LEGISLATIVE COUNCIL

Wednesday 23 May 2012

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

The President read the Prayers.

Pursuant to sessional orders Formal Business Notices of Motions proceeded with.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 702 outside the Order of Precedence objected to as being taken as formal business.

AUSTRALIAN WOMEN DONORS NETWORK

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes that:

   (a) on Thursday 17 May 2012 the Australian Women Donors Network held a seminar in the Jubilee Room of the New South Wales Parliament titled "What Australian Research says about giving to women and girls and how to put gender-based giving into practice",

   (b) the Australian Women Donors Network presents facts about women's disadvantage and the effectiveness of funding women and girls, while also raising the profile of women's funds and projects that empower women, and

   (c) the organisation is an education-focused, not-for-profit organisation that advocates for gender-sensitive practice within the social investment and grant-making sector and advocates for a greater investment in women and girls.

2. That this House acknowledges and commends:

   (a) the speakers that presented at the seminar, including:

      (i) Dr Wendy Scaife, Senior Research Fellow, Australian Centre for Philanthropy and Nonprofit Studies, Queensland University of Technology,

      (ii) Ms Kristi Mansfield, Chief Executive Officer of the Sydney Community Foundation, which includes the Sydney Women's Fund,

      (iii) Ms Mary Crooks, Executive Director, Victorian Women's Trust,

      (iv) Ms Anne Frankenberg, Deputy Executive Director, International Women's Development Agency,

   (b) the sponsors of the seminar, including:

      (i) ANZ Private,

      (ii) ANZ Trustees,

      (iii) The Pratt Foundation,

      (iv) Trawalla Foundation

      (v) Queensland University of Technology Business School, incorporating the Australian Centre for Philanthropy and Nonprofit Studies, and

   (c) Ms Julie Reilly, Chief Executive Officer of the Australian Women Donors Network and Ms Eve Mahlab, AO, Co-founder and Chairwoman of the Australian Women Donors Network for their continued outstanding work in furthering the interests of women and girls.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business items Nos 709 and 712 outside the Order of Precedence objected to as being taken as formal business.

PALLIATIVE CARE

Motion by the Hon. GREG DONNELLY agreed to:

1. That this House notes that:

   (a) 20 to 26 May 2012 is National Palliative Care Week,

   (b) the theme for National Palliative Care Week 2012 is "Some things are too important to be left unsaid: Let's chat about dying",

   (c) the week will be marked with a series of events around Australia to raise awareness in the community about palliative care, and

   (d) major events will be held in the Federal Parliament on Tuesday 22 May 2012 and the New South Wales Parliament on Wednesday 23 May 2012.

2. That this House congratulates Palliative Care Australia, Palliative Care New South Wales and the various other palliative care organisations around Australia on the work that they do promoting and supporting palliative care.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business items Nos 715, 718, 719 and 720 outside the Order of Precedence objected to as being taken as formal business.

TABLING OF PAPERS

The Hon. Greg Pearce tabled the following paper:

Youth Advisory Council Act 1989—Report of the New South Wales Youth Advisory Council for the year ended 31 December 2011.

Ordered to be printed on motion by the Hon. Greg Pearce.

AUDITOR-GENERAL'S REPORT

The Clerk announced the receipt, pursuant to the Public Finance and Audit Act 1983, of a performance audit report of the Auditor-General entitled "Humanitarian Entrants in New South Wales: Services to Permanent Residents Who Come to New South Wales through the Humanitarian Migration Stream: Community Relations Commission for a Multicultural NSW: Department of Premier and Cabinet", dated May 2012, received and authorised to be printed on 23 May 2012.

PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT AMENDMENT (PROCUREMENT OF GOODS AND SERVICES) BILL 2012

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Greg Pearce.

Second Reading

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [11.15 a.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Public Sector Employment and Management Amendment (Procurement of Goods and Services) Bill 2012. The New South Wales Government is overhauling its system for purchasing goods and services. The current system is old and much modified. Government procurement structures have become overly complex. Mounting red tape is discouraging business from seeking government procurement opportunities. Over the last two months I have been keeping members informed of the Government's procurement reforms.

The PRESIDENT: Order! The Minister is speaking softly, which makes it difficult for members to hear him. However, there is far too much interjection in the Chamber.

