limit on the maximum term of imprisonment that may be imposed by the Local Court when dealing summarily with an indictable offence other than with respect to certain offences under the Drug Misuse and Trafficking Act 1985. As the Deputy Leader of the Opposition indicated, this reform has come about after some fairly lengthy and detailed consultation with legal practitioners more broadly. It provides greater though not perfect uniformity and The Greens do not oppose that provision.

The bill increases the maximum fine that may be imposed by the Local Court when dealing summarily with certain indictable offences. Being in a position to impose a meaningful fine over and above the extremely modest fines proposed at the time effectively means various relatively modest criminal offences have similar penalties applied to them. That basic rule of consistency in penalty for similar offences is something that The Greens support, especially in cases such as this where the penalty is not excessive. This will allow certain indictable fraud offences under Acts such as the Conveyancers Licensing Act and the Property Stock and Business Agents Act to be dealt with summarily by the Local Court.

There is some modest concern about fraud offences being dealt with summarily because of the complicated nature of fraud and the often detailed evidence and facts that go to establishing the offence, but after consultation with the Attorney General's staff and some members of the legal profession The Greens are satisfied that in the relatively modest number of cases likely to arise under these Acts and the other protections provided it is an acceptable and probably sensible law reform and The Greens do not oppose it. The bill changes the requirements for child abuse material in proceedings for offences relating to the use of children in the production of child abuse material and the production, dissemination and possession of such material.

Given the often offensive and extremely large amount of material that can be produced in relation to these kinds of offences—shamefully often thousands of images contained on computer hard drives and the like—there must be a rational way for the criminal justice system to get a representative sample of the nature of the offensive material in order to put it before the courts without having to require every single offensive image to be produced. Having in place provisions for a random sampling of the material rather than a selective sampling is obviously the rational way of balancing the need to have some efficiency and, hopefully, some relative simplicity in the criminal prosecution with ensuring some kind of biased sampling is not being delivered by the prosecution.

The Hon. Catherine Cusack: And compassion for the jurors.

Mr DAVID SHOEBRIDGE: As the honourable member says, compassion for the jurors should be a consideration. Ultimately this amendment will ensure that a random sample will be produced that is representative of what is often thousands of utterly offensive images on a hard disk drive, and ensure it is done in an open and transparent fashion so that when these crimes are being prosecuted all parties can have comfort that they are being prosecuted on a fair and representative sample of the offensive material. The Greens support this amendment and commend the Attorney for bringing it to the House.

The bill also clarifies certain matters in relation to provisions dealing with the protection of communications made in confidence to counsellors by the victims of sexual assault, and to alter the

regulation-making powers in relation to certain subpoenas. When my office asked the Attorney's staff for further information as to whether this was intended to expand or change in any way the substance of the protections we were advised the amendments do not expand the protections offered but merely clarify the regulation-making power. The sexual assault communications privilege can be raised with respect to subpoenas requiring the production of counselling communications involving a victim of sexual assault in criminal proceedings and preliminary criminal proceedings as defined in section 295 of the Criminal Procedure Act 1986. Those proceedings include prescribed sexual offence prosecutions but are not, as I understand it, limited to that class of offences. Other examples of proceedings that might be covered by such an order are prosecutions under the Crimes (Domestic and Personal Violence) Act 2007.

The sexual assault communications privilege protections do not come from the regulation-making power but rather from the provisions themselves and the amendment clarifies that the regulations may make provision for the issue and service of subpoenas in or in connection with any proceeding in which a sexual assault communication privilege could be raised. In other words, it is providing the privilege to those interlocutory and evidentiary production parts of the proceedings, not just the final trial. The Greens support the extension of that important privilege in relation to sexual assault communications.

The bill also amends the Director of Public Prosecutions Act 1986 to ensure that a person who holds the office of the Director of Public Prosecutions and to whom the Judges' Pensions Act applies is entitled to receive a pension under the Act if the person retires on account of ill health, and that the spouse of such a person who dies while holding office is entitled to receive such a pension. That amendment is a clarification of the provisions relating to the pension entitlements of the Director of Public Prosecutions. It means in effect a pension is payable if the Director of Public Prosecutions is or turns 60 in the course of the fixed 10-year term. I understand that to avoid doubt it will not include the current Director of Public Prosecutions, who will not benefit from a pension due to his age in this current term of office. However, these amendments also mean that, should the Director of Public Prosecutions retire due to infirmity or disability after serving at least five years, and subsequently die—and let us hope that does not happen—his spouse would be entitled to a pension as calculated under the relevant section of the Judges' Pensions Act 1953. The Greens support that amendment.

Lastly, the bill amends the Fines Act 1996 to make it clear that an automated computer system may be used to refer overdue court-imposed fines to the State Debt Recovery Office for the making of a court fine enforcement order. Given the sheer quantity of those kinds of issues arising, some kind of automated system is the only sensible way of conducting that part of the fine recovery business. The Greens support that as a sensible law reform. We commend the bill to the House.

The Hon. DAVID CLARKE (Parliamentary Secretary) [4.14 p.m.], in reply: I thank the Hon. Adam Searle and Mr David Shoebridge for their contributions to this debate. This bill makes a number of important amendments to courts-related legislation and to the criminal laws of this State. The amendments will ensure that court and tribunal procedures and criminal laws and procedures continue to be as effective as possible. The amendments will also support the effective administration of justice in New South Wales. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. 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.

CRIMES (CRIMINAL ORGANISATIONS CONTROL) BILL 2012

In Committee

Consideration resumed from an earlier hour.

The CHAIR (The Hon. Jennifer Gardiner): With the concurrence of the Committee, I will deal with the bill in parts.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [4.17 p.m.], by leave: I move Oppositions amendments Nos 1 to 29 on sheet C2012-018 in globo.

No. 1 Page 2, clause 3, line 28. Omit "***Judge***". Insert instead "***ADT member***".

No. 2 Page 5, clause 5, lines 2–27. Omit all words on those lines. Insert instead:

5 Eligible ADT members

(1) In this Part:

ADT means the Administrative Decisions Tribunal.

eligible ADT member means a Deputy President of the ADT in relation to whom a consent under subsection (2) and a declaration under subsection (3) are in force.

(2) A Deputy President of the ADT who is not a judicial officer within the meaning of the *Judicial Officers Act 1986* may, by instrument in writing, consent to being the subject of a declaration by the Attorney General under subsection (3).

(3) The Attorney General may, by instrument in writing, declare a Deputy President of the ADT in relation to whom a consent is in force under subsection (2) to be an eligible ADT member for the purposes of this Part.

(4) An eligible ADT member has, in relation to the exercise of a function conferred on an eligible ADT member by this Part, the same protection and immunity as a Judge of the Court has in relation to proceedings in the Court.

(5) A Deputy President of the ADT who has given consent under subsection (2) may, by instrument in writing, revoke the consent.

(6) A declaration of an eligible ADT member under subsection (3) cannot be revoked by the Attorney General. However, the declaration of a Deputy President of the ADT as an eligible ADT member is revoked if the eligible ADT member revokes his or her consent in accordance with subsection (5) or ceases to be a Deputy President of the ADT.

(7) To avoid doubt, the selection of an eligible ADT member to exercise any particular function conferred on eligible ADT members is not to be made by the Attorney General or other Minister of the Crown, and the exercise of that particular function is not subject to the control and direction of the Attorney General or other Minister of the Crown.

No. 3 Page 5, clause 6 (1), line 29. Omit "Judge". Insert instead "ADT member".

No. 4 Page 6, clause 7 (c), line 28. Omit "Judge". Insert instead "ADT member".

No. 5 Page 6, clause 7 (c), line 30. Omit "Judge". Insert instead "ADT member".

No. 6 Page 6, clause 8 (2), line 38. Omit "Judge". Insert instead "ADT member".

No. 7 Page 7, clause 8 (4), line 7. Omit "Judge". Insert instead "ADT member".

No. 8 Page 7, clause 8 (5), line 8. Omit "Judge". Insert instead "ADT member".

No. 9 Page 7, clause 8 (6), line 10. Omit "Judge". Insert instead "ADT member".

No. 10 Page 7, clause 9 heading, line 17. Omit "**Judge**". Insert instead "**ADT member**".

No. 11 Page 7, clause 9 (1), line 19. Omit "Judge". Insert instead "ADT member".

No. 12 Page 7, clause 9 (1), line 26. Omit "Judge". Insert instead "ADT member".

No. 13 Page 7, clause 9 (2), line 29. Omit "Judge". Insert instead "ADT member".

No. 14 Page 8, clause 9 (2) (f), line 7. Omit "Judge". Insert instead "ADT member".

No. 15 Page 8, clause 9 (4), line 10. Omit "Judge". Insert instead "ADT member".

No. 16 Page 8, clause 9 (4) (a), line 15. Omit "Judge". Insert instead "ADT member".

No. 17 Page 8, clause 9 (4) (a), line 17. Omit "Judge". Insert instead "ADT member".

No. 18 Page 9, clause 12 (1), line 2. Omit "Judge". Insert instead "ADT member".

No. 19 Page 9, clause 12 (4), line 18. Omit "Judge". Insert instead "ADT member".

No. 20 2 (7), lines 35–38. Omit all words on those lines. Insert instead:

(7) If the eligible ADT member who made a declaration under this Part has died, has ceased to be an eligible ADT member or is absent, a power exercisable by that eligible ADT member under this section may be exercised by any other eligible ADT member.

No. 21 Page 10, clause 13 (2), line 4. Omit "Judge". Insert instead "ADT member".

No. 22 Page 10, clause 13 (2), line 5. Omit "Judge". Insert instead "ADT member".

No. 23 Page 22, clause 28 (1) (a), line 4. Omit "Judge". Insert instead "ADT member".

No. 24 28 (1) (a), line 6. Omit "Judge". Insert instead "ADT member".

No. 25 Page 22, clause 28 (2), line 12. Omit "Judge". Insert instead "ADT member".

No. 26 Page 22, clause 29 (1), line 37. Omit "Judge". Insert instead "ADT member".

No. 27 Page 23, clause 29 (2), line 3. Omit "Judge". Insert instead "ADT member".

No. 28 Page 30, schedule 1.5, line 21. Omit "Judge". Insert instead "ADT member".

No. 29 Page 30, schedule 1.5, line 25. Omit "Judge". Insert instead "ADT member".

Essentially I spoke to these amendments in my earlier contribution to the debate. Given the approach taken by the High Court in Wainohu, we consider the High Court clearly does not like members of the Supreme Court acting as persona designata in other administrative roles. We think there is some risk in continuing that practice. In addition, we think there is a tension between the standard of reasons required of a superior court judge, certainly compared with a tribunal member or inferior court, and the duty of non-disclosure, as it were, contained in section 28. We think there is a risk—we put it no higher than that when it comes to prognosticating on the outcomes of High Court proceedings—that that court may well say the duty to give reasons now contained in section 13 (2) is a mere device and not a real duty to give reasons, and therefore the continuation of the eligible judge practice could well lead to an invalidation of this legislation for reasons similar to those which led to the current legislation being struck down.

To deal with that situation we seek to replace the eligible judge concept with deputy presidents of the Administrative Decisions Tribunal. As I said in my contribution during the second reading debate, we think declaring an organisation is essentially an administrative decision and that is why it is made by an eligible judge, rather than a judge sitting as a court. We think the logical and sensible thing to do to minimise future risk for this legislation is to embrace the Opposition's proposal.

The legal qualifications of a deputy president of the Administrative Decisions Tribunal are the same as those of a Supreme Court judge. We do not suggest for one minute that they are equivalent, but the legal qualifications are the same and we would get the same benefits from having a person independent of government looking at confidential criminal material and making a decision as we would from an eligible judge, without running the same risks as were highlighted in Wainohu. In the spirit of trying to improve the legislation—and as much as possible avoid the risk of a re-run of Wainohu—the Opposition moves these amendments.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [4.21 p.m.]: I thank the Opposition for moving its 29 amendments in globo as it is easier to deal with them in that way. The eligible judge model in the original bill introduced by the Labor Party in 2008 has been to the High Court, as members have been informed. Justice Gummow in the High Court said:

> Another course readily available in the present case would be to cast section 13(2) in a form which, at least with respect to declarations under section 9 and revocations under section 12, required as well as permitted the provision of grounds or reasons. This bill does just that. It amends section 13 to require the determining authority to give reasons.

These amendments raise something that the High Court did not look at. They propose that a member of the Administrative Decisions Tribunal make the decisions—and not just that. They propose that the only members of the Administrative Decisions Tribunal who would be eligible to consent under the Act, if these amendments are agreed to, are the deputy presidents, all three of whom are not judicial officers. Of course, this begs the question: What happens if none consents? The amendments would potentially render the Act inoperative and give criminals another ground to challenge the legislation. As such, the amendments are opposed. The bill has been drafted after careful consideration of the High Court decision and addresses the issues identified in that decision.

There is another more practical problem with the proposal. This needs to be a process that the community, and importantly the police, have confidence in. Members of the Administrative Decisions Tribunal do not have the same experience as judges of the Supreme Court. I think the Deputy Leader of the Opposition made that point in speaking to the amendments. Members of the Administrative Decisions Tribunal do not hear from protected witnesses who fear for their lives, and they do not sit in trials and listen to the product of lengthy police investigations, but judges do. Judges are best placed, with all their experience and wealth of knowledge of criminal law, to assess a claim by the commissioner that information should be kept confidential. Judges are also best placed to maintain the confidentiality of the information. In the course of their work on the bench they are often called on to deal with redacted information, confidential affidavits and privileged information. They have ways of dealing with this information to ensure that it is kept secure.

It is also important to note that New South Wales is not alone in determining that the eligible judge model is the way to go. Both Western Australia and South Australia have examined the High Court decision and, like New South Wales, introduced the eligible judge model. New South Wales has been calling publicly for a national response to organised crime. We do not want a system where, regardless of what orders are made in other States, a criminal gang can just go to another State and hide. The Government's bill introduces a model that will allow discussions to continue at a national level; the Labor amendments do not. No other State has the declaration made by a tribunal member. If the Labor amendments are supported, New South Wales will be out of step with other States, thereby jeopardising all the work done to present a united front against organised crime.

Mr DAVID SHOEBRIDGE [4.23 p.m.]: The Greens do not support the Opposition's amendments for the very clear reason that they palpably show that the power to declare an organisation under this Act is a bare-faced administrative task, without the protection of the rules of evidence and the ordinary criminal law. Yet it commences what will almost certainly be an array of criminal prosecutions in the Supreme Court. It is totally inappropriate for these kinds of decisions to be made by an administrative officer, whether in the Administrative Decisions Tribunal or in the Supreme Court. The Greens do not in any way support amendments that confirm this decision being made by the Administrative Decisions Tribunal in that administrative capacity.

I note also that the opposing view put forward by the Government lays bare the truth of the eligible judge model as proposed by the Government. The legal fiction that is the eligible judge model is that, when a Supreme Court judge consents to being an eligible judge, they mysteriously cease to be, for the purpose of the Constitution, a Supreme Court judge. They become this new animal called an "eligible judge", who is not sitting in the Supreme Court—although anyone who appears before that judicial member sitting in a non-judicial capacity will, for all intents and purposes, assume that their matter is being determined by a Supreme Court judge. It will occur in the Supreme Court building. The person who hears the application will be a Supreme Court judge, sitting with Supreme Court officers. The lists will happen in the Supreme Court.

As the Government said in opposing these amendments, the community, police and others will have confidence in the eligible judge because the eligible judge comes with the more than 150 years of prestige and experience of the Supreme Court. For 150 years it has been an independent judicial body, with all the authority that is required to be an independent judicial body, including the authority required to be an independent judicial body hearing matters that invoke the protections under chapter III of the Constitution. The person who appears—the litigants, the general public—will think they are getting a Supreme Court judge. The Government intends that people think they are appearing before a Supreme Court judge, with all the authority and experience of the Supreme Court. But apparently they are not getting a Supreme Court judge, because they know they cannot give this kind of administration power to such a judge. The legal fiction they are getting from this Government is a so-called eligible judge.

The Government thinks by putting up that legal fiction it can overcome a number of judgements of the High Court that have said no State Government should co-opt Supreme Court judges into this kind of

administrative decision-making and thereby question their genuine judicial independence as required under the Constitution. The Government's contribution unmasks its extremely shallow argument and attempt to overcome a major constitutional prohibition, and unmasks the fiction behind the eligible judge model. Indeed, it may well lead to serious constitutional challenges to the bill. The Opposition's amendments, whilst they seek to unmask the administrative powers being exercised under part 2, are in no way acceptable to The Greens, who oppose, as a matter of principle, these administrative powers being used in this manner.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [4.25 p.m.]: The Minister for Police and Emergency Services indicated that some of the deputy presidents of the Administrative Decisions Tribunal are not legally qualified. Section 17 (2) of the Administrative Decisions Tribunal Act states that deputy presidents and non-presidential judicial members can be appointed to those offices only if they are a person who holds or has held a judicial office in New South Wales, the Commonwealth or another State or Territory, or who is an Australian lawyer within the meaning of the Legal Profession Act of at least seven years' standing.

As I read it, every person appointed as a deputy president of the tribunal must have legal qualifications, training and experience. The Minister objected that some of these persons or none of these persons may consent to act. The risk of that is no greater or less than having none of the Supreme Court judges continuing to act. It must be remembered that these people must self nominate, and of course they can remove their nomination at any time. Simply because they have agreed to act in the past does not guarantee that they will continue to do so. That is a ruse. The risks said to be inherent in the Opposition's amendments are no greater or less than those in this bill.

The Labor Party understands The Greens' fundamental objection to the scheme in the legislation and their objection to our amendments is based on that premise. We believe the declaration of an organisation contained in this legislation is in the nature of an administrative decision. That is clearly so, otherwise why would it be an "eligible judge" rather than simply a judge sitting as a court? There are some real risks in implementing that model. We reached that conclusion not with any joy but because of what we have read in the High Court decision of *Wainohu v The State of New South Wales* and other authorities that precede that case. As David Shoebridge said, the High Court has sounded warnings about superior court judges acting as persona designata in other administrative roles. In the context of legislation of this kind, that was in part one of the reasons the existing legislation was struck down. We think continuing with the eligible judge model has some risks. That is why we have proposed what we think is a carefully considered and elegant solution. There would still be a person independent of government who is legally trained, qualified and experienced.

The Minister for Police and Emergency Services mentioned that such persons may not have the same trial experience as Supreme Court judges. Again, it is a very different context in that it is not exposing people to the potential for imprisonment. However, in the area of firearms and security industry licensing, deputy presidents of this tribunal regularly have before them police criminal intelligence—and often huge quantities of such material—which they receive in confidence and which they have an obligation not to disclose in their reasons for decision. They are very well versed in taking evidence confidentially and in a way that does not disclose that material. The Opposition therefore believes it is entirely appropriate to propose that role in that tribunal be undertaken by those officers. We also believe that in the tension between an obligation to give reasons and in so doing not to disclose certain material it is clear to the most casual observer that the material or its content is often the crux of the decision. We think an eligible judge having to reconcile those two roles poses the real risk that the High Court will say that this is not a real duty to give reasons—

Mr David Shoebridge: I have a reason but I can't tell you.

The Hon. ADAM SEARLE: Yes. They cannot show the person affected but perhaps they can show other people. There is a risk that the High Court will focus on that aspect as a ground to invalidate this legislation. Clearly, the case law says that the standards of disclosure required in the decisions of a tribunal are of a much lower order than those of superior courts and their judges. The Opposition's amendments are not only sound but also represent a far less risky approach without harming the policy objectives of the legislation and the public interest that it embodies.

The Hon. DAVID CLARKE (Parliamentary Secretary) [4.30 p.m.]: Mr David Shoebridge's argument goes directly to the issue raised in the High Court. The bill responds to the problem and the answer identified by the High Court. I point out to the Hon. Adam Searle that there are six deputy presidents, three of whom are judicial officers and three of whom are non-judicial officers. They fit the definition in that they have legal qualifications.

Question—That Opposition amendments Nos 1 to 29 [C2012-018] be agreed to—put.

The Committee divided.

Ayes, 13

Ms Cotsis	Mr Searle	Mr Whan
Mr Donnelly	Mr Secord	
Mr Moselmane	Ms Sharpe	*Tellers,*
Mr Primrose	Mr Veitch	Ms Fazio
Mr Roozendaal	Ms Westwood	Ms Voltz

Noes, 24

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

Pair

Mr Foley	Mr Lynn

Question resolved in the negative.

Opposition amendments Nos 1 to 29 [C2012-018] negatived.

Part 1 [Clauses 1 to 4] agreed to.

Mr DAVID SHOEBRIDGE [4.44 p.m.]: I move The Greens amendment No. 1 on sheet C2012-024:

No. 1 Page 8, clause 9. Insert after line 7:

(3) A declaration is not to be made if the members of the organisation associate principally for the purpose of genuine advocacy, protest, dissent or industrial action.

This amendment, if successful—

The Hon. Jeremy Buckingham: It will be.