The Hon. GREG PEARCE: We have consulted on our proposed reforms through the release of a procurement discussion paper, which sought public comment on a proposed new operating model for government procurement and better and more flexible ways for government to source goods and services from the market. The paper also sought comment on opportunities for small to medium enterprises to more effectively access government business, and ways that innovation can be fostered during the procurement process. Respondents to the discussion paper confirm that improving the governance structure and operating framework for government procurement, together with improving government policies and processes, is critical for both buyers and suppliers. Other key response themes included a strong desire to see government procurement processes simplified and a focus on improved engagement with industry prior to the commencement of a sourcing process. I am pleased to now inform the House that we are delivering on that commitment.

Critical actions taken so far include removing the supply management fee on government contracts, which has been a significant impediment to a sound procurement system; simplifying the mechanisms for businesses to provide services; and allowing school principals to buy locally for goods and services up to $5,000. The bill before the House is the next step. It is the centrepiece of the Government's procurement reforms. The Government reviewed its existing procurement operating model in consultation with agencies and other key stakeholders having regard to contemporary practice in other jurisdictions, both in the public and private sectors.

At the outset, four principles for building the model were established. First, sourcing and procurement of goods and services is more efficient and effective if it is devolved to agencies that have specialist knowledge of the category supply chain and supply sector and that have proximity to both business requirements and the end point of the supply chain. Second, sourcing strategies for procuring goods and services are more effective if developed by those with direct interests in the service delivery and financial outcomes. Third, the profile of procurement should continue to be raised within the Government and, thereby, contribute further to achieving the Government's goals for service delivery and value for money. Fourth, procurement capability development should be treated as a priority, with emphasis on procurement policy and strategy.

The provisions in the bill provide for achieving these principles. I would like to inform members about the main features of the Public Sector Employment and Management Amendment (Procurement of Goods and Services) Bill 2012. The bill contains new definitions of which three are essential to the working of the new procurements scheme. First, the bill provides a new definition for "government agency". Unlike the current statutory arrangement the bill establishes a scheme embracing all government agencies. "Government agency" is defined to mean any of the following: a public sector agency within the meaning of the principal Act; a New South Wales government agency, any other public authority that is constituted by or under an Act or that exercises public functions other than a State-owned corporation; and any State-owned corporation prescribed by the regulations.

Second, the bill establishes a new definition for "procurement" for the purposes of the Act. The definition aligns with the breadth of meaning in current procurement practice. It encompasses procurements undertaken by New South Wales government agencies whether they are under this Act or any other New South Wales legislation. The definition does not include the procurement of infrastructure or construction or procurement by local government. Under the bill, procurement of goods and services means the process of acquiring goods and services by identifying the need to purchase goods and services, selecting suppliers for goods and services, and contracting and placing orders for goods and services. It also includes the disposal of goods that are unserviceable or no longer required. Third, the Act will apply to the procurement of goods and services by or for a government agency, including the procurement of goods and services required by a government agency to exercise its statutory functions and the procurement of goods and services by a government agency pursuant to the agency's specific powers of procurement.

In place of the State Contracts Control Board the bill establishes the New South Wales Procurement Board. The board will consist of the Director General of the Department of Finance and Services as the

chairperson, and at least six directors general of the principal departments appointed by the Minister for Finance and Services. A board of this high calibre is essential to lead the level of reforms that I envisage. It also places responsibility for procurement with those responsible for the delivery of government services. The board's objectives are to develop and implement a government-wide strategic approach to procurement; to ensure best value for money in the procurement of goods and services by and for government agencies; to improve competition and facilitate access to government procurement business by the private sector, especially by small and medium enterprises and regional enterprises; to reduce administrative costs for government agencies associated with procurement; and to simplify procurement processes while ensuring probity and fairness.

The board's functions are to oversee the procurement of goods and services by and for government agencies; to develop and implement procurement policies; to issue directions to government agencies; to monitor compliance by government agencies with the requirements of the new legislation, including board directions; to investigate and deal with complaints about the procurement activities of government agencies; to develop appropriate procurement and business intelligence systems for use by government agencies; to collect, analyse and publish data and statistics in relation to the procurement of goods and services by and for government agencies; and such other functions as are conferred or imposed on the board by or under the principal Act or any other Act.

The board is to be subject to ministerial direction and control in the exercise of its functions. The New South Wales Procurement Board will be able to establish subcommittees and advisory groups to assist the board. The Government has already indicated that the board will be supported by the Procurement Leadership Group and the Industry Advisory Group and procurement category working groups. The bill sets out the new New South Wales Government procurement scheme. It does away with the current arrangement whereby the State Contracts Control Board is responsible for the procurement of goods and services for public sector agencies. While giving the board overarching responsibility for the government procurement framework, the New South Wales Procurement Board will not in itself be a contracting body. The board may establish a scheme under which government agencies accredited by the board may procure goods and services for that agency or for other government agencies, subject to any terms and conditions of its accreditation. Government agencies also may be authorised by the board to carry out specified procurement of goods and services without board accreditation.

The PRESIDENT: Order! The level of conversation in the Chamber is becoming audible. The Minister is having difficulty with his voice. I ask members to keep conversation to a minimum. Hansard cannot hear the Minister because of the level of audible conversation. I am sure the Minister will make every effort to ensure that he is audible.

The Hon. GREG PEARCE: The New South Wales Procurement Board will be able to issue directions to government agencies regarding the procurement of goods and services by and for government agencies. Government agencies will be obliged to exercise procurement functions in accordance with any applicable board policies and directions, the terms of any board accreditation and the principles of probity and fairness. The bill repeals the Public Sector Employment and Management (Goods and Services) Regulation 2010 and makes consequential amendments to the Public Sector Employment and Management Regulation 2009 and other legislation.

The main effects of the repeal of the regulation are to the current regulatory requirements: tendering will no longer be the prescribed means for acquiring government goods and services in every case, and complex approval processes for methods other than tenders for the supply of government goods and services will no longer be required. These provisions will be replaced with approved methods of sourcing goods and services, which will be set out in New South Wales Procurement Board directions. While tendering will still be used relatively frequently, more flexible approaches to sourcing goods and services will also be possible. These approaches include such mechanisms as greater engagement with the market prior to tendering. Such outcome-based procurements will allow agencies opportunities to identify what is currently being offered in the market, to access current research and to see what the private sector may be capable of designing or offering. This will be done within an overarching framework of probity and fairness.

The Government is undertaking the single greatest reform of procurement in decades. Our goals are to achieve better value for money and budgetary outcomes from government procurement and a government-wide strategic approach to procurement, and to foster procurement as a business enabler. We also must reduce administrative costs and duplication of the procurement function across government. We are reducing red tape, improving competition and simplifying access to government business, especially small and regional

enterprises. Our goal is also to simplify the regulatory framework, with an increased focus on compliance, probity and equity. We must build procurement competence within government. I believe the provisions in this bill provide the structure to achieve these goals. I commend the bill to the House.

Debate adjourned on motion by the Hon. Adam Searle and set down as an order of the day for a future day.

BIOFUELS AMENDMENT BILL 2012

Second Reading

The Hon. JOHN AJAKA (Parliamentary Secretary) [11.29 a.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.

The Biofuels Amendment Bill will ensure that up to one million New South Wales consumers are not forced to unnecessarily pay more for fuel.

The Biofuels Amendment Bill makes modest but important changes that will ensure customers continue to have choice and that appropriate mechanisms are in place for a sustainable biofuels industry.

These minor amendments to the bill will remove the requirement, which was to have begun on 1 July 2012, for primary wholesalers selling regular unleaded petrol in New South Wales to ensure that it is E10.

The term "E10" is defined in the Act to mean a petrol-ethanol blend that contains between 9 per cent and 10 per cent ethanol by volume, being ethanol that complies with a biofuel sustainability standard.

Most new cars sold in New South Wales since the introduction of unleaded petrol in 1986 have been designed to be compatible with E10. However, approximately 100,000 vehicles made before 1986 are still on the roads. These vehicles require ethanol-free petrol.

Additionally, approximately 700,000 vehicles made between 1986 and about 2004 use regular unleaded petrol but have not been designed for E10.

Up to 90,000 motorcycles and 100,000 trailer boats also require ethanol-free petrol.

The owners of approximately one million vehicles, boats and small engines would therefore be required either to purchase premium petrol, costing 10¢ to 15¢ per litre more, or to use potentially damaging E10.

The requirement for all regular grade unleaded petrol would therefore mean higher fuel bills for approximately one million New South Wales consumers. This bill removes that unnecessary financial burden.

The New South Wales Government is working to achieve a secure, affordable and clean energy future. Investment in renewable energy will play a key part in this vision, encouraging regional development and creating jobs in New South Wales. Biofuels are an important part of this clean energy future and will support industry development in regional New South Wales.

The former Labor Government introduced the Biofuels Act 2007 and the Biofuel (Ethanol Content) Amendment Bill 2009, which set a mandated minimum ethanol content for total petrol sales in New South Wales. The Biofuel (Ethanol Content) Amendment Bill 2009 set a timetable for all regular unleaded petrol in New South Wales to be converted to E10. This was due to take place on 1 July this year.