Mr DAVID SHOEBRIDGE: I hear the comment of my ever-hopeful colleague the Hon. Jeremy Buckingham. The amendment would insert a new subsection in clause 9, which is the key provision in part 2 of the bill that deals with eligible judges making declarations effectively declaring associations to be unlawful. The amendment inserts a new subsection (3), which provides that a declaration is not to be made if the members of the organisation associate principally for the purposes of genuine advocacy, protest, dissent or industrial action. In the course of the second reading debate there were a number of interjections from Government members relating to the concerns that The Greens have about the broad scope of the bill—the fact that it is not limited to bikies and could reach any association, such as Lock The Gate, forestry protest organisations—

The Hon. Marie Ficarra: Branches of The Greens.

Mr DAVID SHOEBRIDGE: I hear the Hon. Marie Ficarra refer to The Greens, perhaps unmasking the intention of the Government in introducing the bill. As previously mentioned, other extremely valid organisations, such as Justice Action and advocacy groups for women prisoners, could be affected. The bill in its current form has untrammelled scope. There is no clear statement as to how the House will limit the operation of the bill and no clear statement that the House believes in the rights of people to get together and associate freely to do genuine advocacy work, protest, dissent, and indeed take industrial action.

Some of the longest industrial actions undertaken in this State, in places like Broken Hill, were at the time unlawful industrial actions. They were in breach of the then existing laws, and brave unionists stood up to unfair laws and committed what at that time were crimes. They engaged in industrial action to get some industrial justice and some occupational health and safety rights, particularly in the mines in Broken Hill. That is but one small example. In the late 1920s and early 1930s there was a wave of illegal industrial action in the Hunter Valley by coalminers seeking to ensure their industrial and safety rights, and the New South Wales police cracked down. These kinds of laws should not be on the statute books as they could be applied to declare unions and industrial organisations effectively criminal organisations. The same goes for forestry protest groups and for protest groups trying to stop the rampage of coal seam gas.

The Hon. Dr Peter Phelps: You cannot seriously believe this, David.

Mr DAVID SHOEBRIDGE: The same goes for groups of citizens seeking to get together for genuine advocacy. I hear the Government Whip saying, "You cannot be serious that this bill could apply to all that." I invite the Government to be true to its word and make it clear that the bill is not intended to apply to organisations that associate principally for the purpose of genuine advocacy, for protest, dissent or industrial action. The Government could make good on its hollow rhetoric and support the amendment.

The Hon. Dr Peter Phelps: You name which judges you believe would act in such a ludicrous manner. If you believe that, name the judges. But you can't. Why? Because you know it's ludicrous.

Mr DAVID SHOEBRIDGE: Blathering interjections from the Government Whip are not law. This amendment, if accepted—and it obviously should be accepted by the majority of members in this House—would make it clear, in a way that the Attorney General, the Minister for Police and Coalition and Opposition members who have spoken in support of the bill have failed to make clear in their contributions in this House, that the bill is not intended to crack down on genuine advocacy and protest groups. There is nothing in the bill that says that. Nothing in any of the contributions from Government or Opposition members says that they do not intend the bill to be used in that way.

Support of The Greens amendment would make it clear that Parliament, at least after it considered the issue, did not intend the bill to go that far. If the amendment is not supported it will be a clear statement of intent by both the Government and the Opposition that they want to be able to crack down on genuine protest, that they want to stop advocacy and that they want to stop political dissent in this State through these kinds of laws that do not criminalise conduct but rather criminalise association. That is the aim of the bill. If they want to make it clear that they do not intend to do that, then the Government and the Opposition should support the amendment.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [4.51 p.m.]: The Opposition does not support The Greens amendment. It understands the concerns raised by Mr David Shoebridge, but an examination of the bill as it currently stands would inform the reader that the organisations and advocacy activities that Mr David Shoebridge is concerned to protect are simply not caught by the legislation. Clause 9 of the bill, which enables the eligible judge to make a declaration, states in subsection (1) (a) that an eligible judge can do so only if satisfied that:

> (a) members of the organisation associate for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity …

So they have to be members of an organisation who associate for those malign criminal purposes. Mr David Shoebridge said it does not have to a majority of members; it can just be members. However, clause 9 (1) (b) provides a second safeguard:

> (b) the organisation represents a risk to public safety and order in this State …

I do not believe for one moment that that would extend to the Public Service Association or any other union, or even environmental activists, unless their organisation represents a risk to public safety and order and if its members associate for criminal purposes. One cannot walk away from those triggers. If an eligible judge makes a declaration on an organisation without being satisfied of those two criteria then the declaration will be invalid and will be susceptible to the appeal processes provided for in the legislation.

Mr David Shoebridge: There is no appeal for this.

The Hon. ADAM SEARLE: One can appeal against the making of the control order itself. I will give The Greens the benefit of the doubt and say that their concerns have been genuinely expressed and are not a mere attempt at political posturing and product differentiation.

The Hon. Michael Gallacher: Oh, don't.

The Hon. ADAM SEARLE: I will because the Opposition is generous. The concerns raised by The Greens are misconceived because the evil that is apprehended is simply not present in the legislation. It is not there because members of the organisation have to associate for the purposes of serious criminal activity; without that there is no trigger. The organisation itself has to be—

The Hon. Jeremy Buckingham: What about Lock the Gate running a blockade?

The Hon. ADAM SEARLE: I acknowledge that interjection.

The CHAIR (The Hon. Jennifer Gardiner): Order! Members who wish to contribute to the debate should seek the call.

The Hon. ADAM SEARLE: I do not pretend to have a full understanding of what activities may be constituted in a blockade, but if those activities constitute serious criminal activity then they are at risk under the existing state of the law.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [4.54 p.m.]: I draw the attention of members to the definition of "serious criminal activity" on page 3 of the bill. Obviously when the member opposite, who purports to be a lawyer, was tied up doing conveyancing as the main part of his legal work, he did not get the opportunity to look at legislation. The definition of "serious criminal activity" means:

> (a) obtaining material benefits from conduct that constitutes a serious indictable offence,
>
> (b) obtaining material benefits from conduct engaged in outside New South Wales … that, if it occurred in New South Wales , would constitute a serious indictable offence,
>
> (c) committing a serious violence offence,
>
> (d) engaging in conduct outside New South Wales … that, if it occurred in New South Wales, would constitute a serious violence offence.

I have listened to The Greens diatribe. I heard the Hon. Jeremy Buckingham calling out—he obviously got his legal advice from Mr David Shoebridge. I commend the Opposition. If Opposition members had a concern about advocacy and protest, particularly the industrial aspects of it, they would talk about it in this place. But this is more about The Greens trying to whip up hysteria. We heard reference to The Greens protestors and Lock the Gate. No doubt The Greens will leave here today and say to that organisation, "Oh my God, you are in trouble. You will all come under this legislation the moment you organise together." What The Greens are doing is offensive. If The Greens had read the legislation and saw the defining factor that refers to serious indictable offence—

Mr David Shoebridge: What does "serious indictable offence" mean?

The Hon. MICHAEL GALLACHER: Honestly. Violence offences and indictable offences are spelt out in the legislation. The purpose of the Crimes (Criminal Organisations Control) Bill 2012 is not to prevent people from engaging in genuine advocacy, protest dissent or industrial action. The purpose of the bill is to break up organised criminal gangs involved in acts of violence that are a threat to the community and are involved in serious criminal activity. To even suggest that some of those environmental advocacy groups could somehow get scooped up by this legislation and are in the same boat as bikies is offensive to those groups.

The Hon. Robert Brown: Only some of them.

The Hon. MICHAEL GALLACHER: This is more about giving The Greens yet another spin line that they can take to the *Sydney Morning Herald* and say, "We have another angle. Please print it." The *Sydney Morning Herald* appears to have a never-ending appetite for printing stuff from The Greens, even though it is void of any fact. Clause 9 makes it clear that an eligible judge may make a declaration only if he is satisfied that

members of the organisation associate for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity, and the organisation represents a risk to public safety and order in New South Wales. If an organisation meets the criteria then there is no reason why a declaration should not be made against it, regardless of what purpose it purports to be. I make it very clear, and the Opposition has made it very clear, that I suspect there is probably no-one except Mr David Shoebridge who remotely believes any of his scaremongering.

Mr DAVID SHOEBRIDGE [4.58 p.m.]: The submissions made by both the Minister for Police and Emergency Services and the Hon. Adam Searle contain a number of fallacies. The Hon. Adam Searle may have inadvertently suggested that there is an appeal mechanism that would protect people from a declaration to shut down an organisation that ought not to be shut down. Perhaps if there was an appeal mechanism to a proper court of law and not to a kangaroo court that makes a decision based upon rumour, innuendo, hearsay and suspicion, some of The Greens concerns would be mollified. There is no such appeal mechanism. There is not even an appeal to a higher level of kangaroo court. One cannot even get three kangaroos to sit on an appeal.

A decision is to be made by an administrative official based on rumour, innuendo, suspicion and hearsay, and those who will be the subject of such an order will probably never see the bulk of the evidence raised against them. When The Greens seek to put in place a limited protection that simply says it is not the intent of Parliament to shut down genuine advocacy and protest, we get the kind of mistaken hyperbole from the Minister for Police and Emergency Services that this is about The Greens tilting at windmills or fighting shadows.

I am concerned that an administrative official will be making a decision free of the rules of evidence on confidential police security briefings, which those the subject of the orders will never see, especially if we do not put in place any kind of safeguard that says that this is not intended to shut down genuine protest or dissent associations. The Hon. Adam Searle said that we should be satisfied because there is another safeguard. It may well be that only a minority of people for a minority purpose in an association that is otherwise doing broadly good and acceptable work is engaged in a serious indictable offence. However, the Hon. Adam Searle says that we can be satisfied and comforted that the eligible judge sitting as an administrative official—who is not bound by the rules of evidence and is making a decision, at best, on the balance of probabilities—will consider whether the organisation represents a risk to public safety and order. That is the safeguard.

Laws allowing associations to be outlawed because they are a risk to public safety and order have a much safer home in authoritarian states such as North Korea and China than they do in New South Wales. The Labor Opposition is saying, "Don't worry, you can be comfortable because an administrative official, effectively a bureaucrat, can shut down an organisation because it is a threat to public safety and order." They are the terms of this legislation; that is the so-called safeguard that the Hon. Adam Searle is talking about, which the Minister feels comfortable having in place. The thought that that is any kind of genuine safeguard for protest, dissent and genuine political advocacy in this State is plain ridiculous.

Finally, I will deal with the Minister's concern that there is some kind of media conspiracy that is trying to expose the excesses of these kinds of laws. It is remarkable that the Minister for Police and Emergency Services, with the fat resources attached to the police public affairs unit—which I might say is the only unit in the Parsons report that is well above authorised strength, unlike all the local area commands that need officers and staff, such as the Upper Hunter, South Sydney—

The Hon. Michael Gallacher: You cannot help yourself, can you? You are a misogynist. You do not like women having a job in the police force, do you? You do not like women getting promoted.

Mr DAVID SHOEBRIDGE: Point of order: The Minister for Police and Emergency Services is being deeply offensive by calling me a misogynist. I ask him to withdraw that comment.

The CHAIR (The Hon. Jennifer Gardiner): Order! Is the member taking a point of order?

Mr DAVID SHOEBRIDGE: I am. I am being abused by the Minister for Police and Emergency Services in breach of the standing orders. He called me a misogynist. I ask him to withdraw it.

The Hon. Michael Gallacher: I withdraw it.

Mr DAVID SHOEBRIDGE: Of all the units, of all the area commands across the State, almost all are at or below 90 per cent authorised strength.

The Hon. Michael Gallacher: Point of order: I do not see how this bill relates to the structure of the New South Wales Police Force. The member has referred to the Parsons report or corporate affairs. I ask that the member return to his amendment.

Mr DAVID SHOEBRIDGE: To the point of order: I was responding to the so-called media conspiracy that the Minister for Police and Emergency Services was talking about, and simply putting in context the amount of resources that New South Wales police have to get a fair and balanced media picture in New South Wales. That unit has 80 additional staff.

The CHAIR (The Hon. Jennifer Gardiner): Order! The member will direct his comments to his amendment.

Mr DAVID SHOEBRIDGE: To conclude, I think the police, with their 300-odd people in public affairs, can adequately respond—

The Hon. Michael Gallacher: Point of order: I ask that the member speak to the amendment.

The CHAIR (The Hon. Jennifer Gardiner): Order! I again remind Mr David Shoebridge to address the amendment.

Mr DAVID SHOEBRIDGE: If the Government was true to its word, was not interested in cutting out genuine political dissent and did not want to have laws on the statute books that allow organisations to be shut down because they are a risk to public safety and order—which is apparently the safeguard in this bill—it would support the amendment. It would then make a clear statement to the administrative officers who will be deciding these matters, without the rules of evidence on police intelligence, that that is not the intent of the bill and they are not to do it. The Government should support the amendment.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [5.06 p.m.]: I shall try to put the mind of Mr David Shoebridge to rest. Despite the reasonably well publicised nature of this bill, the Opposition has not heard from any trade union that is concerned about it or from any environmental activist or group who is concerned about it. We do not believe that the bill as it is currently constituted runs the risks identified by the Hon. David Shoebridge. At best he is clutching at straws; at worst he is trying to confect an issue where there is not one. We simply do not think those concerns arise as a result of the bill as it is currently drafted.

Mr DAVID SHOEBRIDGE [5.07 p.m.]: The Hon. Adam Searle says we are clutching at straws and the Minister for Police and Emergency Services said that we do not have to worry because there is a definition of "serious criminal activity". Even though it is only a minority of people for a minority purpose in an organisation who are engaged in serious criminal activity, because of the definition of "serious criminal activity" we should be satisfied that it will not catch the kinds of organisations that I described earlier. In the future a raft of other organisations has the potential to become declared criminal organisations. But the key problem with that is the first part of the definition in "serious criminal activity" says it means any of the following:

(a) Obtaining material benefits from conduct that constitutes a serious indictable offence.

There is no definition of "serious indictable offence". Most judges will think every indictable offence is a serious indictable offence. I believe almost every indictable offence is a serious matter. With no definition of "serious indictable offence", an offence as relatively modest as larceny of a sum of $5,000 or more is an indictable offence under the New South Wales statute books. Many protest activities—such as blocking a logging truck or blocking access to a coal seam gas mining rig—could well and truly come within the context of an indictable offence and could easily be seen as a serious indictable offence. If a farmer is protecting his land and trying to protect his family's livelihood to stop a coal seam gas drilling rig coming onto his property, he might be seen to be seeking to obtain some kind of benefit by protecting his family livelihood. Without stretching the imagination too far, he might fall within the definition of a "serious criminal activity". We might see the organisation to which the farmer is a member become a declared organisation.

The Hon. Dr Peter Phelps: That is a long bow.

Mr DAVID SHOEBRIDGE: I ask the Government Whip to have the courage of his convictions, stand at the lectern and explain why I am wrong.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [5.09 p.m.]: In an effort to address at least one of the concerns raised by Mr David Shoebridge, I direct his attention and that of other honourable members to section 4 of the Crimes Act. It defines "serious indictable offence" as meaning an indictable offence punishable by imprisonment for life or for a term of five years or more.

Question—That The Greens amendment No. 1 [C2012-024] be agreed to—put.

The Committee divided.

Ayes, 4

Ms Barham
Mr Buckingham

Tellers,
Dr Kaye
Mr Shoebridge

Noes, 29

Mr Ajaka	Mr Gallacher	Mr Searle
Mr Blair	Mr Gay	Mr Secord
Mr Borsak	Mr Khan	Ms Sharpe
Mr Brown	Mr MacDonald	Mr Veitch
Mr Clarke	Mr Mason-Cox	Ms Voltz
Mr Colless	Mrs Mitchell	Ms Westwood
Ms Cotsis	Mr Moselmane	Mr Whan
Ms Cusack	Mrs Pavey	*Tellers,*
Mr Donnelly	Mr Pearce	Ms Fazio
Ms Ficarra	Mr Primrose	Dr Phelps

Question resolved in the negative.

The Greens amendment No. 1 [C2012-024] negatived.

Part 2 [Clauses 5 to 13] agreed to.

Part 3 [Clauses 14 to 27] agreed to.

Part 4 [Clauses 28 to 40] agreed to.

Schedule 1 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Michael Gallacher agreed to:

That the report be adopted.

Report adopted.

Third Reading

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [5.20 p.m.]: I move:

That this bill be now read a third time.

Question put.

The House divided.

Ayes, 29

Mr Ajaka	Mr Gallacher	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	Mr Moselmane	Mr Whan
Ms Cusack	Mrs Pavey	*Tellers,*
Mr Donnelly	Mr Primrose	Ms Fazio
Ms Ficarra	Mr Roozendaal	Dr Phelps

Noes, 4

Ms Barham
Mr Buckingham
Tellers,
Dr Kaye
Mr Shoebridge

Question resolved in the affirmative.

Motion agreed to.

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

WORKCOVER PROSECUTIONS

Production of Documents: Return to Order

The Clerk tabled, according to resolution of the House of 7 March 2012, documents related to WorkCover prosecutions received this day from the Director General of the Department of Premier and Cabinet, together with an indexed list of documents.

Production of Documents: Claim of Privilege

The Clerk tabled a return identifying documents received this day from the Director General of the Department of Premier and Cabinet which are considered to be privileged and should not be made public or tabled. According to standing order the Clerk advised that the documents are available for inspection by members of the Legislative Council only.

CHILDREN (DETENTION CENTRES) AMENDMENT (SERIOUS YOUNG OFFENDERS REVIEW PANEL) BILL 2012

Second Reading

The Hon. DAVID CLARKE (Parliamentary Secretary) [5.28 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 Children (Detention Centres) Amendment (Serious Young Offenders Review Panel) Bill 2012 will amend the Children (Detention Centres) Act 1987 to enshrine the constitution, functions, and powers of the Serious Young Offenders Review Panel. The panel is responsible for making recommendations to the Chief Executive, Juvenile Justice on the reclassification of detainees, the granting of leave to detainees charged with serious children's indictable offences, and on any other matter referred to it for consideration.

Establishing a legislative basis for the Serious Young Offenders Review Panel brings it in line with Corrective Services' Serious Offenders Review Council, which carries out an equivalent function for adults. This important amendment will ensure clearer guidance, accountability and consistency in relation to the classification of serious young offenders.

The Serious Young Offenders Review Panel was initially established in 1998 as a 12-month trial period and was not provided for in legislation at the time of its creation. After 12 years of successful operation, it is pertinent that the functions of the panel be incorporated in the Children (Detention Centres) Act 1987, which provides for the responsibilities and obligations of Government to young offenders in custody.

I now refer to the details of the bill. The bill makes minor amendments to the Act in relation to references to Juvenile Justice as a branch of the Department of Attorney General and Justice.

The bill inserts part 4B into the Act which outlines the constitution, functions and matters which are to be considered by the Serious Young Offenders Review Panel. In exercising its functions, the panel must consider a number of matters. Some matters to note include consideration of the public interest; the criminal history of the young offender; the young offender's commitment to address the offending behaviour; the position of and consequences to any victims and their family, including any submissions made by the victim; and the rehabilitation of the young offender and re-entry of the young offender into the community as a law-abiding citizen.

Schedule 1A specifies the constitution and procedure of the panel and will be inserted into the Act to provide for the members of the panel. This schedule provides that the Serious Young Offenders Review Panel will consist of six members, including the chairperson appointed by the Minister for Justice. The panel is chaired by a magistrate, acting magistrate or retired magistrate.

Other members of the panel are also appointed by the Minister for Justice and will possess an understanding of community expectations and expertise on juvenile justice issues. The panel includes a nominee of the Director General who provides advice to the panel about policies and procedures of the department and other matters relating to the administration of juvenile justice.

Traditionally, the panel has consisted of four community members including a psychologist representative, a victim's group representative, an Aboriginal representative, and a representative who reflects community attitudes/values towards young people. This bill allows for these members to be appointed if the Minister sees fit, and includes an additional member who will be a representative from NSW Police.

The bill requires the panel to report its activities in the annual report for the Department of Attorney General and Justice, thus creating accountability for the panel and the recommendations provided to the Chief Executive in relation to serious young offenders.

This bill addresses the important functions of the panel and ensures more accountability for the Government in addressing the serious offending behaviour of young people.

I commend the bill to the House.

The Hon. CATHERINE CUSACK [5.29 p.m.]: The objective of the Children (Detention Centres) Amendment (Serious Young Offenders Review Panel) Bill 2012 is to constitute the Serious Offenders Review Panel as a body responsible for advising and making recommendations with respect to serious young offenders and certain other detainees in custody under the provisions of the Children Detention Centres Act 1987. The Serious Young Offenders Review Panel was recommended in the landmark 1993 Juvenile Justice Green Paper authored by a committee led by Dr Marie Bashir. The panel began operations as a 12-month trial in 1998. The legislation before the House which formally recognises the existence and role of the panel is about a decade overdue. It enshrines the constitution, functions and powers of the Serious Offender Review Panel into the principal Act.

Schedule 1A to the bill provides for the constitution of a three to six member panel appointed by the Minister for Justice. The panel will advise and make recommendations to the chief executive of the Juvenile Justice branch of his department. It will be chaired by a magistrate, acting magistrate or retired magistrate. The bill allows for the current membership to include a psychologist, a victims group representative, an Aboriginal representative and an additional citizen to continue to serve. An additional representative of the NSW Police Force will be appointed, and I congratulate the Minister on this very positive initiative.

The role of the Serious Young Offenders Review Panel is to make recommendations on the reclassification of Serious Young Offenders and to advise on the very complex decisions that must be made concerning the granting of leave, including supervised community outings and day or overnight leave towards the end of their sentence. I welcome the comments of the Minister in his agreement in principle speech in which he makes clear the need for the clearer guidance, accountability and consistency in the classification of serious young offenders.

In 2010-11 the panel met 12 times and dealt with 76 cases, 17 of which were requests for reclassification and 12, or 70 per cent, resulted in reclassification. Ten of its 17 recommendations for

reclassification were adopted by the chief executive. In other words, more than 40 per cent of the panel's recommendations were rejected by the head of Juvenile Justice. There is something amiss here. The Minister gave a commitment to more accountability, which is very positive in the circumstances. The key accountability measure is through section 37R, which requires the panel to report its activities in the annual report of the Department of Juvenile Justice. This again reflects current practice.

I would suggest that the legislation is a good opportunity to consider ways for the panel to expand its reporting so there is greater transparency around the number, gender and age of serious offenders, the nature of their offence and their history of offending. An increased level of reporting detail would be very positive, including the nature of recommendations that are being made. For example, we know that in 2011 the panel considered 59 cases for leave and 56 of its 59 recommendations were adopted. We do not know how many of the 59 cases were unique cases, what percentage of recommendations favoured leave and what type of recommendation was being rejected by the chief executive. The current format is not very illuminating and could stand some updating.

The provisions of the bill require decisions of the panel to take into account the public interest, including protection of the public, the nature of the offence and the reasons and recommendations of the court that sentenced the person. A lengthy list of issues are to be considered and I congratulate the Minister on what is, in my view, a very thorough and balanced approach that meets the expectations of the community but allows a detainee with a positive attitude to work his or her way down to lower classification and earn access to supervised leave towards the end of his or her sentence, as part of his or her discharge plan. I conclude by again congratulating the Minister on this important initiative. I hope that with clearer reporting the important work of the Serious Young Offenders Review Panel will be, in the words of the Minister, more accountable and consistent in future.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [5.34 p.m.]: I lead for the Opposition on the Children (Detention Centres) Amendment (Serious Young Offenders Review Panel) Bill 2012, which the Opposition does not oppose. The object of the bill is to constitute the Serious Young Offenders Review Panel in statutory form to provide advice and to make recommendations with respect to serious young offenders and certain other detainees. The functions of the panel are set out in proposed section 37P and the matters to be considered are set out in proposed section 37Q. The review panel has existed since 1998—an initiative of the previous Labor Government. This bill merely reduces to a statutory form an already-existing body. Interestingly, the establishment of the panel was a recommendation of the Juvenile Justice Advisory Council Green Paper published in 1993 during the period of the previous Coalition Government, which did not establish the panel. It was only upon the election of a Labor Government that it was done.

The panel's present role is to make recommendations to Juvenile Justice on the reclassification and the granting of leave to detainees on serious children's indictable offences and on any other matter appropriately referred to it. Meetings are held monthly. Membership of the non-statutory panel consists of the following and is specified as such: a magistrate, who is chairperson; an independent person with qualification in psychology; an independent community person with expertise in dealing with youth generally; a member of the indigenous community; a victim of crime; and an ex officio member from Juvenile Justice. Of course, this membership is not established by legislation and can be altered by administrative decision at any time.

The Serious Offenders Review Council performs broadly analogous functions to the panel for adult offenders. It is established on a statutory basis. The Government argues that this bill brings the panel into line with its adult counterpart. It does not quite do that exactly. An interesting divergence exists between the current panel and the legislative model. The current panel membership, whilst subject entirely to the views of the government of the day, nonetheless has the various qualifications of the members explicitly set out, to which I have referred. That is slightly different from the bill before the House. Schedule 1 to the bill proposes schedule 1A to the Children (Detention Centres) Act and provides a constitution for the legislatively established panel. The membership of the legislative panel is set out by proposed section 37O, which provides:

> The review panel is to consist of at least 3, but not more than 6 members appointed by the Minister, of whom one is to be a Magistrate, acting Magistrate or retired Magistrate who is to be the Chairperson of the Review Panel

This is in much broader terms than the current non-legislative panel, which has various positions reserved for particularly qualified or representative members of different parts of the community. Of course, in both cases appointment is entirely in the hands of the relevant Minister. The constitution of the legislative model provides that a nominee of the department's director general is to attend meetings of the review panel but not vote. This seems to be a continuation of the current non-legislative situation. Apart from the chair, this ex officio position

is the only position on the panel particularised in the legislative model. The provision in this bill is much broader even than that in the legislation setting up the analogous Serious Offenders Review Council. Section 195 (2) (c) of the Crimes (Administration of Sentences) Act provides that community members of the Serious Offenders Review Council must represent the community at large as closely as possible. Broad as those words may be, they are clearly more particular than those provided in this bill.

The Government has referred to the traditional membership of the panel without committing to retaining the types of representatives that exist in the non-legislative panel. It would have been appropriate in this circumstance for the Government to explicitly reveal its intentions in relation to the practise of having persons from those representative groups continue on this panel once the legislation is passed. In particular, given the very significant overrepresentation of Indigenous persons in the Juvenile Justice system, I would regard it as entirely scandalous if a member of the Aboriginal community were not appointed to the newly constituted panel.

Apart from the chair and the ex officio public servant, the only other specified position is that of a representative of the NSW Police Force. That does not seem to be a provision of the bill although the Attorney General in the Legislative Assembly in his agreement in principle speech in reply identified that as a category that it was his intention to appoint. We have a clear commitment that a magistrate, a departmental ex officio bureaucrat, and a representative of the NSW Police Force will be appointed but no clear commitment as to an independent psychologist, a victim of crime or a member of the Indigenous community. I welcome any clarification on those matters the Parliamentary Secretary can give during this debate.

It would be useful if the Government were to signal the intention of proposed section 37P and the position of existing panel members, who I think have been appointed until the end of this month. The department's annual report sets out the activities and role of the panel to date, and I understand that the Hon. Catherine Cusack has covered that. In 2010-11, the panel met 12 times and dealt with 76 cases, seven of which were considered for reclassification and 12 of which were reclassified. Of the 17 reclassification recommendations, 10 were adopted by the chief executive officer of Juvenile Justice NSW, and 59 cases for leave were considered, of which 56 were adopted by the chief executive officer. There is no reason that that work will not be able to continue under the new regime established by this legislation. As I indicated, the Opposition does not oppose the bill. However, it would be good if the Government were to clarify the matters that I have raised.

The Hon. Dr PETER PHELPS [5.41 p.m.]: It gives me great pleasure to support the Children (Detention Centres) Amendment (Serious Young Offenders Review Panel) Bill 2012. This is a very worthwhile measure. A trial of the Serious Young Offenders Review Panel was initially implemented with the aim of mirroring the Serious Offenders Review Council of the Department of Corrective Services. The panel provides advice and recommendations to the chief executive officer of Juvenile Justice NSW and the Minister for Justice. It is reasonable and appropriate to provide a legislative basis for the panel given that the Serious Offenders Review Council is enshrined in legislation and its functions are similar to those of the Serious Young Offenders Review Panel. The bill contains many extremely worthwhile provisions. I commend the Government and especially the Attorney General for introducing this legislation.

Mr DAVID SHOEBRIDGE [5.42 p.m.]: I commend the Government Whip's contribution to the debate, and thank him for it. The Greens support the Children (Detention Centres) Amendment (Serious Young Offenders Review Panel) Bill 2012, which will enshrine in legislation the Serious Young Offenders Review Panel. The panel, which has been operating on an administrative basis since 1988, is an independent body that makes recommendations to the director general of Juvenile Justice NSW on reclassification and the granting of leave to detainees charged with serious children's indictable offences and any other matter that the director general or the Minister refers to the panel. The panel has historically done good work and it is entirely appropriate that it be codified in legislation.

The Serious Young Offenders Panel has the difficult task of balancing the community's expectations with regard to safety and certainty with the needs and expectations of young people and their families. It operates in accordance with guidelines contained in legislation and departmental instructions. The panel is managed through Juvenile Justice NSW and was originally established in response to a recommendation in the Juvenile Justice Advisory Council Green Paper published as long ago as 1993—the better part of two decades ago. It currently consists of community representatives who bring together a broad understanding of community expectations and expertise on juvenile justice issues. In 2010-11 the panel met on 12 occasions and dealt with a total of 76 cases.

Of them, 17 cases were considered for reclassification and 12 of the juveniles reviewed were reclassified. That was 70 per cent of all reclassification applications. Of the 17 recommendations for reclassification, 10 were adopted by the chief executive officer of Juvenile Justice NSW. The panel also considered 59 applications for leave and 56, or 95 per cent, were adopted by the chief executive officer. In addition, 87 per cent of cases considered were from regional detention centres and only 13 were from metropolitan centres.

After 12 years of successful operation it is of course entirely appropriate that we enshrine this practice in legislation. However, The Greens believe that in doing so care needs to be taken to ensure that the composition and operation of the panel is maintained in as close as possible to its current form and that it remains independent. The Government has quite appropriately represented this bill as primarily legislating current practice. Members of the panel are now appointed by the Minister and their appointment is approved by Cabinet. The composition of the panel is a magistrate, who is the chairperson, an independent person with qualifications in psychology, an independent member of the community with expertise in dealing with youth generally, a member of the Indigenous community, a victim of crime and a delegate of the Assistant Director General (Operations) Juvenile Justice NSW, who sits as an ex officio member.

According to proposed section 37O the panel will comprise at least three but no more than six members appointed by the Minister. One must be a magistrate, an acting magistrate or a former magistrate, and that person will be the chairperson. The Greens strongly believe that it would be desirable for that provision to be expanded to include a requirement for greater diversity in the membership of the panel. Of course, the director general may also send a nominee to panel meetings as an observer. Members are appointed on a two-year, part-time basis and are entitled to modest remuneration.

Guidance on the matters that should be considered by the panel when making a determination is appropriate. The list of matters contained in proposed section 37Q includes the public interest, the circumstances of the offence, the reasons and recommendations of the court, rehabilitation of the offender and so on. That list of factors must be considered along with any other matter that may be prescribed by the regulations. That is a sensible use of the regulation-making power to deal with issues as and when they arise. It may also be desirable to include discretion for the panel to consider such other matters as it determines if that is necessary. The bill also includes annual reporting requirements to the Department of Attorney General and Justice. Of course, The Greens support those provisions because they ensure greater accountability than that applied to the administrative panel.

The Greens have one substantial concern that will be addressed by way of amendment. The bill does not require that the panel include an Aboriginal representative. I said before that the panel met on 12 occasions and dealt with 76 cases in the last 12-month period for which we have records. That means the panel considers six or seven matters each time it sits. One of the shameful features of our criminal justice system in this State is that 50 per cent of all detainees in our juvenile detention centres are Aboriginal—as they were last week and will be tonight and next week. One must keep in mind that Aboriginal juveniles comprise just 3 per cent of our population and accordingly they are over-represented by a factor of 20 in juvenile detention centres. It is almost certain that when a panel is formed and hears at least six or seven matters it will be considering a matter involving an Aboriginal juvenile offender and whether that person should be reclassified and sent to a lower security prison or be given leave to go back to their family. Often those leave applications from Aboriginal juvenile offenders are made because they need to be involved in matters specific to their family and their Aboriginal community.

In those circumstances, The Greens believe it is absolutely essential that, whenever the panel is constituted, at least one of its members comes from the Aboriginal community in New South Wales. It is with an eye to putting that guarantee in place that I foreshadow The Greens will move their one and only amendment to what is otherwise a good bill. We will seek to ensure that when the panel meets it is not a discretion but an obligation that it contains an Aboriginal member in order to acknowledge the utterly shameful fact—which we collectively need to take the blame for—that tonight 50 per cent of the kids in our juvenile detention centres are Aboriginal.

The Hon. JOHN AJAKA (Parliamentary Secretary) [5.50 p.m.]: I commend the Minister for introducing the Children (Detention Centres) Amendment (Serious Young Offenders Review Panel) Bill 2012, which enshrines in legislation the constitution, functions and powers of the Serious Young Offenders Review Panel. The Serious Young Offenders Review Panel was established in 1998 initially as part of a 12-month pilot program. After 12 successful years of operation, it is appropriate that legislation enshrine the constitution,

functions and powers of the panel. The Serious Young Offenders Review Panel provides advice and makes recommendations to the chief executive of Juvenile Justice in relation to serious young offenders and certain other detainees. The recommendations relate to the reclassification of detainees and the approval of day and overnight leave to detainees charged with serious children's indictable offences.

New section 37Q outlines matters that the panel must consider in making a recommendation to the chief executive, such as the public interest; protection of the public; the circumstances and nature of any offence committed or allegedly committed by the detainee; the sentencing court's reasons and recommendations; the detainee's criminal history; the detainee's conduct whilst in custody; the time the detainee has served in custody and the remaining time yet to be served in custody; the detainee's commitment to address offending behaviour, which includes the detainee's willingness to participate in rehabilitation programs; the detainee's classification history; submissions made by the victim or victim's family; prospects of rehabilitation of the detainee that they may re-enter the community as a law-abiding citizen; availability of family, departmental and other forms of support; and reports about the person that are relevant and available to the panel.

Clearly, providing a legislative basis to the matters that the panel must consider in making its recommendations to the chief executive will ensure accountability and consistency in relation to both the classification of young offenders and the granting of leave to detainees. Schedule 1A to the bill specifies the constitution and procedure of the Serious Young Offenders Review Panel. It provides that the panel will comprise between three and six members appointed by the Minister for Justice. The panel will be chaired by a magistrate, acting magistrate or retired magistrate.

Other members of the panel will be appointed by the Minister for Justice based on their expertise in juvenile justice issues and may include community members, such as a psychologist, a victims group representative, an Aboriginal representative and a representative of the NSW Police Force. These members will consider a number of matters in the exercise of their functions, including consideration of the public interest, the criminal history of the offender, commitment to address the offending behaviour, the impact on victims, and the young offender's prospects of rehabilitation and re-entry into the community as a law-abiding citizen.

The success of the Serious Young Offenders Review Panel is evident from evaluations that have taken place since it commenced. Further evaluation of the panel's activities will be available as it will be included in the annual report of the Department of Attorney General and Justice. While the panel has operated successfully and considered a range of applications over the past 12 years, providing a legislative basis for this body will ensure clearer guidance, accountability and consistency in the functions and powers of the panel. I commend the bill to the House.

The Hon. JAN BARHAM [5.54 p.m.]: I support the Children (Detention Centres) Amendment (Serious Young Offenders Review Panel) Bill 2012. However, as The Greens spokesperson on Aboriginal Affairs, I echo the comments of my colleague Mr David Shoebridge in relation to the bill's shortcoming: the lack of an Aboriginal representative on the Serious Young Offenders Review Panel. Next Wednesday is National Close the Gap Day. If this country has one shortcoming it is our recognition and support of Aboriginal people. We all know that is true. I do not know how the Attorney General can say there is an opportunity for Aboriginal representation on the panel when that is not in the legislation. I do not think the call for an Aboriginal person to serve on the panel can be disregarded on the basis that only 27 per cent of cases involve Aboriginal persons. That is denying the right of Aboriginal people to make a contribution to an organisation not just as an Aboriginal but also as a representative of the community.

Any Aboriginal representative would be a leader not just in the Aboriginal community but also the general community, and as such would bring value to the panel. They would have an understanding of Aboriginal culture and could, when required, reassure people who appeared before the panel that they were being represented and that someone understood their particular cultural circumstances. Currently, a member of the Indigenous community serves on the panel, but we need to keep in mind that a male or a female representative might be required, depending on cultural issues and the gender of the person appearing before the panel. Defining the panel's framework is a positive move but not including an Aboriginal representative is an unfortunate shortcoming in the bill. I support my colleague's foreshadowed amendment to the bill and acknowledge its importance.

The Hon. DAVID CLARKE (Parliamentary Secretary) [5.56 p.m.], in reply: I thank honourable members for their contributions to the debate. In relation to the points raised by the Hon. Adam Searle, the Attorney General spoke in the other place about the issue but it is intended that the representation of current

members will continue. There needs to be flexibility in the make-up of the panel, which I will deal with in my comments when we are discuss the foreshadowed amendment in Committee. The bill provides a framework for the Serious Young Offenders Review Panel. It outlines the functions of the panel and specifies matters that the panel is to consider in providing advice and recommendations to the chief executive in relation to detainees, including serious young offenders.

The bill provides an extensive list of matters that are to be considered by the panel in making its recommendations to the chief executive, including those in relation to the young offender as well as public interest and victims' concerns. The panel has operated successfully and considered a range of applications over its 12 years of operation. Creating the panel as a statutory body will ensure clearer guidance, accountability and consistency in its functions and powers.

Members of the panel will be independent from Juvenile Justice and will be appointed by the Minister. The panel will include a chairperson and five community representatives who are considered experts in juvenile justice issues. The bill also provides for accountability of the panel by ensuring that a panel report is included in the annual report to the department. The chairperson will be a current, acting or retired magistrate, thus providing the community, including victims of crime, with an assurance that a qualified panel of experts will consider applications for classification and leave from a detention centre for young offenders. It is noted that this amendment has no economic impact as the panel is already established, with panel members and functions working effectively. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 and 2 agreed to.

Mr DAVID SHOEBRIDGE [6.00 p.m.]: I move The Greens amendment No. 1 on sheet C2012-021:

No. 1 Page 4, schedule 1 [4], proposed section 370 (2), lines 5 to 7. Omit "of whom one is to be a Magistrate, acting Magistrate or retired Magistrate who is to be the Chairperson of the Review Panel."

Insert instead:

of whom:

(a) one is to be a Magistrate, acting Magistrate or retired Magistrate who is to be the Chairperson of the Review Panel, and

(b) at least one is to be a member of the Aboriginal community of New South Wales.

The statistics are tragically compelling regarding the sheer numbers of Aboriginal juvenile detainees in our criminal justice system. As I said earlier, tonight 50 per cent of detainees in our juvenile detention centres will be Aboriginal. I understand that at least 27 per cent of those who come before the review panel are Aboriginal young people. When the panel is hearing six or seven applications at any given sitting it is statistically almost an absolute certainty that an Aboriginal young person will appear before it. The skills, knowledge and experience of an Aboriginal representative on such a panel will be essential in ensuring that the cultural needs of that Aboriginal young person are assessed and dealt with properly. If that approach were applied consistently over time, hopefully it would play a very modest part in reducing the appalling over-representation of Aboriginal young people in our criminal detention centres.

I do not suggest that this amendment will even come close to fixing the problem. However, with a sure knowledge of the dire need to take all available steps to reduce the level of Aboriginal disadvantage in our criminal justice system, when we are considering laws dealing with serious young offenders and review panels we should surely take every possible opportunity to do what we can to try to right some of the historical imbalance in our criminal justice system. It is not a revolutionary change. The Greens amendment will ensure that when panels convene one of the members—not the chair—is a representative of the Aboriginal community who will bring with them cultural knowledge and skills. I commend the amendment—a copy of which my office provided to the Attorney General a number of weeks ago—to the Committee and urge members to support it.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [6.03 p.m.]: The Opposition supports The Greens amendment. It does not do violence to the legislation. It simply takes what is already in the bill—the designation of magistrate, acting magistrate or retired magistrate as the chairperson of the review panel—and specifies that at least one member of the panel is to be a member of the Aboriginal community. It does not seek to remove the flexibility that is otherwise in the legislation for the Government to make the appointments that it thinks are suitable and appropriate. Given what the Parliamentary Secretary said about the comments of the Attorney General in the other place, surely the Government can have no objection to this mandate—that is, at least one member of the panel is to be from the Aboriginal community in this State.

The Hon. JAN BARHAM [6.04 p.m.]: I speak in support of The Greens amendment. Thursday 22 March is National Close the Gap Day. This amendment is a real test a week before that day. People who adopt a cultural perspective often comment to me that we only think of Aboriginal people as Indigenous representatives and fail to recognise the important role they play in our society and the cultural information they can provide. Aboriginal people are generally over-represented in our criminal justice system. If 27 per cent of those who come before the review panel are Aboriginal young people it will be worthwhile having an Aboriginal panel member. I do not understand what the Parliamentary Secretary said about the Attorney General's comments in the other place—namely, the provision currently exists for an Aboriginal representative to serve on the panel and that representation will continue. How is that so? This amendment presents an opportunity for it to be enshrined in legislation. The Deputy Leader of the Opposition used the expression that the amendment does not do violence to the current legislation—an interesting turn of phrase that I have not heard before.