This bill will amend the Biofuels Act 2007 to remove the requirement for regular unleaded petrol to be E10. This will ensure motorists with vehicles that are not compatible with E10 will not be forced to run their vehicles on more expensive premium fuel.

The 6 per cent ethanol mandate will remain in place to further develop the ethanol industry in New South Wales, creating jobs that assist regional New South Wales. This mandate sets the amount of ethanol sales that primary petrol wholesalers need to meet out of the total volume of their New South Wales sales.

To be clear, the mandate is not intended to apply to premium fuels to further ensure consumers continue to have choice at the bowser.

Australia currently imports more than 82 per cent of its crude oil supplies. Given that political and economic instability in oil rich countries can have an immediate and adverse impact on the price of fuel in New South Wales, greater fuel self-sufficiency is important for New South Wales motorists.

The commitment to honour the former Government's scheduled increase provides certainty to industry and encourages regional development and job creation in New South Wales. The Biofuels Act has the support of both sides of this House.

A revised exemption framework is currently under review by the Government. To address concerns about the supply of ethanol, the New South Wales Government has asked the Independent Pricing and Regulatory Tribunal [IPART] to conduct an investigation and report on the available production capacity and supply required to meet the 6 per cent volumetric ethanol mandate.

The Act currently makes provision for the Minister to grant E10 exemptions that would permit marinas and small businesses facing hardship to continue to obtain and sell regular unleaded petrol.

In the case of marine users, engine failure at sea due to E10 could even be life threatening. However, most petrol-engined boats are trailer mounted and are refuelled at service stations not marinas. They would not benefit from the exemption for marinas. And besides small businesses, many other New South Wales service stations would be adversely impacted, particularly those in border regions. A complex regime of E10 exemptions would be required to try to ensure fair competition.

The Government is committed to supporting the development of an alternative transport fuels industry in this State. We recognise that fossil fuels are a finite resource and that Australia is increasingly reliant on oil imports. We need to grow our biofuels industry now to create a viable base from which to develop the advanced technologies and feedstocks that will provide alternative liquid transport fuels for future generations. The minimum volumetric requirements for 6 per cent ethanol in total petrol and 2 per cent biodiesel in total diesel fuel will therefore remain in place.

As I have said previously, these changes are minimal. The ethanol industry in this State currently comprises only one producer, but that one producer, the Manildra Group, is an important regional employer, adds significant value to the grain produced by our farmers and is a major exporter.

A viable market for ethanol ensures that all of the value is extracted from every grain of wheat processed. Retention of the 6 per cent volumetric ethanol requirement will support continued production and jobs by Manildra and encourage other potential ethanol producers.

With just one local producer, there is insufficient production to support even the current 2 per cent volumetric biodiesel mandate, so we are reliant on imports from interstate and overseas. The Government therefore decided in December 2011 to suspend the scheduled increase in the biodiesel mandate from 2 per cent to 5 per cent. The development of local biodiesel production capacity will be monitored and the increase to 5 per cent will proceed when it is required to support that development.

In summary, this bill introduces an important change by removing the requirement for all regular grade unleaded petrol to be E10 from 1 July 2012. This change will ensure that regular unleaded petrol remains available throughout the State for the older vehicles, boats and small engines that need it.

It will avoid unnecessary increases in fuel costs for consumers. It will avoid a complex and potentially inequitable E10 exemption regime. As the former Premier of New South Wales, Morris Iemma, said in 2007, the ethanol mandate is "a win for the environment". We need to embrace biofuels in a sustainable way but acknowledge their contribution to reducing greenhouse emissions. I commend the bill to the House.

The Hon. STEVE WHAN [11.30 a.m.]: The Opposition opposes the Biofuels Amendment Bill 2012. I will outline the reasons for that. Fundamentally, even though the Opposition supports the postponement of the phase-out of unleaded fuel, that action can be undertaken by the Government under existing legislation, under which the Minister has all the power that he needs to change the time frames and postpone the phase-out. The bill before us is unnecessary; it is introduced simply because the Government wanted to look like it was acting in response to a public campaign and expressions of public concern about the existing timetable. New South Wales Labor very strongly supports the development of a biofuel industry in New South Wales. Biofuels, including E10, have benefits for New South Wales primary producers, for air quality and for reducing our reliance on non-renewable imported oil. That is why Labor, when in government, introduced legislation to gradually introduce a mandated percentage of ethanol in fuel sold in New South Wales.