The Hon. Dr Peter Phelps: You should hang around lawyers more often.

The Hon. JAN BARHAM: In this place we get to hang around lawyers a lot more than some of us would like. I urge the Government to recognise how important this amendment is and what a statement it would make a week before National Close the Gap Day. Proper representation on a panel could go a long way to changing the shocking situation we currently have in the management of our criminal justice system. I am advised that the system has operated well in the past and the Government has not made it clear as to why it cannot continue. In fact, I find it confusing for the Government to speak about that representation continuing without it being enshrined in legislation. If it is unclear to me then I am sure many others who expect this sort of representation will wonder why, with the goodwill of the Parliament, it was not executed. I urge members to support the amendment.

The Hon. DAVID CLARKE (Parliamentary Secretary) [6.08 p.m.]: The Government opposes The Greens amendment to the Children (Detention Centres) Amendment (Serious Young Offenders Review Panel) Bill 2012. Mr David Shoebridge has proposed an amendment to the bill to mandate an Aboriginal representative on the Serious Young Offenders Review Panel [SYORP]. There seems to be some confusion. The panel is not a mentoring panel; it is a panel for the reclassification and granting of leave for serious young offenders. The Hon. Jan Barham said that the system is operating effectively as it is. As the Attorney General has stated elsewhere, provision currently exists for an Aboriginal representative on the panel. While it is true that approximately 50 per cent of the juvenile justice population is Indigenous, this over-representation does not translate into Serious Young Offenders Review Panel cases. That is a very important point to keep in mind. In 2010, for example, 27 per cent of all Serious Young Offenders Review Panel clients in custody identified as being Aboriginal or Torres Strait Islander. In 2011 this figure was 29 per cent.

While this still represents a significant number of young people, clients from several other culturally diverse groups were, and still are, also heavily represented. That is a very important point to take into account: Other culturally diverse groups are also heavily represented. There needs to be some flexibility here. To date, the community members on the Serious Young Offenders Review Panel, including the Aboriginal representative, have successfully represented the views of interested parties in the care and management of young people subject to control orders. The only member of the panel covered by the legislation is the chair, who must be a magistrate, acting or retired. Due to their understanding of the law and juvenile justice issues and their ongoing contact with juveniles, this is deemed appropriate. The Government is committed to ensuring that the members of the Serious Young Offenders Review Panel not only are highly qualified to deal with the complex issues they review, but also represent diverse interests to reflect the juvenile cohort they deal with. For this reason, flexibility in the make-up of the panel is required.

Mr DAVID SHOEBRIDGE [6.11 p.m.]: I thank the Parliamentary Secretary for putting the Government's response on the record, but the simple fact is that 29 per cent all of those who came before the

Serious Young Offenders Review Panel in 2010 identified as Aboriginal, and 27 per cent did so in 2011. As I said before, when a panel hears six or seven matters at one sitting it guarantees that each time the panel meets one, two or more of the young offenders who appear before it will be Aboriginal. It is not good enough simply to have a discretion to include an Aboriginal member as the Attorney General thinks appropriate when the figures demonstrate that an Aboriginal young offender will come before the panel almost every time it sits—especially in the context of the gross disadvantage that the Aboriginal community faces, particularly in the criminal justice system.

It is unfortunate that the Government will not come on board and put some substance behind some of its rhetoric about justice reinvestment and trying to do things differently on law and order. Here is a chance to do something a bit differently—a chance to attempt to take one modest step in righting the historical injustice that Aboriginal citizens face in our criminal justice system. But the Government seems to think a tenfold or fifteen-fold overrepresentation among those who appear before the Serious Young Offenders Review Panel is simply not a sufficient basis upon which to make a special statement in support of the Aboriginal community. With respect, The Greens disagree.

Question—That The Greens amendment No. 1 [C2012-021] be agreed to—put.

The Committee divided.

Ayes, 16

Ms Barham	Mr Primrose	Mr Veitch
Mr Buckingham	Mr Roozendaal	Ms Westwood
Ms Cotsis	Mr Searle	
Mr Donnelly	Mr Secord	*Tellers,*
Dr Kaye	Ms Sharpe	Ms Fazio
Mr Moselmane	Mr Shoebridge	Ms Voltz

Noes, 19

Mr Ajaka	Mr Gallacher	Mrs Mitchell
Mr Blair	Mr Gay	Mrs Pavey
Mr Borsak	Mr Green	Mr Pearce
Mr Brown	Mr Harwin	
Mr Clarke	Mr Khan	*Tellers,*
Ms Cusack	Mr MacDonald	Mr Colless
Ms Ficarra	Mr Mason-Cox	Dr Phelps

Pairs

Mr Foley	Mr Lynn
Mr Whan	Mrs Maclaren-Jones

Question resolved in the negative.

The Greens amendment No. 1 [C2012-021] negatived.

Schedule 1 agreed to.

Schedule 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.

ELECTRICITY GENERATOR ASSETS (AUTHORISED TRANSACTIONS) BILL 2012

CORONERS AMENDMENT BILL 2012

Bills received from the Legislative Assembly.

Leave granted for procedural matters to be dealt with on one motion without formality.

Motion by the Hon. John Ajaka agreed to:

That these bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages and the second readings of the bills be set down as orders of the day for a later hour.

Bills read a first time and ordered to be printed.

Second readings set down as orders of the day for a later hour.

PARLIAMENT HOUSE SECURITY

The PRESIDENT: During question time today a stranger caused a disturbance from the public gallery. The incident is currently being investigated by the NSW Police Force and parliamentary security is assisting with these investigations. Members can be assured that the individual was screened upon entry to the precinct. However, I believe the incident raises serious questions about the conditions of entry to both the Parliament building through the gatehouse and entry to our public gallery. I have asked the security committee of the Parliament to review the incident, including the current conditions of entry to the building and to our gallery.

[*The President left the chair at 6.26 p.m. The House resumed at 8.00 p.m.*]

EDUCATION AMENDMENT (RECORD OF SCHOOL ACHIEVEMENT) BILL 2012

Second Reading

The Hon. JOHN AJAKA (Parliamentary Secretary) [8.00 p.m.], on behalf of the Hon. Duncan Gay: I move:

That this bill be now read a second time.

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

Leave granted.

Last August the Minister for Education spoke of the need to develop a new school credential for those students who leave school prior to receiving their Higher School Certificate. He spoke of the need for a credential that was meaningful and modern. He spoke of the need to replace the outdated School Certificate test with a credential that reflected the demands and aspirations of students, employers and the broader community. After substantial consultation on those matters with educators, employers and the community I am pleased to introduce a bill that represents the most significant change to New South Wales secondary school credentialing in more than a decade. This bill introduces the Record of School Achievement, which has been developed in place of the former School Certificate.

The Record of School Achievement ensures that all students who leave school before completing the Higher School Certificate can receive a formal credential that captures the breadth of what they have learnt. The credential will demonstrate what students have achieved in relation to the New South Wales curriculum as well as other worthwhile studies, experiences and contributions within and outside school. These key measures ensure the Record of School Achievement will provide meaningful information to students, their families, future employers and educators. In recent years a number of key stakeholders have expressed the view—from both an educational and an employment perspective—that the School Certificate, first awarded in 1965, was no longer valued by the majority of students or teachers.

Last year, following a review conducted by the Board of Studies involving consultation with key education stakeholders, the Minister for Education announced that the School Certificate would be abolished. He asked the Board of Studies to develop a credential for a changed context, including the 2010 increase in school-leaving age to 17, the Federal Government's National Assessment Program Literacy and Numeracy [NAPLAN] testing up to year 9, and the introduction of the Australian curriculum and developments in technology. The development of the Record of School Achievement involved extensive consultation. The consultation included meetings with key stakeholder groups, separate meetings with more than 500 principals, teachers, students, parents and community members at nine venues across the State and more than 450 responses to an online survey.

The details of the Record of School Achievement have been developed in response to the expressed needs of those who will be receiving, administering and using the credential. Stakeholder feedback continues to inform the implementation process. The Record of School Achievement will be a cumulative comprehensive credential, awarded by the Board of Studies to eligible students when they leave school. It will include school assessment grades for all courses completed in years 10 and 11 and a process of moderation will allow for grades across the State to be consistent. The Higher School Certificate will continue as is and is unaffected by this change.

I turn now to the specific provisions of the bill. The bill largely amends the Education Act by replacing references to the School Certificate with references to the new Record of School Achievement. In this way, it does not make any changes to the school curriculum or to the requirements for the registration of non-government schools and accreditation to present candidates for Board of Studies credentials. The most substantive changes are made to sections 94 and 98 of the Act. Section 94 has been amended to outline the eligibility requirements for the award so that the Record of School Achievement will be a cumulative credential awarded to students when they leave school.

To qualify for the award of a Record of School Achievement, a student must have attended a government school, an accredited non-government school or a recognised school outside New South Wales, undertaken and completed courses of study that satisfy the board's curriculum and assessment requirements for the Record of School Achievement, and complied with any other regulations or requirements, such as attendance, imposed by the Minister or the board and completed year 10. The changes reflect that the Record of School Achievement will not be awarded at a specific point in time in a student's schooling but when the student leaves school, provided that eligibility requirements are met. The section 94 amendments also remove the requirement for mandatory statewide tests in nominated learning areas and instead refer to any examinations or assessments the school may wish to include in its internal assessment program.

The legislation specifies that these will be in the learning areas and that they will be moderated in a manner determined by the Board of Studies so that an A in history awarded to a student in one school is consistent with an A in history in another. Section 98 has been amended to specify that the Board of Studies will maintain and provide transcripts of study on request to students who have completed year 10 regardless of whether the student qualifies for the award of a credential or leaves school. There is also provision for transcripts of study to be provided upon leaving school for students who have undertaken but not completed year 11 or 12 courses. Transcripts of study may also be requested by the school attended by a student.

The bill also provides for consequential and transitional provisions. It provides that students who complete year 10 in 2012 will be the first recipients who may be eligible for the new Record of School Achievement and subsequently will be the first cohort of students eligible for transcripts of study for courses undertaken in year 11 in 2013 and year 12 in 2014. In addition, non-government schools currently accredited for the School Certificate will continue to be accredited for the new Record of School Achievement. The Record of School Achievement recognises that school-awarded grades are the best means of communicating student achievement across the curriculum and that additional achievements in other areas of development are an essential part of an holistic learning experience. The credential will be an important part of encouraging students in New South Wales to see themselves as lifelong learners who are able to engage with their communities and develop the range of skills necessary for success in the workforce.

New South Wales has an outstanding education system, and the credentials awarded to its students must respond to the changing demands of a modern community. The measures introduced in this bill to create the Record of School Achievement will help to ensure that our suite of credentials is kept current and meaningful in the education and broader communities. I acknowledge Tom Alegounarias from the Board of Studies and the executive and other members who do a terrific job, and particularly the work they have done in developing the Record of Student Achievement. I also acknowledge the organisations and individuals who participated in the consultation process, particularly the Secondary Principals' Council, the Catholic Education Commission, the Association of Independent Schools and the many others who were involved. I commend the bill to the House.

The Hon. PENNY SHARPE [8.01 p.m.]: I lead for the Opposition on the Education Amendment (Record of School Achievement) Bill 2012 and indicate at the outset that the Opposition supports the bill. The object of the bill is to replace the School Certificate with a Record of School Achievement that will be available to eligible students who leave school prior to completion of the Higher School Certificate. There is no doubt that the School Certificate has been an important credential for New South Wales students since it was introduced in 1965, but we all know that the education landscape, particularly the secondary education landscape, has radically changed since then.

The vast majority of students now stay at school until year 12, but approximately 18 per cent of students do not attain the Higher School Certificate. Under landmark legislation that increased the school leaving age to 17, which was introduced when Labor was in government and which is one of the most significant secondary education reforms in the past 30 years, the trend towards staying longer at school will continue. As a result of those changes, a review was conducted by the Board of Studies in 2010—which also was when Labor was in government—and that found there was agreement that the School Certificate should be replaced by a new credential that would be based on a key set of directions. Last year the Coalition Government

followed up that review with an announcement that the School Certificate would be abolished and that the Board of Studies would undertake further consultation in relation to its replacement. The bill before the House today is the culmination of that process.

The Opposition believes that establishment of the Record of School Achievement is a sensible step. New South Wales was the only State that still had a mandatory external examination in year 10. The introduction of the National Assessment Program-Literacy and Numeracy, better known as NAPLAN, involves tests in years 7 and 9, and that has created further impetus for closer scrutiny of external testing in year 10. There was also widespread agreement that students who leave school at any time between the end of year 10 and up to the Higher School Certificate level should be able to have a credential that is more comprehensive, relevant and modern, and that could capture more of what a student had achieved up to the point at which they left school.

The Record of School Achievement will be cumulative and will recognise students' achievements until the point at which they leave school. It will report results of moderated school-based assessments rather than external tests, and will be able to be compared between students across New South Wales. The Board of Studies has consulted widely and the Record of School Achievement offers a meaningful credential to students who do not stay at school to gain the Higher School Certificate. The bill also provides for the Board of Studies to provide a transcript of students' results at the request of the student or the school. The Board of Studies has given a commitment to developing a tool that will allow for extracurricular activities to be recorded. That can help to form a more comprehensive picture of a student's interests and achievements.

The project will be piloted at some schools in 2012 and will focus on opportunities that already have authentication processes in place, such as first aid, the Duke of Edinburgh's Award, or the Australian Music Examinations Board certification. Many students put a lot of time and effort into those activities. There is no doubt that the experiences and skills gained can be very valuable for future employment. The opportunity to have those skills included as part of their Record of School Achievement will be welcomed by employers, students and parents alike, as will the option for online literacy and numeracy tests, which students can sit more than once. The most recent results will be presented, should they leave school prior to completion of the Higher School Certificate.

The Opposition supports the bill, but we note it is incumbent upon the Government to put in place the support necessary to ensure that the implementation of the Record of School Achievement is smooth. The Minister in the other place referred during his speech to a process of moderation that will allow for grades across the State to be consistent. That is important because school-based assessments rather than external examinations pose an additional challenge for teachers. Parents, students and employers want to know that an A in Broken Hill means the same thing as an A in Bondi. I understand that the board will provide more comprehensive samples on its assessment resource centre website, including assessment tasks and annotated graded work samples. The board also will undertake teacher workshops to provide training and support to teachers as well as monitor the allocation of grades.

This process must be properly resourced. There will be savings from the abolition of external examinations that formerly were part of the School Certificate. Community support for the Record of School Achievement grades as a result of school-based assessments will become stretched if the community does not think the grading process is fair. For that reason alone, it is important to resource the assessment process adequately. Our teachers already have that experience through standardised student reports and the grades that are allocated for the School Certificate subjects that are not externally tested, but successful implementation will require ongoing professional development and support.

The Opposition asks the Minister to ensure that a very big effort is made to make students aware of these changes. Students must request the Record of School Achievement rather than it being awarded automatically at the end of year 10. Apparently the rationale behind this is to encourage students to not view the end of year 10 as the end of schooling, and the Opposition agrees that that is important. We support measures to ensure that our Higher School Certificate completion rates increase. We know that the more years of schooling an individual completes, the more likely it is that they will have a better job, better health outcomes and better success later in life, which is why increasing school completion rates is so important. However, there is no doubt that there always will be some students who leave school at the end of year 10, or at some stage prior to completing the Higher School Certificate, for a range of reasons.

Some students may not at the time see the importance of having a Record of School Achievement and may not request it, only to subsequently realise the value of it. While I am sure it would be possible for them to

obtain access to the record later in life, the Opposition believes these students should be strongly encouraged to receive their credential if and when they choose to leave school prior to achieving the Higher School Certificate or at the completion of year 10. The Opposition would like to see during implementation some extra assistance and support being made available to teachers and students in alternative learning centres. It is of course proper and appropriate that education reforms are guided by what is in the best interests of the vast majority of students, but we also know that students in alternative learning centres often come from very difficult backgrounds and disengage from school years earlier than most students.

In particular, the Opposition raises the issue of young people in out-of-home care. In this place we recently had a debate about the lack of leaving care plans for those young people. The Record of School Achievement will become essential to them as they move into adulthood. The teachers do an amazing job of re-engaging those students in formal learning, and many teachers who teach in those settings have told the Opposition that the School Certificate was a really important milestone that they could encourage their students to reach. Some of those students were probably not going to achieve their Higher School Certificate, but teachers have told the Opposition that the School Certificate was a milestone that they could really use to encourage their students to get a credential.

If Government members wish to keep talking and are not interested in this debate they could at least leave the Chamber. The teachers in these centres do an amazing job. Many of these students have disconnected for a range of reasons, often a troubled home life or mental illness or homelessness. The Opposition does not want to make it more difficult for these students to gain a credential that is beneficial to them as they go out into the wider world of work, training or further education. The Opposition supports the legislation.

The Hon. CATHERINE CUSACK [8.08 p.m.]: It is the sweet breeze of change refreshing the corridors of education policy in New South Wales that brings the Education Amendment (Record of School Achievement) Bill 2012 before the House today. I note the feeble efforts of the Hon. Penny Sharpe to take credit in some way for the bill. The truth is that for 16 years under Labor this issue was in the too-hard basket. I congratulate the Minister for Education and the Government on finally making a decision to bring this important credential into the twenty-first century.

Members may recall that I worked with one of the finest education Ministers ever, a former member of this House, the late Hon. Virginia Chadwick, who implemented transformative recommendations of the Scott report called School Centred Education, which established the framework for decentralisation, increased the number of school councils from less than a dozen to over 1,000, introduced global budgeting and computerisation and, for the first time, allowed appointment on merit for school principals and other promotion positions. It is appropriate today to celebrate what the Liberals and The Nationals have brought to education. Sir Robert Askin gave teachers a 25 per cent pay rise and introduced the School Travel Scheme. Today he is still known as "the Education Premier".

[*Interruption*]

Opposition members can snicker, but it is the truth. This is what we do in New South Wales, and we do it extremely well. Education policy requires Liberal-Nationals governments to move it forward. The record could not be clearer on that point.

Dr John Kaye: Metherell was a catastrophe.

The Hon. CATHERINE CUSACK: You are so ignorant.

The Hon. Penny Sharpe: Point of order: I cannot hear this debate. Members should not interject and the member with the call should not respond to them.

DEPUTY-PRESIDENT (The Hon. Sarah Mitchell): Order! I uphold the point of order. Members on both sides of the House will cease interjecting.

The Hon. CATHERINE CUSACK: Somehow I was the victim of the point of order, but never mind. Along with the Scott report, former Minister Chadwick implemented the Carrick report through a program known as Excellence and Equity, which established for the first time genuine partnership and fairer funding for the non-government sector and created the New South Wales Board of Studies. It was a groundbreaking model that has been adopted across Australia. The board was the author of the bill before us today. Minister Chadwick was also the champion of key learning areas. Minister Chadwick introduced joint accreditation for TAFE

courses to be studied in New South Wales high schools as a means of ensuring curriculum is relevant and meaningful to all students. That is another theme of the bill before the House. During her time as Minister school retention rates rocketed to record levels. We are proud of those achievements.

After 16 years of Labor, where education policy slumbered in a kind of induced coma, Minister Adrian Piccoli has picked up the baton and is once again delivering national leadership with this type of commonsense reform. I note, in the Chadwick tradition, that the bill—which replaces the School Certificate with a Record of Achievement—is the result of extensive consultation with stakeholders. This included 500 principals, teachers, students and parents at nine venues across the State, together with 450 responses to an online survey. The bill brings our high schools system of student credentials into the twenty-first century, with a modern cumulative credential that is meaningful and meets the needs of the 18 per cent of students who rely on it most—those who leave school prior to completing the Higher School Certificate. It is quite proper the new credential ensures they are given full credit for their accomplishments, both academic and non-academic; in school and out of school. As a result, it enables a fair and accurate presentation of their potential to other training organisations and future employers.

I congratulate the Minister both on the reform and the approach he has taken in making it. By patiently building the consensus case he has ensured that the new credential is untarnished by politicking. This year's year 10 students—including, I might add, my youngest son, Lachlan—can have full confidence in the value of the credential they will earn by year's end. Last weekend the Premier and Minister for Education made further landmark announcements concerning the future management of government schools. Those initiatives, like the one before the House today, will bring our schools into the modern era. They have been warmly welcomed by all those who value community and local empowerment over red tape and bureaucracy.

I am proud of my Government's strong start to education reform to return policy to our core values of excellence and equity for all. All this is being done in our first year of office. It is traditionally an area of policy strength and leadership for New South Wales Liberal-Nationals parties and in that sense we lead Australia. For decades the reforms introduced by New South Wales Liberal-Nationals governments have been groundbreaking, and have transformed education around Australia. Minister Piccoli and his team are showing the way with new groundbreaking changes, starting with the bill before the House.

Dr JOHN KAYE [8.14 p.m.]: I appreciate the passion and poetry in the speech of the Hon. Catherine Cusack, if not necessarily her accuracy. It is probably well known that I was a trenchant critic of Labor when it was in office because of many of the educational changes it made.

The Hon. Catherine Cusack: You can't change, John.

Dr JOHN KAYE: I am not. I remain particularly critical of the Federal Minister and some of the absolutely crazy things he is doing, which I note are being picked up by the State with double the enthusiasm. Debate about the transformation of the school leaving certificate, which is probably the most accurate term, has been taking place for some time. Achieving a consensus on students ending year 10 and moving to a Record of School Achievement—it should be called a record of student achievement—has taken some time. There are risks associated with moving to a decentralised and disaggregated measure, such as that being proposed in this legislation. It was not that Labor dragged the chain; in fact, Labor began the debate. I recall an announcement by the former Minister for Education and Training in 2009 or 2010—

The Hon. Catherine Cusack: This began in 2000, John, and they always—

Dr JOHN KAYE: If you shut up for a minute, I could complete my sentence. You would then know what I am trying to say. I recall a media release—

The Hon. Dr Peter Phelps: Point of order: I suggest it is out of order to tell a colleague to shut up.

Dr JOHN KAYE: I retract the remark.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! Dr John Kaye will temper his remarks.

Dr JOHN KAYE: I will endeavour to do so—although there are some challenges to that state of grace. I recall a debate on *ABC Radio* in 2009 or 2010 about what the replacement of the School Certificate should look like. To its credit, the former Government started the process of moving in this direction. One of the worst things that can be done to education policy is to make it partisan, particularly in relation to such things.

The Hon. Trevor Khan: You talk about being partisan.

Dr JOHN KAYE: I am beyond partisan; I stand above all such things. The former Government took steps in this direction in relation to recording the achievement of a student when he or she leaves school. To its credit, this Government is continuing along that path. There are many things to welcome about the current legislation, which The Greens support. Making students eligible for a transcript of their school achievement, including both their educational records and extracurricular activity to a date at any time after completing year 10, creates greater flexibility. It is a complement to the earn or learn legislation that was introduced two years ago. It makes sense to give students access to that sort of information when the transitions from school to work are understood to be more varied these days.

Another attractive feature of this legislation is that students, after completing year 10, will be able to download their accumulative Record of School Achievement at any time and view it. They will have a sense of where they are up to, which will be useful for many students who are planning their transition to work. Extracurricular activities will be recognised through the Record of School Achievement. I believe that is a double-edge sword. In conversations with a number of principals some have expressed concern about extracurricular activities and the equity.

Children from a high socioeconomic status background who attend a well-off school will engage in the Duke of Edinburgh Award and various other activities that are available to them because of their parents' financial and social capital. They will be compared with students from disadvantaged background who generally do not have access to those sorts of activities. The Greens have a grave concern that the Record of School Achievement will build in the risk of a bias against low socioeconomic status students. I will be interested to see how that plays out. A variety of organisations have commented on this legislation. The Teachers' Federation has largely welcomed the legislation, which is not surprising.

The Hon. Dr Peter Phelps: Uh-oh. That's a worry.

Dr JOHN KAYE: I note that a senior member of the Government takes no rest in his attempts to attack the Teachers Federation. It is a good thing to have on the record. It explains a lot.

The Hon. Dr Peter Phelps: Thank you. That just assured my preselection next time around.

Dr JOHN KAYE: I also acknowledge that. The Teachers Federation raised two sets of concerns. The first relates to the additional workload imposed on teachers. Most members know that my partner is a schoolteacher, and an excellent one at that. I watch her go through the exam-setting cycle each year and I see the effort that she puts into each exam. The concern is that the need for additional examinations will increase teachers' workloads. I do not know any teachers who complain about their workloads, but I do know that many of them are driven to extreme levels of stress because of them. It is time we took stock of many of the educational reforms that the previous Government and this Government have implemented and their impact on classroom teachers and what we expect of them.

The second issue raised by the Teachers Federation relates to the online literacy and numeracy tests. It is not mentioned in the legislation but the education Minister's media release of Thursday 16 February refers to a fully implemented Record of School Achievement offering "online literacy and numeracy tests with particular emphasis on work readiness that students will be able to undertake twice a year from next year". The concern is that that test could come to dominate the Record of School Achievement process. The Greens, the Teachers Federation, the Federation of Parents and Citizens Associations and a variety of educational experts have raised concerns about the National Assessment Program—Literacy and Numeracy [NAPLAN] hollowing out the curriculum. Concerns have been raised that the online literacy and numeracy test will have the same impact. I ask that the Parliamentary Secretary provide an assurance that the literacy and numeracy tests are optional and that they will not dominate the process. I doubt that we will get that assurance, because the Parliamentary Secretary is busy in conversation. I might come back to that later when he is paying attention.

The Teachers Federation was positive about this legislation, as was the New South Wales Secondary Principals Council. The council made the observation that the success of the legislation will depend on the quality of its implementation. The legislation places a great deal of emphasis on the Board of Studies and what it does. The previous speaker talked about the Board of Studies as a Liberal-Nationals Government invention. If it is, and I can only accept that it is, it is an extremely good one. The board has served the State exceptionally well by producing world-class curricula and regulation of schools. It has done an extremely fine job and I have no

reason to believe that it will make a mistake or behave adversely in respect of the Record of School Achievement. However, we will watch the implementation stage carefully to ensure that it works and, in particular, that there is appropriate moderation of results between schools.

Moderation is done to stop grade inflation. The Californian experience, with its equivalent Record of School Achievement, saw massive grade inflation. Schools got into a competition to see who could award the most A grades. This legislation requires standardisation of results across schools to ensure that if a school chooses to inflate grades they will be deflated by the moderation process. Anyone who has had a son or daughter sit the Higher School Certificate exam would understand the concept of moderation in that context. It is a complex and brutal process. The moderation process will no doubt evolve over the next two years while the Record of School Achievement system is implemented. It will be extremely important to ensure that schools do not have any incentive to inflate grades to assist their students.

I will raise six issues of concern about the legislation. I have already referred to the first issue; that is, the extra workload imposed on teachers by removing the requirement for students across the State to be subjected to the same uniform examination and assessment process determined by an external board of studies. The Greens welcome the abolition of that test, but it means there will be more emphasis on testing in schools and therefore more pressure on schools. The Minister assured us in his speech in reply in the other place that that would not be the case. However, a number of us will be watching the situation carefully to ensure there is no significant increase in workload.

The second issue, which I will pick up during the Committee stage, deals with students for whom the school system is no longer appropriate and who leave and complete their year 10 education at a TAFE college. TAFE colleges provide them with a different environment, a new start, a less formal classroom and a more adult environment that better suits their learning style and emotional needs. The certificate in general and vocational education has proved to be a useful vehicle to get back into study for a number of students who would otherwise have fallen by the wayside. They give students the opportunity to complete year 10 and go on to obtain a certificate III and in some cases a certificate VI and sometimes even higher qualifications. Although a relatively small number of students obtain a certificate in general and vocational education, it is important for those who do because it offers them a real opportunity to re-engage.

As I read the legislation, it excludes those students who study to obtain a certificate in general and vocational education, which they can do under the learn or earn provisions of the Education Act thanks to a Greens amendment that was accepted reluctantly by the previous Government. The provisions of this legislation do not allow those students to obtain a Record of School Achievement, and that is unfair. The Greens would like the Government and the Opposition to think carefully about that and to support our proposed amendment that will allow those students who can no longer cope with school and who go to TAFE to obtain a Record of School Achievement.

The third issue, which I have raised previously and which has also been raised by the New South Wales Secondary Principals Council, relates to consistent grade awarding across schools and the need to ensure that we moderate grades in a way that is fair to all schools. The fourth issue, which I have again raised previously, is extracurricular activities. This is a highly contentious issue for some schools that have students from disadvantaged backgrounds for whom extracurricular activities are not on offer or not accepted or whose parents do not have the cultural or financial capital to allow them to participate. That builds an inherent unfairness into the Record of School Achievement. Those students who attend wealthy private schools and who have the funds to pursue an interest in those activities will have plenty of them to add to their Record of School Achievement certificate, which will give them an unfair advantage.

I have already spoken about the role of the literacy and numeracy tests. The Greens do not want to see them become the dominant component of the Record of School Achievement. Of course, literacy and numeracy are important, but education is much broader than that. Education is a far more detailed, complex, problem-solving self-realisation process that if it were hollowed out to just being literacy and numeracy would be doing a disservice not only to the children and to the employers who will eventually take them on but to our entire society. The health of our democracy and the health of our economy depend upon having well-educated children.

The final issue I raise is ongoing consultation. The Minister and his predecessors in the previous Government consulted widely with teachers, principals, students, parents, community groups and education bodies in developing the transition from a centralised School Certificate to a Record of School Achievement.

That consultation has borne fruit in legislation that everybody in this Parliament can support and will provide an advance in education in New South Wales, particularly for those students who are less academically inclined. However, a lot of the Record of School Achievement, the success of the qualification, will depend upon the implementation. Getting the implementation right will require the Board of Studies and schools to be able to use this legislation to produce meaningful qualifications that students can use for their own satisfaction and also for the satisfaction of potential employers or other education providers they may seek to join at a later date.

The success of this legislation needs to be monitored very carefully through its implementation. There needs to be a path for feedback from parents, students, teachers and education experts to the Minister and the Board of Studies to make sure that we get it right. Quite often with new qualifications, as we saw with the new higher School Certificate a decade ago, there is a burning-in period, where what looks good on paper does not actually work when the rubber hits the road. We hope that the Minister will remain open and flexible to further changes, if needed. If adverse outcomes with extracurricular activities being reported on the Record of School Achievement do eventuate, the Minister might seek to moderate or modify that. It is a significant qualification for the large minority of students who do not go on and get a higher School Certificate, so it needs to be monitored fairly carefully.

We believe very strongly that support needs to be provided to teachers who educate students completing their final years of schooling. These are often difficult years when, because of the earn or learn legislation which we supported, there are an increasing number of students who are disengaged but are still enrolled in the senior years of school. Providing additional support to schools and to teachers to make sure that curriculum offerings can be relevant and engaging for those students is important. It will not only improve the quality of their Record of School Achievement, it will also improve the quality of their education. As with all education issues, it comes down to making sure that we empower teachers in the classroom and give them resources, training and support to make sure that they can carry out their vital work. We can create any number of certificates and measures along the way but in the absence of appropriate resourcing education will always fail. We need more resources for public education and a Government that is committed to making sure those resources get into the classrooms where they are most needed. The Greens support the legislation but will move an amendment.

The Hon. SARAH MITCHELL [8.34 p.m.]: I am pleased to speak in support of the Education Amendment (Record of School Achievement) Bill 2012. As members of the House know, last year my fellow Nationals colleague and Minister for Education, Adrian Piccoli, announced that the School Certificate was to be abolished from 2012 and that the external tests for Year 10 students would be discontinued. The debate that has already occurred suggests that we are all in agreement that the School Certificate is well past its use-by date and there is a need for a new credential for students who leave school prior to the completion of year 12 in New South Wales. The bill will implement this policy and will omit references to the School Certificate from the definitions of "recognised certificate", replacing the omission with the Record of School Achievement. This new credential takes into account the academic results of students and their co-curricular activities.

It is the belief of this Government and various other stakeholder groups that the School Certificate no longer meets the expectations of employers and a more modern and up-to-date system is required to reflect the aspirations of students and the demands of following their chosen career paths. The new credential system will be conducted on an individual school basis but will be moderated statewide. The Record of School Achievement system will recognise a wider range of achievements and there will be more ability to understand the level of credential by potential employers. Those students who decide to leave at the conclusion of year 10 deserve a relevant and modern credential that takes into account the range of activities that they have participated in whilst at school and in a voluntary capacity rather than just formal examination results.

The Record of School Achievement will include school assessment grades for all courses completed in years 10 and 11 and a process of moderation will allow for grades across the State to be consistent. This will ensure that the credential is fairer and more equitable for all students no matter where they live in New South Wales. The bill does not make any changes to the school curriculum, nor to requirements for the registration of non-government schools or the requirement for accreditation to present candidates for Board of Studies credentials. The changes come about as a result of extensive consultation undertaken by the Board of Studies with various stakeholder groups representing parents and those involved in the schooling system. The policy was developed in response to the needs of students and those administering the credential. The consultation process included meetings with more than 500 principals, teachers, students and community members at nine venues across New South Wales and more than 450 responses to an online survey.

Students will still be required to complete year 10, participate in the required courses of study and complete to a satisfactory level assessments and examinations administered by the individual school. The Record of School Achievement will continue to be awarded by the Board of Studies to eligible students when they leave school. I pass on my congratulations to the Minister and the Board of Studies on their tremendous work in developing the Record of School Achievement, and to those who participated in the consultation process. I have enjoyed the debate on this motion and am looking forward to my colleagues speaking and to the response of the Parliamentary Secretary.

The Hon. NIALL BLAIR [8.37 p.m.]: The Education Amendment (Record of School Achievement) Bill 2012 was introduced by the Minister for Education, Adrian Piccoli, after extensive consultation with chief stakeholders, including principals, teachers, students, parents and community members, to abolish the School Certificate in New South Wales. In his 1997 report, "Securing their future", on the need to restructure the Higher School Certificate, Professor Barry McGaw received submissions that outlined several deficiencies in the School Certificate, including the lack of preparedness of many students for years 11 and 12; the apparent lack of challenge posed by year 10 studies for more able students; the low stakes nature of the external assessment where students were not accountable for their own individual results; perceptions that the timing of external examinations in the middle of year 10 had lessened the significance of subsequent year 10 studies; and concerns about a perceived discontinuity between junior and senior secondary school studies.

To the students who left school after completion to year 10, the academic nature of the School Certificate often rendered it irrelevant, while to those who continued with their high school education it was often not challenging enough. When the School Certificate was first introduced in 1965—and I believe the Hon. Duncan Gay was one of the first to complete it—

The Hon. Duncan Gay: I was: I was in the first year.

The Hon. NIALL BLAIR: The leaving age for students was 15. It allowed students to leave school with a qualification that they could take to employers and gain meaningful employment, apprenticeships, or go on to vocational training. However, now that the leaving age for students in New South Wales schools has risen to 17 and the Federal Government's National Assessment Program—Literacy and Numeracy [NAPLAN] testing extends to year 9, the School Certificate is a redundant, outdated test, no longer relevant to students in the future. I echo the sentiment of Minister Piccoli when he spoke in the other place of the need for a credential that is "meaningful and modern". Students leaving now will be issued with a Record of School Achievement in place of the School Certificate.

One of the key achievements of the Record of School Achievement is that it is holistic in its recording of a student's achievements. Rather than being issued at the conclusion of an academic year, the Record of School Achievement will be issued to a student when they leave school—provided they meet certain conditions such as attendance and completion of year 10. The credential will include school assessment grades for all courses completed in years 10 and 11, as well as other meaningful experiences that occurred both in and outside school. These include: the Duke of Edinburgh's award scheme activities, school sporting achievements and service, musical aptitude and achievement, trade qualifications and certificates, drivers licence, school service such as students representative council and peer monitoring, and life saving certifications, to name but a few.

Listing these achievements on a student's record allows a student who may not be academically focused to showcase their positive attributes and successes to prospective employers. It is essentially a school-endorsed regime—a much more relevant qualification than the School Certificate. Dr John Kaye expressed concern that schools in lower socioeconomic areas may not have access to extracurricular activities. The high school I attended at Goulburn, which predominantly covered the lower socioeconomic areas of the region, did not have access to the services that many other local schools in the area had. When I completed the Higher School Certificate I was one of only a handful of students who went to university. The majority of my peers left in year 10 to work in the local abattoir, if they could not get an apprenticeship, or in family businesses. But many of the people I went to school with, while not falling into the range of overly academic, have proved to be very successful in their working lives.

At the high school I attended we were offered a range of extracurricular activities, particularly sporting activities, which allowed students to showcase their many attributes. Employers such as the local abattoir looked for attributes such as turning up on time and completing tasks, working as part of a team, albeit a sporting one, and taking on leadership roles. Students who leave at the age of 17, not just those looking to move into academic fields or those wishing to complete further studies, will need to be able to demonstrate all of those

attributes. I congratulate Minister Piccoli on the community consultations that led to the decision to replace the School Certificate with the Record of School Achievement. The bill is in line with our outstanding education system and the desire of the Department of Education and Board of Studies to respond to the shifting demands of a modern community. It will be a breath of fresh air for many students, particularly those in rural communities who want to get their hands dirty, to be able to showcase the attributes that many of our regional employers are looking for. I commend the bill to the House.

The Hon. TREVOR KHAN [8.43 p.m.]: I speak briefly in support of the Education Amendment (Record of School Achievement) Bill 2012. I do so in three guises. First, I speak in the guise of a parent who in the past five years had a child undertake the School Certificate. At that time the complete irrelevance of it to my son's academic achievement was very evident. It was not even used for the purposes of determining his subject selection in years 11 and 12 or at what level those subjects would be. In that sense, if not a hindrance, it was an inconvenience to the many year 10 students who were preparing for their later years at school. For a considerable time now the School Certificate has outlived its usefulness. For well over 20 years a decreasing number of students have been leaving school at year 10. The bill is long overdue. Speaking in the guise of my early employment as a personnel and industrial officer some 25-plus years ago—

The Hon. Penny Sharpe: I think it is more than 25 years.

The Hon. TREVOR KHAN: It might be getting closer to 30. As a personnel and industrial officer the decision being made at that time was that young people in year 10 were not old enough to cope with the demands of trades such as electrical trades. One of the perceptions of all trades was that from an occupational health and safety aspect, but that was not the terminology used all those years ago—

The Hon. Penny Sharpe: Plus, plus.

The Hon. TREVOR KHAN: Plus, plus. One of the perceptions was that the maturity of the kids was not high enough to justify bringing them into the workforce. We were consistently encouraging young people—even those who looked as if they would make good apprentices—to complete years 11 and 12 before commencing their apprenticeships. Finally, I speak in the guise of a community member. Young people are now undertaking vocational training whilst still at school. This has been very important to those young people as they transition from a school to a work environment. They also benefit from the extracurricular activities performed through schools that they would necessarily lose if they went straight into the workforce.

I refer in particular, coming from a rural area, to the various sporting activities that young people engage in at school. That vocational training, combined with a continuing element of schooling, is very important in achieving outcomes for both the students and employers, and it should be encouraged. This bill will assist in the process of young people seeing relevance in continuing at school for a bit longer so as to gain skills and maintain companionship while making the transition into the workforce. This important piece of legislation is a hallmark of the Government. It will be seen in the history of this Government as an important step in achieving outcomes for the young people in our community.

The Hon. PAUL GREEN [8.48 p.m.]: The Christian Democratic Party supports the Education Amendment (Record of School Achievement) Bill 2012. The object of the bill is to amend the Education Act 1990 to replace the School Certificate with a Record of School Achievement. The examinations or other assessments for the new credential will be conducted on a school basis but will be moderated on a statewide basis. The bill will also provide for a more extensive record of student results and other activities during years 10, 11 and 12. I also note that the schedule substitutes for section 94 of the Act to make provision for the grant of a Record of School Achievement instead of a School Certificate.

The Christian Democratic Party notes that schedule 1 [18] substitutes for section 98 of the Act, which currently makes provision for the issue of a Record of School Achievement to students in years 10, 11 and 12. The substituted section will require a more extensive record of student results and other student activities while at school to be kept and provided by the Board of Studies. Of course, students who complete year 10 or who undertake courses in years 11 or 12 will be entitled to be provided with relevant transcripts of study, whether or not they have been granted a Record of School Achievement or Higher School Certificate. Like the Hon. Trevor Khan, I have a few kids at school. I just happen to have them in year 11, year 10, Year 8, year 7, year 6 and year 5, so I welcome this bill. If they are anything like their father, they are going to need this approach to get the same sorts of opportunities that their father got. During most of my time at school I certainly felt like a square peg in a round hole.

The Hon. Rick Colless: You did go to Hawkesbury; that makes it all right.

The Hon. PAUL GREEN: Hawkesbury accepts all sorts—even you. I think the bill is fantastic. For too long, academic assessments have been used to determine whether a person would be successful in life. I think most members in this Chamber have lived long enough to know that we all have gifts and talents that are wide and varied. I have been reflecting on my time in home science class. Some of my friends in that class were not academic but, I tell you what, their food was pretty good. They had a real talent for cooking. People like them are now getting a go on *My Kitchen Rules* or *Junior MasterChef*. They may have failed miserably academically but they have other gifts and talents.

This is a fantastic reform and the Government is to be congratulated on going down this path. Members who have had the opportunity to attend a school reunion realise that school academic achievements do not mean a heck of a lot at the end of the day. It is more about character: Who you are as a person and your integrity are the bases for where you get in life. That is not to take away from those who are academics and who do very well—may God bless them. But for the rest of us, long may we live. The Christian Democratic Party supports this fantastic bill. Long after we have left this place we will be very proud that it was passed.

The Hon. Dr PETER PHELPS [8.52 p.m.]: In 1954 Sir Harold Wyndham was appointed to chair a committee tasked to complete a review of the secondary education system in New South Wales and to make recommendations for improvements to be implemented. Of course, when you wanted something done you went to a Fort Street High School graduate, and Sir Harold Wyndham was that. Indeed, Fort Street has produced three directors general of education: Sir Harold Wyndham, who held the post for a remarkable 17 years; David Verco, who held it from 1969 to 1972; and Fenton Sharpe, who held it from 1988 to 1991. Three directors general of education—a record unparalleled in this State—were the product of Fort Street High School.

The committee's report—popularly referred to as the Wyndham report—was presented to the Minister in October 1957 and it gave rise to the Public Education Act 1961, which came into effect in 1962. Among the key changes was the objective of presenting all students with the opportunity to experience a wide range of subjects, including visual arts, industrial arts, music and drama, and a wide range of languages. The five-year secondary school system as it existed at that time was abandoned in favour of adding another year to the course, with major statewide external examinations at the end of the tenth, School Certificate, and the twelfth, Higher School Certificate, years of schooling.

The Wyndham report came about at a time when progression to university was a very rare event—certainly much rarer than it is today. Wyndham attempted to create a meaningful year 10 equivalent to what had been known previously as the Leaving Certificate. This was introduced for those students who did not intend to pursue academic careers—years 11 and 12 were originally supposed to prepare students to progress to university studies. It was the bedrock from which they could go into the community and show their employers they had the skills that would enable them to fulfil whatever role they sought at the time.

However, Professor Barry McGaw in his 1977 report, "Shaping Their Future", was highly critical of the School Certificate. His report noted multiple deficiencies, including the lack of preparedness of many students for years 11 and 12, and the apparent lack of a challenge that year 10 studies posed for more able students. When I studied the School Certificate syllabus in 1983 I was completely unchallenged by it, as I think were the majority of my peers at Fort Street. As I recall—correct me if I am wrong—at that stage it was an external examination for only two subjects, English and mathematics. The school did not receive anything lower than a B, and the overwhelming majority of results were of the A variety.

But this led to another problem concerning the low-stakes nature of the external assessment. Students were not accountable for their individual results. In effect, students studied and sat an external exam but the grading—A, B, C, D or E—was awarded to the school, which would then distribute the grades as it saw fit. In other words, individual students may have performed to an A level in the exam but they would never know, because if the school determined through its internal examination processes that they were in the B cohort that is what they received.

Another fault that Professor McGaw found was the perception that the timing of external examinations in the middle of year 10 lessened the significance of subsequent year 10 studies. Of course, that did not affect me because I was an extremely diligent student and even after the School Certificate examinations were finished I could not wait to engross myself in further studies. However, one or two students may have been enchanted by the prospect of an early summer being thrust upon them. Finally, there were concerns about perceived

discontinuity between the junior and senior secondary school studies. Professor McGaw recommended that the School Certificate be abolished and replaced for students leaving school with a statement of achievement, which would include each student's results in statewide tests in literacy and numeracy, as well as school-based results in all courses completed in year 10.

Despite Professor McGaw's recommendations, the Labor Government retained the School Certificate, although major changes were made to its structure and timing in order to address some of the concerns listed. The disparity between the recommendations of the McGaw report and the actions taken by the Labor Government led to frequent rumours and press reports about the ultimate abolition of the School Certificate. However, Labor remained committed to the School Certificate for several years and it is only under this Government—the enlightened Government of Barry O'Farrell and Andrew Stoner, and particularly the enlightened Minister for Education, Adrian Piccoli—that we have finally done away with this anachronism. It was a good idea at the time and it served the State well for most of those 50 years. However, there is a time for reform and for renewal, and this Government is delivering on reform and renewal.

One of the major changes is of course the removal of the need for centralised testing. I have to say that I am quite happy about this, especially when I look at the School Certificate tests. Under the former School Certificate arrangement, students were tested in English, mathematics, science, computing skills and Australian history, geography, civics and citizenship—the paper that most engrossed me. Do members think I could resist the temptation of going through the 2010 edition of the Australian history, geography, civics and citizenship paper? No, I could not. I put myself in the position of a malleable 15-year-old being taught by a teacher of the same general variety as Dr John Kaye. I said to myself, "That would be a fairly reasonable position to put myself in."

Dr John Kaye: Point of order: As the remark refers to me, I state that I am not an historian or a schoolteacher, and never have been.

The Hon. Lynda Voltz: You should withdraw that.

The Hon. Dr PETER PHELPS: I do withdraw that comment. Dr John Kaye has not taught in secondary schools, but I imagined that he had. I put Dr John Kaye in front of the social studies classroom and asked myself, "If I were doing a course in Australian history, civics and citizenship what would I be hearing from Dr John Kaye—or someone like him, roughly proximate, within the general stratosphere of the New South Wales Teachers Federation? What would I be taught?" The first page of the test asks about the United Nations and UNESCO. The next page also asks about the United Nations and this time it has a quote about the founding of the United Nations. Named there significantly is former Labor Prime Minister Forde and former Minister for External Affairs, Dr H. V. Evatt. Where did this come from? It is a direct quote from a Department of Foreign Affairs and Trade document that has been placed in this test for malleable minds to think about. It states:

> As a founding member of the United Nations, Australia has long supported the UN's key role in world affairs.

That is well and good, but if we go back to some of the contemporary scholarship about Doc Evatt we find that some of his views about the United Nations were substantially different from the hagiography that has been heaped upon him in the years since. As I recall, during a discussion on the role of the great powers and the security council he said—it is not purported because it is included in Department of External Affairs documents—"I don't care about the great nations and their veto power as long as we are part of them." In other words, this great internationalist did not care as long as Australia had a say. So H. V. Evatt is brought into the test. Then there is more on the United Nations—

The Hon. Lynda Voltz: Point of order: My point of order is relevance. We are debating the Education Amendment (Record of School Achievement) Bill 2012. The member has mentioned Herbert Evatt. He does not bother quoting writers such as Wilenski, who wrote about the Australian-United States approach to the United Nations and stated:

> Herbert Evatt was not backward in championing the rights of middle and smaller powers.

This issue has nothing to do with the long title of the bill.

DEPUTY-PRESIDENT (The Hon. Sarah Mitchell): Order! I understand the point of order.

The Hon. Dr PETER PHELPS: To the point of order: The debate is about the School Certificate, and I am reading from the School Certificate test. How is that irrelevant to the debate?

The Hon. Lynda Voltz: Further to the point of order: The Hon. Dr Peter Phelps was not quoting from the School Certificate test. He had moved on to Evatt and a quote that had nothing to do with it.

The Hon. Dr PETER PHELPS: It is in the School Certificate. Do you want me to table it?

The Hon. Lynda Voltz: You should table the document because that was not the quote you used.

The Hon. Dr PETER PHELPS: I will.

DEPUTY-PRESIDENT (The Hon. Sarah Mitchell): Order! I am listening carefully to the member's contribution. He is close to being outside the terms of the bill. While I will allow him to continue his speech, I remind him of the need to be generally relevant.

The Hon. Dr PETER PHELPS: It is a good thing the School Certificate is being abolished because I am demonstrating that as an educational device it is useless and as a propaganda device it is very good—especially when the sort of teacher one might expect from the New South Wales Teachers Federation is teaching the course. No doubt a well-balanced view of the United Nations would come from the sort of teacher that Dr Kaye would be. On page 6 we come up against Aboriginal culture in the 1950s, with discussion about assimilationism, integration, the 1967 referendum and the Stolen Generations. I can imagine how that would be taught. Page 7 includes an extract from Paul Keating's Redfern speech, which covers most of the page. I wonder how the Mabo decision would be taught and what the right answers would be as far as certain people are concerned.

The Korean War is also taught. I will relate a personal experience. The history teacher at my school reported that one of the great achievements in his teaching career was turning a Korean student against his family by explaining the Marxist interpretation of the Korean War—another great example. The School Certificate test deals also with the Communist Party Dissolution Act and Prime Minister Menzies. I have no idea who would be portrayed as the good guys and who would be portrayed as the bad guys. There then follows more on the 1951 referendum. Then we come to the Vietnam War. Will our soldiers be portrayed well or will it be the protest element? Will it be the men and women of the Royal Australian Regiment or the Vietcong who are the heroes in this? Indeed, one of the first questions on the Vietnam War asks which Australian Prime Minister supported Australia's involvement in the Vietnam War.

What has been conveniently not been included in the question is that Arthur Calwell was a very strong supporter of fighting the Communist insurgency in South Vietnam; he only disagreed with the way of doing it. He was opposed to conscription but he was very happy to support Diem and his regime in South Vietnam. Of course, there is no mention of that—only who supported and who opposed Australia's involvement in the Vietnam War. We then move on to conscientious objectors. I wonder who the heroes will be in that story. There is a photo of people burning their national service registration cards. I wonder who the heroes are in that little story. Finally, the test asks: What was the main aim of the schools' moratorium campaign? We see all the way through these questions with multiple-choice answers that there is a right question—or maybe we should say there is a left answer. There is a left answer to each of these questions and to score full marks students have to recite the same leftist mantra that will give them those marks.

Finally, we come to the essay section. The first topic is: Outline one change in the lives of women or migrants in post-World War II Australia. That is fair enough. The second is: Why is the Petrov affair considered an important event in Australia's response to the threat of communism? I wonder how many 15-year-old school students are going to be assigned Robert Manne's book on the Petrov affair—which, despite Manne's predilections for left-wing enthusiasms, remains the defining account. I wonder how many of those students will be given access to information about the Venona decrypts, which demonstrated that there were comprehensive Soviet networks in Australia? I wonder how many year 10 students even know about the Venona decrypts—or will they just hear about how Bob Menzies was a horrible beast who tried to outlaw free speech in Australia? I have a pretty good idea what version they would get if the Dr Kayes of the world were teaching them. The test continues: Select a Prime Minister from the box below—Ben Chifley, Robert Menzies, Harold Holt, John Gorton, Billy McMahon, Gough Whitlam, Malcolm Fraser, Bob Hawke, Paul Keating, John Howard, Kevin Rudd.

The Hon. Duncan Gay: Where is Jack McEwen?

The Hon. Dr PETER PHELPS: Yes, where is Black Jack McEwen? No, there is no censorship. Just keep walking. The next question is about the rights and freedoms of Aboriginal people in the twentieth century.

Again, I am sure there will be certain views that should be expressed to get maximum marks. Finally, we got to geography and I thought, "Thank heavens, there are maps and latitude and longitude and location of seas." But wait on—here we go:

> People who flee a country because of human rights abuses are known as
>
> (A) emigrants
> (B) immigrants
> (C) refugees
> (D) tourists

Another question asks:

> Chris believes that people should act responsibly towards the environment and community. Chris always takes rubbish home to recycle after a day out.
>
> What is Chris demonstrating?
>
> (A) Social justice
> (B) Active citizenship
> (C) Corporate responsibility
> (D) Environmental degradation

Here we go: "What issue affecting Australian environments is represented by source B?" Again, it is more greenie environmentalism. There are a few more maps and a few more graphs and then we come to ecological sustainability. Oh no, there is no political agenda here. Not much! Just play right to The Greens' strengths; play to the sorts of things that make people google "ecological sustainability". The next essay is about proposed development in an environmentally sensitive area. What are students supposed to do? They must identify a group likely to oppose one of the proposed developments—not support one of the developments—and describe the likely impact of one of these proposed developments on the environment. There is nothing about jobs, nothing about employment, nothing about tourism, nothing about increasing productivity—nothing like that. But we certainly want to find out who would want to oppose those sorts of developments. But wait, there's more.

The next question is about negative future impacts on the Australian environment. The question after that is about Australia's global and regional links and asks the student to choose from aid, defence, migration or trade. Finally, what can only be described as the Bob Carr question asks the student to discuss Australia's current and future population trends. Guess what the correct answer will be for that one? It depends on whether one follows the Bob Carr school of limited growth and lack of development or believe in an Australia that is going forward and promoting itself to the world. It is good that the School Certificate is dead and buried if this is the standard of teaching. It is good that no longer will students' malleable 15-year-old minds be manipulated by left-wing academics who try to create a new generation of green left-wing extremists through the education system. I commend the Minister for his efforts.

The Hon. RICK COLLESS [9.12 p.m.]: I support the Education Amendment (Record of School Achievement) Bill 2012. I congratulate the previous speaker on the very careful assessment he gave of the School Certificate. Today the Minister has brought forward a bill introducing a new credential and one that is an important part of preparing our students for the world they will enter. The Record of School Achievement recognises learning over senior secondary schooling in a way that will be meaningful to our students and their communities. It is a reflection of the recent changes in our education system and prepares students for the many more changes they will face in future.

Both here and abroad, secondary school systems continue to undergo an historical transformation. Initially established to serve a minority as an educational transition to higher education, upper secondary schooling is now undertaken by the majority of students, with lifelong learning becoming a condition for successful employment and for life. The drivers of this transformation are familiar and well documented: the rise of youth unemployment in the 1970s and 1980s, technical change and its impact on structural occupation and employment, and globalisation and the emergence of a knowledge-based society. While the policy response has varied, developed economies have looked to education as a foundation stone on which to maintain their economic growth and the employment capacities of their citizens.

Education authorities and individual school communities are responding with a range of curriculum, assessment and structural innovations that seek to broaden access to their senior qualifications and create credible pathways for this more diverse student group. This has led many to rethink the traditional

organisational structures of schooling. In general, the trend is to place greater emphasis on continuity within the whole education system rather than on different levels and categories. In the past we saw that continuity. An issue that has been discussed in this House many times over the past couple of years is the link between Hurlstone Agricultural High School, Hawkesbury Agricultural College and Sydney university.

In the past there was a very strong link between those three organisations. The previous speaker referred to some of the great graduates of the schools in those days. From the Hurlstone-Hawkesbury-Sydney university system we had people such as Roy Watts, the former Director General of Agriculture, and Irvine Armstrong Watson, who was a wheat breeder of international esteem and after whom the I. A. Watson Wheat Research Centre at Narrabri is named.

The Hon. Sarah Mitchell: It's a good place.

The Hon. RICK COLLESS: It is a very good place, and they do some fantastic work there developing new varieties of wheat every year. Of course, the other famous person who went through the Hurlstone-Hawkesbury-Sydney university process was Tom Hungerford, who authored a book called *Livestock Disease*, which for some 45 or 50 years has been the bible that all veterinarians, livestock producers, farmers and others use as their primary—

Dr John Kaye: Trevor has one by his bed.

The Hon. RICK COLLESS: Dr John Kaye does not know what I am talking about so he should be quiet and not make fun of a man like Tom Hungerford. Dr John Kaye claims to be the doyen of supporters of public education but Tom Hungerford went through that system and rose to great heights. Dr John Kaye does not know what he is talking about.

The Hon. Amanda Fazio: Point of order: It is relevance. The Hon. Rick Colless should be speaking to the bill before the House and not berating other members in the Chamber because they do not know some obscure agricultural figure who went to the same college that he did.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! I do not uphold the point of order, not because I went to the same agricultural college as the Hon. Rick Colless but because the member is being generally relevant to the bill.

The Hon. RICK COLLESS: The last remark made by this member over here is extraordinary. She has just insulted all people in regional New South Wales—

The Hon. Amanda Fazio: She? Point of order—

The Hon. RICK COLLESS: The Hon. Amanda Fazio has just insulted all people in regional New South Wales.

The Hon. Amanda Fazio: My point of order is that if the member wishes to refer to me in debate he should do so using my proper title and not by referring to me in some sort of derogatory way as "she". I find that very offensive.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! The member corrected himself. However, I remind members that they should address other members by their correct titles.

The Hon. RICK COLLESS: I withdraw the reference to "she". The Hon. Amanda Fazio has insulted all the people in regional New South Wales again, as she constantly does, by referring to some obscure agricultural process. That sums up where those on the other side are coming from. They do not care about what happens outside their little enclave in Sydney. She does not know Tom Hungerford, the work he did or the great respect with which he is held in New South Wales.

The Hon. Penny Sharpe: What has that got to do with the year 10 certificate?

The Hon. RICK COLLESS: It has everything to do with the year 10 certificate because the three people I have just mentioned did their junior schooling at Hurlstone Agricultural High School, their intermediate schooling at Hawkesbury Agricultural College, and went on to become highly trained academics through the University of Sydney.

Dr John Kaye: And they did the School Certificate.

The Hon. RICK COLLESS: You have not followed this argument because you are not interested in what is happening. That rigidly divided system that has developed in later years through the School Certificate process is seen more as an impediment than an incentive for aged cohorts to complete their schooling as it was in those days when they went through that early process. Despite the trend towards blurring boundaries between different levels of schooling, lower secondary schooling in most jurisdictions, including New South Wales, still prioritises a fairly broad set of subjects and competencies. The universal provision of schooling within these purposes is often understood in respect of learning entitlement. Rigorous quality assurance processes are needed to guarantee public confidence in the delivery of this entitlement to all students.

The Record of School Achievement is part of a suite of reforms in New South Wales that are providing meaningful and attractive options to students who do not complete the Higher School Certificate. The Record of School Achievement will support the goal of increasing student retention at school; provide an official recognition of learning to those students who leave school prior to receiving a Higher School Certificate; be available when students leave school after completing year 10 and want to go on to a productive career; be cumulative, recognising a student's academic and other school achievements up until the point at which they leave school; and be comparable statewide.

The abolition of the School Certificate is an important symbolic change that is intended to alter perceptions around the completion of year 10. Whereas in the past it signalled the end of mandatory schooling, the new credential should be seen as a pathway to employment and to the senior years of school. New South Wales school students should see their learning as a continuum that will last throughout their lives. Today the New South Wales education system prepares students for industries and jobs that do not yet exist, by providing them with the skills to access changing knowledge in the future. Our students need to be confident, flexible learners, able to cope well with change. They need to be prepared for the challenges of the future, to be able to develop innovative solutions to issues as they emerge.

The Record of School Achievement is a credential that better prepares our students for the world they will face. It recognises that their learning is on a continuum and does not signal a finishing point at the end of year 10. It recognises that their learning achievements occur in many areas of their life and are relevant to future employers and trainers. It recognises that their learning needs to be communicated in a way that is meaningful to them and their communities. I congratulate the Minister for Education on the reforms contained within this bill.

The Hon. MARIE FICARRA (Parliamentary Secretary) [9.23 p.m.]: I support the Education Amendment (Record of School Achievement) Bill 2012. The number of members who have contributed to this debate is a reflection of the importance of this issue. Most members would have gone through the School Certificate system. We know that this legislation is long overdue. We need to modernise the accreditation of our student's public education to meet the demands of tomorrow's workforce. The current credential in New South Wales, the School Certificate, is outdated and does not accurately reflect the individualised education our students are receiving. I commend my colleague the Hon. Adrian Piccoli, the Minister for Education, for being proactive in introducing this legislation as part of this Government's commitment to ongoing improvements to the education of our students in New South Wales.

In today's increasingly competitive global economy, Australians cannot afford to sit idly by and allow themselves to be surpassed by other countries that are developing better curriculums and constantly re-evaluating their public education system. Australia enjoys one of the world's highest standards of living because we made education a priority and refused to settle for mediocrity. If we are to maintain our lifestyle and global status as a leader in educational reforms, we need to ensure we are providing our students with the best education we can offer. This begins with updating the way we evaluate students' academic achievements.

This bill amends the Education Act 1990 to provide a new school credential, the Record of School Achievement, for students who choose to leave school prior to attaining their Higher School Certificate. This reform is a modern education standard reflecting the demands for a more holistic evaluation of academic achievement needed by students, employers and the broader global economy. If our students are to compete in today's job market they need an evaluation standard that accurately illustrates their broad-based achievements and intellect. This credential will reflect what students have achieved in respect of the New South Wales curriculum, as well as other studies such as extracurricular contributions within their school and community. It will be a fair and balanced assessment that will serve them well in their future careers, further education and job hunting. These may include vocational courses, leadership achievements, first aid courses, language proficiency, and other academic and leadership awards.

The Record of School Achievement will be made available to students who have attended a public school, an accredited private school or a recognised school outside New South Wales. They must have completed courses of study that fulfil the board's curriculum and exam requirements that are established for the Record of School Achievement, satisfied any other regulations or requirements—such as attendance or conduct set forth by the Minister of the board—and completed year 10. Students who meet these requirements in 2012 will be the first students eligible to receive this award. This credential is distinct from other academic awards because it cannot be awarded while a student is still actively enrolled; it is awarded only after a student meets all of these requirements and leaves school.

These reforms do not reflect a centralised approach to the public education system in New South Wales. They were thoughtfully drafted so as to not infringe upon the responsibilities of local school boards. New section 94 proposed by the bill will no longer require mandatory statewide tests. Instead, examinations that schools may wish to utilise in their internal assessment program will be included in the new standard but will be moderated in a manner determined by the Board of Studies. This will ensure that schools are maintaining their ability to customise courses based on the specific needs of their students, and to ensure that a grade in one subject awarded to a student in one school is consistent with the same grade awarded in the same subject at another New South Wales school.

New section 98 makes provisions that ensure the Board of Studies will keep an accurate record of a student's results in courses of study undertaken in years 10, 11 and 12 for a recognised certificate at a public school or an accredited private school. The record leaves room for any other non-academic achievements that the board sees fit to include. This new section allows the board to provide a transcript of studies to any person or body authorised by the regulations. Furthermore, it takes into account the special academic needs of many of our intellectually disabled students in New South Wales by allowing the board to provide a special record of achievement to these students who undertake formal courses of study.

This Record of School Achievement will paint a clear picture of a student's intellectual ability, and form a comprehensive account of the student's interests, commitments, achievements and strengths in community related areas other than school. Today's employers are seeking more than simply an academic transcript from students. They want a credential that paints a clear picture of the student's experiences and overall capacity to be a valued employee who can make positive contributions to their industry or sector of employment.

We all agree that New South Wales has led Australia in providing the very best future for its citizens. Accordingly, modern reforms are needed to ensure this proud tradition of excellence continues in the twenty-first century. Like my colleagues, I thank the Minister for Education, the Hon. Adrian Piccoli, for his unwavering commitment to improving the performance of schools in consultation with the New South Wales Board of Studies, parents, educators, students and stakeholder groups. We thank all these entities for their invaluable perspectives, which were vital in crafting this effective, new-age legislation. I commend the bill to the House.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [9.31 p.m.]: I welcome the introduction of the Education Amendment (Record of School Achievement) Bill 2012. My friend the Minister for Education has introduced a bill that delivers a new credential that will be an important part of preparing our students for the world into which they will move. This is a most appropriate piece of legislation in the new millennium and is designed to deal with the modern age of education. The Record of School Achievement will recognise learning over the senior secondary years in a way that will be meaningful to our students and their communities. It is a reflection of recent changes in our education system and it will prepare students for the many more changes they will face. It has taken a Liberal-Nationals Government to have the courage to introduce this important reform.

I sat my School Certificate exam some 28 years ago and, if I recall correctly, the Hon. Rodney Cavalier was the Minister for Education at the time. He was an inspirational Minister for Education. In fact, he was so inspirational that the Teachers Federation representative at my high school—the Orara High School—stopped him visiting my commerce class. Knowing that he was a member of the Labor Party, I was confused that a union member would prevent him visiting my class. Much has changed, but much has remained the same. Rodney Cavalier was probably trying to do very brave things—

The Hon. Catherine Cusack: They tore him down.

The Hon. MELINDA PAVEY: Yes, they did.

The Hon. Penny Sharpe: So you were great Rodney supporters.

The Hon. MELINDA PAVEY: I tried.

The Hon. Dr Peter Phelps: He writes a very good book.

The Hon. Amanda Fazio: It was rubbish and it wasn't even edited properly.

The Hon. MELINDA PAVEY: I acknowledge that interjection. However, 28 years on, we have another inspirational Minister who has the courage to modernise our education system. Both here and abroad, secondary school systems continue to undergo historical transformation. We have been stifled for many years in New South Wales, but this new Minister has now unleashed us. Initially established to serve a minority as an educational transition to higher education, upper secondary schooling is now undertaken by the majority of students, with lifelong learning becoming a requirement for successful employment and life.

The drivers of this transformation are familiar and well documented: the rise of youth unemployment in the 1970s and 1980s; technical change and its impact on structural occupation and employment; globalisation; and the emergence of a knowledge-based society. While the policy response has varied, developed economies have looked to education as a foundation on which to maintain their economic growth and the employment capacity of their citizens.

Education authorities and individual school communities are responding with a range of curriculum, assessment and structural innovations that seek to broaden access to senior qualifications and to create credible pathways for this more diverse student group. This has led many to rethink the traditional organisational structures of schooling. In general, the trend is to place greater emphasis on continuity within the whole education system rather than on different levels and categories. A rigidly divided system is seen as an impediment rather than an incentive for age cohorts to complete their schooling. This legislation is an appropriate response in the new millennium.

Despite the trend toward blurring the boundaries between different levels of schooling, lower secondary schooling in most jurisdictions, including New South Wales, still prioritises a broad set of subjects and competencies. The universal provision of schooling with these purposes is often understood in terms of a learning entitlement. Rigorous quality assurance processes are needed to guarantee public confidence in the delivery of this entitlement to all students. The Record of School Achievement is part of a suite of reforms that are providing meaningful and attractive options to students who do not complete their Higher School Certificate.

The Record of School Achievement will support the goal of increasing student retention and it will provide official recognition of learning to those students who leave school prior to receiving their Higher School Certificate. It will be available when a student leaves school after completing year 10, it will be cumulative, it will recognise a student's academic and other school achievements up until the point at which they leave school and it will be comparable statewide. The abolition of the School Certificate is an important symbolic change that is intended to alter perceptions about the completion of year 10. Whereas in the past it signalled the end of mandatory schooling, the new credential should be seen as a pathway to employment and to the senior years of school. That is the most important point. New South Wales school students should see their learning as a continuum throughout their lives. Today, the New South Wales education system prepares students for industries and jobs that do not yet exist by providing them with the skills they need to access changing knowledge in the future.

The Hon. Amanda Fazio: We've heard that line before.

The Hon. MELINDA PAVEY: It is a line worth repeating. Our students need to be confident, flexible learners who are able to cope well with change. They need to be prepared for the challenges of the future and to be able to develop innovative solutions to issues as they emerge. The Record of School Achievement is a credential that better prepares our students for the world they will face. It recognises that their learning is on a continuum and does not signal a finishing point at the end of year 10. It recognises that learning achievements occur in many areas of their life and are relevant to future employers and trainers. It recognises that their learning needs to be communicated in a way that is meaningful to them and to their communities. I congratulate the Minister for Education on the reforms contained in this bill. They are long overdue.

The Hon. AMANDA FAZIO [9.38 p.m.]: Like my colleague the Hon. Penny Sharpe, I support the Education Amendment (Record of School Achievement) Bill 2012. However, I must put on the record the consultations that were done with the education community and the community of parents by the Labor Government.

The Hon. Catherine Cusack: This has been going on for a decade.

The Hon. AMANDA FAZIO: I acknowledge that interjection. The Hon. Catherine Cusack is correct.

The Hon. Catherine Cusack: Hear! Hear!

The Hon. AMANDA FAZIO: I point out to the honourable member that the Coalition has been in government for less than a year. The hard graft and all the work that is the background to this legislation and the important changes made to public education in New South Wales have been done by the Labor Government. I suggest that the only reason Minister Piccoli has not managed to muck up this process is that the preparatory work was done before he assumed responsibility for the Education portfolio. In speaking in support of this bill I note that I have not been given multiple speaking notes by the Minister's office. Obviously copious notes have been passed around on the Government benches like menus in a Chinese restaurant. Government members have simply read out the notes that have been given to them and have not bothered to listen to their colleagues.

The Hon. Catherine Cusack: Point of order: I absolutely object to that allegation and smear from the Hon. Amanda Fazio. I wrote my own speech and it is clear that all government members have done likewise.

The Hon. AMANDA FAZIO: Is the member using a point of order as a debating point?

The Hon. Catherine Cusack: No. I ask the Hon. Amanda Fazio to withdraw that allegation. That is outrageous.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! The Hon. Catherine Cusack is asking the Hon. Amanda Fazio to withdraw the allegation that members did not prepare their own speeches. I prepared mine.

The Hon. AMANDA FAZIO: To the point of order—

The Hon. Catherine Cusack: I absolutely insist that mine was personally prepared.

The Hon. AMANDA FAZIO: I absolutely insist on my right to speak to the point of order. The Hon. Catherine Cusack should sit down and stop screaming incoherently.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! The Hon. Catherine Cusack has taken a point of order. Members will resume their seats when a point of order is taken. The Hon. Amanda wishes to speak to the point of order.

The Hon. AMANDA FAZIO: If the Hon. Catherine Cusack is so distressed by my allegation that Government members were using prepared speech notes from the Minister's office, I will of course withdraw that comment in relation to her. As I was saying, the familiarity of phrase—the repetition—leads me to believe that those speeches were not all their own work.

The Hon. Catherine Cusack: Further to the point of order—

The Hon. AMANDA FAZIO: The member has to make a new point of order, if she wants to.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! The member will resume her seat. The Hon. Catherine Cusack took exception to comments made by the Hon. Amanda Fazio. The member withdrew those comments. If the Hon. Catherine Cusack wishes to take a new point of order, she will have to seek the call.

The Hon. Catherine Cusack: Point of order: My new point of order is that the Hon. Amanda Fazio made an allegation against all members of the Government. I appreciate that it was withdrawn in relation to my contribution. I listened carefully to the contributions of other Government members. All those speeches were prepared by them personally, with a great deal of attention to the detail of the legislation. I ask that the Hon. Amanda Fazio withdraw her allegation in relation to all Government members.

The Hon. AMANDA FAZIO: To the point of order: Multiple rulings from occupants of the Chair state that collective comments and collective insults made about members of political parties are not outside the

standing orders. I advocate that the objection by the Hon. Catherine Cusack to my second set of comments is clearly not a valid point of order. I have withdrawn unreservedly the comments to which the Hon. Catherine Cusack took exception. However, I would argue that there is no valid point of order before the Chair at the moment.

The Hon. Duncan Gay: To the point of order: The previous ruling was that the Hon. Catherine Cusack found it offensive that the Hon. Amanda Fazio indicated that she had a prepared speech, for which dutifully there was an apology. Straight after that apology, the indication was that all Government members had prepared speeches. Surely by saying that all Government members had prepared speeches she once again had included the Hon. Catherine Cusack. Not being content to have slurred her once and made an apology, she then sneakily did it again. The member once again asked for an apology because once again she is offended. Frankly, I think she has every right to feel offended.

The Hon. Walt Secord: Bringing in the big guns.

The PRESIDENT: Order! I can assure the Hon. Walt Secord that I have been following the proceedings.

The Hon. AMANDA FAZIO: Further to the point of order: If the Deputy Leader of the Government had been listening carefully, he would have noted that I said there were remarkable similarities in the comments made in some of the speeches, which is what led me to believe that the speeches had not been prepared by individual members. Also in her comments to the point of order the Hon. Catherine Cusack stated as fact that she knew that everybody had prepared their own speeches, which I believe is very difficult for people to understand.

The PRESIDENT: Order! Members will cease interjecting. I cannot hear the member's point of order.

The Hon. AMANDA FAZIO: I still assert that there is no point of order because any insult which I was making was a collective insult, which is allowable—

The Hon. Duncan Gay: Now you have just admitted it.

The Hon. AMANDA FAZIO: I said if I had—you should listen more carefully. If I had made offensive comments, they were of a collective nature, not an individual nature, and I have apologised to the only member so far who has taken exception.

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

The Hon. AMANDA FAZIO: I will conclude my speech by noting that in the past, when we were in government and those on the other side were in opposition, if more than one backbencher spoke in support of a government bill howls of complaint came because we were told we were wasting the time of the House. Tonight we have seen exactly what those on the other side objected to when in opposition. It is hypocritical. We all know what this is about. It is all about getting people's speech numbers up in case the *Daily Telegraph* does an audit.

The Hon. Catherine Cusack: Point of order: The Hon. Amanda Fazio is casting aspersions on a member of the Government who spoke passionately in favour of this legislation. The interest and care in the preparation of the remarks reflect how passionately we feel on this side of the House, and her remarks are casting aspersions on us for asserting our right to speak.

The PRESIDENT: Order! While I understand the line of argument that the Hon. Catherine Cusack is putting, the Hon. Amanda Fazio has not made personal reflections against an individual. Therefore, she is within the terms of the standing orders.

The Hon. AMANDA FAZIO: Thank you, Mr President. I have concluded my speech.

The Hon. JOHN AJAKA (Parliamentary Secretary) [9.45 p.m.], in reply: I thank all 12 members for their contribution to the debate. The Education Amendment (Record of School Achievement) Bill 2012 is clearly a good bill. I congratulate the Minister for Education on introducing it. As far as I am aware, all stakeholders have shown their support for the bill. The only stakeholder who I am not sure showed support

for this was my daughter No. 4, who did her School Certificate last year and was shattered that we did not bring this bill in earlier. However, daughters 5 and 6 have not done their School Certificate and are extremely happy.

I shall deal with issues raised by a number of members. The Board of Studies is aware of the need to implement this with care and, of course, it will do so. I am sure that it will take into account the feedback received as the Record of School Achievement system becomes a reality. I am sure the Board of Studies is aware of the need for moderation and will undertake this with all due care—after all, it currently looks after the Higher School Certificate. Extracurricular activities can be added by the board, if required, following appropriate consultation. Types of activities are not closed off by this legislation.

The Local Schools, Local Decisions initiative announced by the Government this week will enable schools to have flexibility to ensure that specific needs of students in their learning are more readily and quickly addressed. The Minister has indicated in the other place that the Record of School Achievement is a reflection of recent changes in our education system. The Record of School Achievement better reflects the modern working environment and will show the extensive record of a student's achievements. It is becoming increasingly common for students to combine education, work and training as a pathway to full-time employment, so it is important for this to be shown in a Record of School Achievement. We want students who see themselves as lifelong learners, who are able to engage with their communities and develop the range of skills necessary for success in the workforce.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 and 2 agreed to.

Dr JOHN KAYE [9.50 p.m.], by leave: I move The Greens amendments Nos 1 and 2 on sheet C2012-043 in globo:

No. 1 Page 4, schedule 1 [14], line 31. Insert "or a TAFE establishment" after "Board".

No. 2 Page 5, schedule 1 [14], line 12. Insert "or a course provided by the TAFE Commission that is approved by the Minister as the equivalent of Year 10 of secondary education in this State" after "Year 10".

The intent of these amendments is to allow those students who leave school and complete their year 10 qualifications at a TAFE college in the certificate for general and vocational education course to be able to obtain a Record of School Achievement. I accept that the number of such students is relatively small, but if these amendments are not supported those students will not be able to receive a Record of School Achievement because of the way the legislation is worded. Even though the number of such students is relatively small, this is very important: they are the students for whom formal schooling no longer works and who, without access to a course at TAFE, would completely fall by the wayside.

The great success of the certificate for general and vocational education course is that half the students who undertake the course graduate from it and then they have access to a certificate III or certificate IV course that they otherwise would not have. If those students are forced to stay at school—and we had this debate in the "learn or earn" education legislation debate—they will not survive. They will end up being expelled and interacting with the criminal justice system. If The Greens amendments are supported those young people who complete year 10 at TAFE will get access to a Record of School Achievement. It is only a reasonable and equitable measure to ensure that is the case.

I understand the Government is not all that enthusiastic about these amendments—perhaps I should have got someone else to move them—but it would be really silly for the Government not to support them. It would show that the Government has no interest in those young people for whom it is no longer sensible to stay at school and who go to TAFE will not have access to a Record of School Achievement. They are the students who have the most reason for getting a record of achievement, because they are the students who are the least

likely to get any further qualifications. Those students will no longer be able to get a School Certificate and it would be deeply unfair to take away the ability of those students to get a Record of School Achievement. I urge the Government to reconsider and to support these amendments.

The Hon. JOHN AJAKA (Parliamentary Secretary) [9.53 p.m.]: The Government opposes The Greens amendments. The bill was carefully drafted with the assistance and advice of the Board of Studies after extensive consultation with all stakeholders. The bill also meets the requirements of the Government's policy agenda and the needs of all stakeholders.

The Hon. PENNY SHARPE [9.53 p.m.]: The Opposition supports The Greens amendments. The explanation given by the Hon. John Ajaka as to why the Government is opposing the amendments is quite bizarre: the bill has been consulted on so therefore it is perfect and it cannot be improved. Surely young people who are doing a year 10 equivalent at TAFE deserve to have a Record of School Achievement. Why would those young people be excluded just because to date someone has not picked them up in the drafting of the legislation? The amendments do no harm to the bill and will ensure that every student undertaking year 10 studies is brought within the purview of the bill.

Dr JOHN KAYE [9.54 p.m.]: I thank the Opposition for its support for The Greens amendments. I listened carefully to what the Parliamentary Secretary had to say but he failed to address the following situation. What if it was no longer acceptable for one of the Parliamentary Secretary's daughters to stay at school and she went off to TAFE? As the bill is currently drafted, the Parliamentary Secretary's daughter could not then get a Record of School Achievement. Every other child in year 10 in the State will have the opportunity to go to an employer with a Record of School Achievement but a child who does year 10 at TAFE does not get one. I simply do not understand the Government's position with respect to those young people. Will the Government completely ignore them? Will TAFE no longer provide year 10 equivalent courses? Is that really the Government's agenda? If so, the Government should have the decency to say that. Or has the Government not understood what The Greens have said? I ask the Parliamentary Secretary to respond to those questions.

Question—That The Greens amendments Nos 1 and 2 [C2012-043] be agreed to—put and resolved in the negative.

The Greens amendments Nos 1 and 2 [C2012-043] negatived.

Schedule 1 agreed to.

Schedule 2 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. John Ajaka, on behalf of the Hon. Duncan Gay, agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. John Ajaka, on behalf of the Hon. Duncan Gay, agreed to:

That this bill be now read a third time.

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

GOVERNMENT INFORMATION (PUBLIC ACCESS) AMENDMENT BILL 2011

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

ADJOURNMENT

The Hon. JOHN AJAKA (Parliamentary Secretary) [9.59 p.m.]: I move:

That this House do now adjourn.

STAND4MARRIAGE CAMPAIGN

The Hon. PENNY SHARPE [9.59 p.m.]: Tonight I draw to the attention of the House a truck that was spotted yesterday driving around the Central Coast. The Stand4Marriage truck is emblazoned with a billboard informing the public about what they call "the dark side of same-sex marriage". According to the billboard "same sex marriage is homosexual sex-ed for your young children". The Stand4Marriage truck is part of a campaign peddling myths and misinformation about gay and lesbian people in this State. It also advertises a website where the same misinformed drivel continues. But who is this group? If the members of this group are well funded enough to have billboards on trucks driving around the suburbs they should explain who they are. Their website does not say. They include a link to the website of someone who calls himself "a sensible man"—sensible but anonymous and angry.

This is a war, no question, he says. Stand4Marriage is linked also to Peter Madden—who ran for election as a candidate for the Christian Democratic Party at the last State election. The purpose of the campaign is to link marriage equality with teaching children, and especially very young children, about sex, and at the same time target the Labor Party. The idea that they are peddling is that legislating to allow all adult couples equal access to marriage will mean that children, primary and preschool aged children, will be given explicit sexual education. The website claims:

> As in other nations, schools will become the primary means of change to influence young children in order to normalise sexual experimentation, erotic diversity and promiscuity as well as breaking down gender norms and family structures.

It goes on to state:

> In high school, homosexual indoctrination programs penetrate every possible subject.

And there is this:

> Teenage minds are defiled with explicit age inappropriate material. They are also encouraged in mind boggling homosexual acts.

I have taken a look at the personal health and physical education curriculum available on the Department of Education website. There is nothing in it that talks about erotic diversity and promiscuity or defiling young minds. I would hazard a guess with a fair amount of confidence that Minister Adrian Piccoli has no intention for this to change, whether or not the Federal Parliament votes in support of marriage equality later this year. As far as I am aware it is only Peter Madden, and his anonymous friend, who are even thinking about teaching kids, young kids at that, about sexual experimentation, erotic diversity and promiscuity. Here we are in 2012, when the majority of Australians support marriage equality. This truck shows that some groups are still dealing in exactly the same misinformation, the same fear, and the same irrationality as in the past. The most offensive and disturbing notion that this campaign relies upon is conflating homosexuality with paedophilia. Stand4Marriage asks:

> If homosexual marriage happens here will your child be defiled?

And it goes on claiming that in nations where full marriage equality exists 70 per cent have an age of consent of 15 years or lower and that three of these nations actually cease protecting their children at just 13 years. They insinuate that marriage equality is a threat to the community and a threat to children. It is nonsense and it is deeply offensive. These campaigning techniques are drawn from the radical fundamentalist religious movements in the United States and they should have no place here in New South Wales or Australia. In contrast, Australian Marriage Equality, which is campaigning for marriage equality in Australia, has made this public commitment:

> Australian Marriage Equality is committed to respecting the deeply and sincerely held beliefs of those who oppose marriage equality. We will always debate the issues at stake in a mature way that does not denigrate the views of others. We ask opponents of marriage equality, including those from faith backgrounds, to reciprocate by refraining from attacks on others that inflame prejudice, stigma or hatred. Just as we acknowledge that it is possible to oppose marriage equality without hating homosexuals, so we ask those who differ with us on this important issue to acknowledge that it is possible to support marriage equality without seeking to undermine marriage, family or religion.

The Stand4Marriage campaign inflames prejudice, fear and hatred. It is a sad indictment on those behind it. The only rational response is to counter fear with evidence and challenge misinformation with facts. Fact one:

Marriage equality does not impact on anyone else's family or religious beliefs. In Australia we already have a clear distinction between civil and religious marriage. No-one is proposing we change that. Fact two: In relation to children, Lee Badgett is a United States professor who has studied the impact of marriage equality overseas. Her research found that:

> Children, in particular, benefit from marriage equality. More than one quarter of the same-sex couples we surveyed were raising children and almost all of these couples said their children were happier and better off as a result of their marriage. Many parents reported that their children felt more secure and protected. Others noted that their children gained a sense of stability.

Fact three: Campaigning for marriage equality and asking that lesbian, gay, bisexual, transgender and intersex citizens be treated equally does not vilify those against same sex marriage. It is not vilification or discrimination to be called out on prejudiced, ignorant and/or hateful views, no matter how dearly one holds them. Free speech works both ways. If the people behind this campaign are offended by being called homophobic, they should not promote hate and fear of homosexuals. The Stand4Marriage campaign is not respectful: it deliberately peddles misinformation with the intent of promoting fear and hatred of lesbian, gay, bisexual, transgender and intersex people in our community. As the public debate over marriage equality continues these types of campaigns must be called to account. In a tolerant and respectful society we need to respect each other's opinions and have a mature and civil debate. Stand4Marriage does not even attempt to do this. Enough is enough.

BAGO PLATEAU LOGGING

Mr DAVID SHOEBRIDGE [10.04 p.m.]: Tonight I am joining with a wonderfully committed group of forest activists and Aboriginal heritage experts in calling for an end to native forest logging on the South West Slopes of this State. I make this call, given the marginal contribution that native forest logging makes to the local economy and the ongoing destruction this marginal industry causes to our priceless Aboriginal heritage and endangered animal habitats in the region. At the heart of the South West Slopes is the Bago Plateau. The Bago Plateau is home to a population of yellow-bellied gliders listed as endangered in 2008 under the Threatened Species Conservation Act. At that time, a little under four years ago, predictions were that the population was in long-term decline and in dire need of protection. The falling numbers were a result of reduced habitat quality from the destruction of their native forest homes.

Yellow-bellied gliders need a diverse habitat to survive because they feed on sap, nectar, manna, arthropods and insects, which they obtain during different seasons of the year from a diversity of eucalypt species. They require large old trees to give them shelter in hollows, with trees normally being more than one metre in diameter at breast height. Only last week the Department of Environment and Heritage placed on exhibition a proposal to remove the protection of the yellow-bellied glider population in the Bago Plateau. This proposal flies in the face of the evidence cited in the department's own report that details a drastic decline in the number of gliders observed between 1995 and 2010: the number of places at which gliders were observed fell from 26 in 1995 to just 17 in 2010.

It is difficult to see how a combination of falling numbers and ongoing habitat destruction can lead to a threatened species losing its protection. What is plain is that removing this protection from the yellow-bellied glider population will make it easier for logging in these forests to continue. Unless we retain the protection on the glider and halt the ongoing destruction of their habitat we are going to lose one of the iconic creatures from this State's south east forests. Yet this Government seems to be willing to facilitate the pulping for paper of the old eucalypts that comprise the yellow-bellied gliders' nesting sites. Logging native forests on the South West Slopes also has a devastating impact on sites of Aboriginal cultural and historical significance. Sites once destroyed can never be replaced or regrown. In many cases whole compartments of forests are being logged based on harvest plans which do not include any mapping of Aboriginal heritage sites.

Just weeks ago I was contacted by forest activists from South East Forest Rescue regarding logging planned to commence on 27 February in compartment 38 of the Bago State Forest. The harvest plan being relied upon by Forests NSW failed to record even one of the 31 sites of Aboriginal cultural significance that had been recorded by heritage expert Jim Kelton. Without mapping or protection, these sites faced being destroyed or seriously compromised by the logging operations. A letter to Minister Parker on 24 February notifying her of the planned destruction received an admirably prompt response. For the moment logging has been halted to allow some protection of some of the Aboriginal Heritage. But it is only a temporary reprieve.

This is not an isolated incident; there are countless other sites in native forests across the south west slopes where logging is occurring and Aboriginal heritage sites have not been identified, or at best partially identified. Day by day we are losing burial grounds, camping sites and artefacts that have been important to

Aboriginal people for thousands of years. It must stop. But even putting to one side the environmental and heritage issues, the logging of these native forests just does not make sense economically. The numbers speak for themselves: the contribution of logging from native forests on the south west slopes to the economy of New South Wales is minuscule. For example, in 2002-2003, the last year for which full figures are available, the value of hardwood native forest logs produced from the region was just $2.85 million. Since then logging in the region has contracted significantly. But this does not mean that forestry overall is not important to the region's economy; it is. It is just that the value of logging native forests on the south west slopes is dwarfed by the value of plantation timber in terms of jobs and revenue for the people of the region.

In 2002-03 the total value of plantation timber production ran to $574,470,000, compared with a total of just $8,650,000 for native forests, which is only 1.5 per cent of the value of plantations. The native forest sector also seriously underperforms in terms of employment in the region. In 2002-03 plantation softwoods provided employment for 1,748 people compared to just 80 for native forest—again, only a tiny fraction of the total forestry jobs. These figures flatter native forest logging's economic output as they are the gross figures for the industry and ignore the substantial investment in public money to deliver the forests to the logging contractors in the first place.

Any forestry workers displaced by this change will need our help. They must be offered retraining and assistance to work in the far larger, and more viable, plantation industry through modest industry adjustment grants paid for by State and Federal Governments. The Greens New South Wales are calling for a permanent end to the logging of native forests on the south west slopes. We make this call in full recognition that as a community we are losing too much and gaining too little from their ongoing destruction.

AGRICULTURAL EDUCATION

The Hon. NIALL BLAIR [10.09 p.m.]: Tonight I speak about the future of agricultural education in New South Wales. In an age when the world's population is expected to reach up to 10 billion by 2050, primary industries and food production and security have never been more crucial. Australian farmers are the world leaders in innovative technology and are resourceful and productive, even in the face of drought, floods and cyclones. Last week's release of an Australian Council for Educational Research study, commissioned by the Primary Industries Education Foundation, contained survey results from teachers and students that were met with bemusement by the media.

It is difficult to digest some of the results including: over two-thirds of students mistakenly believe that most logs harvested come from native forests; 40 per cent of year 10 students believe farming damages the environment; 46 per cent of students saw no link between the use of on-farm inputs and increased food production; 28 per cent of year 10 students thought natural fibres only came from plants; 75 per cent of year 6 students thought cotton socks were an animal product; 27 per cent of year 6 students thought yoghurt was a plant product; only 57 per cent of students linked scientific research to farming; and only 45 per cent of students linked innovation to farming.

This survey makes one thing very clear: food consumers, particularly in urban areas, are increasingly disconnected from their food source. However, despite this, the survey did reveal that 100 per cent of primary school teachers and 91 per cent of secondary teachers thought that educating students about primary industries is important, or somewhat important. Just as concerning as the Australian Council for Educational Research study was the news earlier in the year that the University of Western Sydney Hawkesbury, formerly Hawkesbury Agricultural College, will not be offering agricultural studies for the first time since 1891. There were only 10 eligible applicants for the Bachelor of Natural Science—Sustainable Agriculture and Food Security course.

I wrote to the vice-chancellor, Professor Janice Reid, about this and her response indicated that the University of Western Sydney is part of a $1 million project supported by the Federal Government's Structural Adjustment Fund to establish a Primary Industries Centre for Science Education, which, among other things, will work with key stakeholders to build an interest in agriculture amongst high school students and establish outreach programs in order to help increase student enrolments. Only time will tell if such programs and funding can actually increase numbers in key university programs.

There are a number of reasons why the number of students studying agriculture is declining. In many cases it may be as simple as the fact that there is not the physical space in many school and tertiary education settings to have an agriculture plot. I noted a letter to the editor in last week's *Land* from Greg Adamson, a graduate of two agriculture degrees, who claims "in the past 20 years, universities have removed all practical aspects of agriculture in order to fill courses with a growing number of professors without industry experience", and that many agriculture degrees now have no practical element to them at all.

Of course, it is not just in the field of academia that we are falling behind in terms of numbers. We need to look to make provisions to ensure the future of all levels of the agriculture sector—from scientists to wool classers, shearers and jackaroos—and guarantee the continued success of our food and fibre industries. People are working to rectify this alarming trend. For example, bodies such as the Primary Industries Education Foundation and NSW Farmers believe that moves towards a national curriculum may provide a unique opportunity for primary industries to participate in our education sector, and are working to ensure that urban communities are actively aware of the importance of agriculture.

In February I was proud to attend a combined forum and networking event of Young NSW Farmers and Young New South Wales Nationals. At this event, I met some young, innovative farmers from regional New South Wales who confirmed to me that, despite the drop in numbers studying agriculture, the calibre of those in the field is incredibly high. One such lady was Jo Newton, a PhD candidate at the University of New England and winner of the inaugural Peter Westblade Scholarship designed to foster young people interested in a career in the Australian sheep and wool industry. Jo's PhD project is in sheep genetics and is focused on gaining a greater understanding of reproductive traits in sheep. It is anticipated that she will focus on the improvement of yearling lambing performance and gain a better understanding of the current limitations of data recording of reproductive performance through working closely with breeders across Australia.

What is particularly unique about Jo's involvement in this field is that she grew up in suburban Melbourne and her interest in sheep was sparked by high school agriculture classes. Meeting Jo reinforced my belief that we must look at what we can do to ensure that all urban students are exposed to primary industries as a mandatory part of their schooling, as it is not only students from a rural background who will have a future in the industry. In conclusion, I note that, although this is a great concern, I was disappointed that Labor members in the Senate today did not support a motion to support the agriculture industry in Australia and increase the number of people studying in this area.

DYNAMIC ALTERNATIVE LEARNING ENVIRONMENT PROGRAM

The Hon. GREG DONNELLY [10.14 p.m.]: On more than one occasion I have spoken in this House about my disappointment at how poorly we as a State support girls and women who had an unplanned or unexpected pregnancy and wish to proceed with the birth of their child. I lament the fact that there is very little well-resourced, professionally run, structured care for these girls and women to access. In saying this, I am not talking about overnight or short-term emergency care. There are many splendid examples of this type of care around New South Wales and I pay tribute to all those involved in providing such care. However, those providing such care tell me that there is no shortage in demand for the services that they provide. This, of course, is a terrible indictment of our society when one considers that a number of girls and women, some with their children, are escaping cruel and degrading acts of domestic violence. No woman, no girl, indeed no person should ever have to be exposed to such treatment—never, ever.

My particular focus has been, and continues to be, on the more medium-to-longer term, structured, ongoing support and care. It is what many of these girls and women want, need and deserve. Surely, as a first-world country we can and should find ways to provide it. This evening I draw the attention of members to the wonderful work being undertaken by St Philip's Christian College in Newcastle and the surrounding area. In particular, I highlight its Dynamic Alternative Learning Environment Program, which is a non-denominational program. The program is underpinned by the belief that all young people should be given the opportunity to grow in their God-given gifts.

The original program was launched in 1997 to meet the needs of year 7 to year 10 students with emotional behavioural problems and mild intellectual disabilities. Since its humble beginnings at Waratah the program has expanded to include a number of other campuses across the region. Further expansion is being planned and children from kindergarten to year 12 are being catered for. The programs are specifically tailored to meet individual student needs and are delivered by highly trained staff with expertise in the education of students with special needs.

The Dynamic Alternative Learning Environment Young Mothers Program was launched in August 2000. The program is dedicated to supporting pregnant teenagers and teenage mothers to continue their education. It is administered by St Philip's Christian Education Foundation. The program is recognised by the New South Wales Board of Studies as an additional campus of St Philip's Christian College in Waratah. The program is a more adult learning environment than a mainstream school. Students are able to work

independently and at their own pace, with teacher support as required. An on-site crèche, run by professional child care workers, is available to children up to the age of three years. The provision of this facility, adjacent to the classrooms, enables mothers to participate in the nurturing of their babies during the school day.

Students are not required to wear uniforms. The school assists the students to network with career advisers, health professionals, legal advisers, psychologists and social workers. Visits to the Newcastle Career Information Centre are available for students to research areas of interest and explore pathways to career goals. Special events are held throughout the year for personal development to celebrate achievements and encourage a sense of community amongst students. Past events have included pamper days, family picnics and excursions. Enrolments to the program are taken throughout the year. Students must be aged under 20 years when they first enrol in the program. Fees are payable but are subsidised. If any member has doubts about the value of such a program I advise them to visit the St Philip's Christian College website and read the testimonials of a sample of student participants. They are all, in their own way, powerful statements. One that struck me was as follows:

> I was 14 when I fell pregnant and I wanted to keep my baby and I wanted to go back to school, but did not want to go back to my old school. The Young Mothers Program has given me a new start, new friends and a new chance at life.

And so it should be. For a society that likes to consider itself fair and decent, although we struggle sometimes to achieve these goals, there is no reason why we should not care and support pregnant teenagers and teenage mothers to a standard of which we can all be proud. I thank St Philip's Christian Education Foundation, Mr Kevin Berger, the DALE Program Executive Officer, staff and all the dedicated volunteers for all their work and the example that they set for us all. Their efforts are greatly appreciated. I urge them to continue and I hope that their good works continue to flourish and inspire others.

SENIORS WEEK

The Hon. JAN BARHAM [10.19 p.m.]: There are many cultural differences that tend to divide the world but there is one constant across most cultures: the notion of respect for elders. This weekend marks the start of New South Wales Seniors Week when events are held across the State, not only for older members of our community to enjoy and participate in but also for us to show our appreciation to our elders for their valuable contribution to society. Our communities are richer and more vibrant thanks to the contributions of our older people, but sadly for some citizens there are significant obstacles that prevent them from enjoying life. It is these people that must not be forgotten, as our attention focuses on our ageing population next week.

It is a well-known yet shameful fact that life expectancy is not uniform across populations within Australia. Aboriginal and Torres Strait Islander people experience a much shorter life expectancy than non-Indigenous Australians. It is recognised that a significant gap exists between Indigenous and non-Indigenous Australians. That gap is consistently identified as being between 10 and 17 years. The inexcusable reality is that our Indigenous Australians are missing out on a whole decade of life experiences—a decade of enjoying life, watching grandchildren and great-grandchildren grow up and passing on knowledge and wisdom to the rest of the community.

The State Government could address a significant issue by lowering the eligibility age for a Seniors Card for Aboriginal and Torres Strait Islander people to 45 years. With a lowering of the age for this disadvantaged group, they would become entitled to important concessions and benefits that would support an enhanced quality of life. I commend the initiatives that have been implemented under the Close the Gap campaign. I note that next Thursday 22 March is national Close the Gap day, an important day to raise awareness of the need for genuine commitment from all levels of government to Aboriginal Australians.

Another area of disadvantage for older Australians is the issue of homelessness, particularly for older single women. According to the Australian Institute of Health and Welfare, in 2009 17 per cent of homeless people in New South Wales—almost 5,000 people—are aged over 55 years. Further, people in this age group are over-represented in boarding houses and under-represented in those who seek assistance. Recent research and media have focused on the growing number of women aged 45 years and over who are experiencing homelessness later in life, largely for financial reasons. As explained by Homelessness Australia, many of these women have been forced out of the workforce early with insufficient savings and superannuation; others have separated from life partners with insufficient means to meet housing costs and some have become homeless after the death of a spouse. There is clearly a lack of services and accommodation for this specific group and we need to determine how we can better support these vulnerable members of our society.

The provision of appropriate services and advice to older people in general is an area where greater improvement is required. In 2004 the Law and Justice Foundation released its report entitled "Access to Justice

and Legal Needs: The Legal Needs of Older People in New South Wales". The report indicated that access to specific legal services for older people was lacking and recommended increased funding. There is a genuine need for additional support and advocacy for older people to ensure that they have access to information on their legal rights, complaint and dispute opportunities, financial situation and, in particular, care options. For many older people, there are a wide range of new issues to contend with.

Access to support and legal advice becomes vitally important in relation to the sad reality of elder abuse. In 2011 the Council of Social Services New South Wales estimated that around 50,000 older people in New South Wales experienced some form of elder abuse. Elder abuse can be physical, psychological, sexual, financial, social or health-related or it can manifest as neglect. The Greens Older People Policy supports investigating the adoption of initiatives such as the Queensland Elder Abuse Prevention Unit. I also want to acknowledge the kinship care undertaken by grandparents. It is difficult to know how many grandparents are fulfilling this role, as many are not formally identified and are not receiving financial support from government.

I know some grandparents who have taken on this role. They often have no warning of the situation and it happens at a time in their lives when they expect to be free of responsibilities but circumstances present otherwise. These older people deserve support, not only from government but also from the general community. Seniors are vibrant, creative, wise members of our community. I am proud to know many seniors who are active and inspirational in my life and the community. Seniors Week is not so much about giving them opportunities but more about learning from them. That also means learning about their challenges so that we can assist them. As legislators it is our role to recognise the challenges seniors face and address them by providing assistance and support.

NORTHERN NEW SOUTH WALES PAEDIATRIC SERVICES

The Hon. MELINDA PAVEY (Parliamentary Secretary) [10.24 p.m.]: As the first Parliamentary Secretary for Regional Health in the history of New South Wales I would like to share with the House information about the wonderful services being delivered across New South Wales. I refer to an institution that delivers a wonderful service, particularly to children, across northern New South Wales. Kaleidoscope is an umbrella organisation that meets the needs of children across Newcastle, the Hunter, the north-west of New South Wales, the North Coast and the mid-North Coast—an area in which 20 per cent of the State's children up to 16 years of age live. Kaleidoscope is a children's health network that includes the John Hunter Children's Hospital.

I was honoured to be given an inspection of the hospital by Kaleidoscope's director, Professor Trish Davidson, who is a true inspiration to all who work with her. Professor Davidson, a Scot, is an energetic, passionate physician who is incredibly proud of every service and facility that is provided through her children's health network. Together with her colleague Pat Marks, Director of the John Hunter Children's Hospital and Director of Nursing, I spent three hours touring all the children's facilities at John Hunter Children's Hospital. John Hunter Children's Hospital, one of three children's hospitals in New South Wales, provides specialist treatment to 99 per cent of children in the Hunter-New England region so that they do not need to travel to Sydney to receive the same high quality of care.

The John Hunter Children's Hospital, supported by the infrastructure on the adult campus, cares for newborn babies, children and young people ranging in age from just 23 weeks of gestation to 18 years. In 2012 the children's hospital has three paediatric wards; a 41-bed neonatal intensive care unit with five specialist staff; a cancer and haematology service, including a day surgery, with three oncologists; an allergy-immunology service; a palliative care service; a respiratory-sleep service; a paediatric surgery and trauma service; a neurology service; an endocrinology service; an orthopaedic service; an allied health department; a pain service; a gastroenterology service; a juvenile arthritis clinic; an outpatients department; and music, art and play therapy services.

To address the significant expansion of children's services at John Hunter Children's Hospital, the district has been listed as high priority on the asset strategic plan to construct a new building on the north side of John Hunter Children's Hospital. The building will house a number of children's services, including a specialised paediatric intensive care facility. Professor Trish Davidson made a sound argument for the establishment of that facility to service the needs of the children of northern New South Wales. The first step for the project is the clinical services plan. I support the hospital in developing that plan on behalf of children across northern New South Wales.

In 2011 the John Hunter Children's Hospital admitted more than 8,300 patients, nearly 20,000 children and young people attended the emergency department and over 15,000 services were performed in the outpatient department. In 2010 there were more than 15,000 births in the children's hospital's catchment area. I point out that Professor Trish Davidson was equally passionate about the paediatric outreach clinics throughout the region. I will give a snapshot of some of those services. In Armidale the paediatric outreach clinic provides cystic fibrosis and respiratory clinics.

At Cessnock hospital there is a general paediatric service. At Coffs Harbour health campus paediatric surgery is available through Dr Rajendra Kumar. There are also services available at Dungog, Gloucester, Maitland, Muswellbrook, Port Macquarie Base Hospital—serviced by Dr Peter McDonald, the brother of Dr Andrew McDonald—Raymond Terrace, Singleton hospital, Tamworth hospital and Taree. Throughout the whole of northern New South Wales we have a wonderful children's health network led by Dr Trish Davidson that services our region in a most magnificent way.

I gave a commitment to return to look at the community primary care services that are available throughout the region. There are world-leading services in child family health, child and adolescent mental health, and early childhood intervention and primary care. A paediatric brain injury team is also available. All these wonderful services are available for the people of northern New South Wales. Residents of northern New South Wales should be aware of the services that are available at John Hunter Hospital and the clinics at local and district hospitals, which provide the best of health care for the children of the region. [*Time expired.*]

Question—That this House do now adjourn—put and resolved in the affirmative.

Motion agreed to.

House adjourned at 10.29 p.m. until Thursday 15 March 2012 at 9.30 a.m.