The existing legislation that the Government is now seeking to amend was very deliberately made with maximum flexibility. It includes mechanisms to delay implementation, based on several factors which include, firstly, the capacity of industry in New South Wales or Australia to supply the fuel and, secondly, the impacts on consumers and retailers. In the first case, Labor wanted to ensure that local industry was gearing up to supply the fuel, and ensure that it was not creating an import-based supply. In New South Wales, ethanol production is mostly a by-product of the process of producing starch from wheat; it does not compete with food supply. Having another product derived from grain is a positive for grain growers in New South Wales. It is also a positive for those employed at the plant, near Nowra.

Ethanol has also been produced in Australia from sugarcane. United service stations in New South Wales have used this product for some time. Given the often uncertain world prices for sugar, this is a positive for that industry. In the near future, the next generation of ethanol is likely to come from other plant fibres, including wood; this would allow ethanol to be produced from woodchip or forest waste. As long as the forest operation is sustainable, woodchip production of ethanol will be a genuine renewable source. New South Wales

does not produce ethanol from corn, as is done in North America and South America. Producing ethanol from corn is seen by some as directly competing with food supply; that leads to some criticism of ethanol by those concerned about that source of ethanol production.

The second reason for flexibility in the legislation introduced by the previous Government is essentially the same reason that this bill is before us today: the age of the vehicle fleet in New South Wales, and the ability of retailers to meet the requirements of the legislation. Labor put in place an objective of phasing out unleaded fuel but we delayed the implementation of that objective and recognised in legislation that the phase-out may have to be delayed further. The Labor Government did that in late 2010, when there was concern that not enough ethanol was produced in New South Wales to meet the 6 per cent mandate that originally was to come into effect as at 1 January 2011. The previous Labor Government changed the percentage of ethanol in fuel from 4 per cent to 6 per cent as from 1 July 2011, and the complete phase-out of unleaded fuel to 1 July 2012. That action was supported by the then Opposition, the current Coalition Government.

Labor has made it clear that it believes the implementation of the phase-out should be delayed again; that phase-out is not practical at this stage. The Government, however, has turned itself into knots over this. The Opposition has remained consistent with the agreement in the flexible legislation that it put in place. The bill highlights incredible incompetence and division in the Government when it comes to this issue. We heard the Premier announce that he was proceeding with the ethanol mandate, only to have his Minister for Resources and Energy undertake a very obvious campaign of leaks of confidential Cabinet information in an effort to undermine the Premier. We also see on this issue a huge split between The Nationals members of the Government and the Liberal members. It will be interesting to hear what The Nationals members have to say about this bill, which seeks to abolish the long-term objective of phasing out unleaded fuel. Most worrying though is the incompetence of a Government which has refused all advice on the education and consultation needed in this process.

At the time the Premier decided to go ahead with the phase-out of unleaded fuel, Labor was concerned that the Premier had failed to undertake the dialogue that was needed, and the community information and education that was needed as part of this decision. The Premier has ignored the information he was provided, which indicated the concerns of a large number of owners of pre-1986 vehicles. As a result, we saw the shock-horror publicity about 800,000 vehicles that were unable to use ethanol fuels—a figure that is somewhat exaggerated, including as it did many vehicles that do not use regular fuel. Not surprisingly, people who own those older cars are concerned, as they were when leaded petrol was phased out many years ago. I was a staffer in the Federal Government when that happened, and I remember seeing at that time the same sort of publicity against the phase-out of leaded fuel as we are now seeing about this decision on E10 fuel.

Labor recognises that it will take time to phase out normal unleaded fuel. We advocated that the provisions in the existing legislation that enable the Minister to delay this process should be invoked. Really, that is all that needs to happen at this stage. The Government though, having backflipped on this issue, and the Premier having been forced by publicity to change his position, decided it wanted to look like it was doing something; so it has introduced this amending bill. That is all the bill is: legislation that tries to make it look like the Government is doing something—something it could already have done under the provisions of existing legislation. Instead of using the provisions of existing legislation—which it could already have done by now in order to give motorists certainty—the Government introduced this bill in the lower House to address an issue it said was urgent when it introduced the bill in that place. But it allowed the supposedly urgent Biofuels Amendment Bill to sit on the table literally for months before bringing the bill to this place and having it debated.

As I have said, the existing legislation already gives the Minister the power to postpone—for as long as the Premier wants or the Government wants—the phase-out of regular unleaded fuel. In fact, the Government could have made a regulation to do that the day or the week that the Premier first announced the Government's backflip on this matter. It is a quite appalling indictment of the Government that it did not do that. That is logical, given that at that stage the Minister had requested the Independent Pricing and Regulatory Tribunal to undertake a review. I will return to the Independent Pricing and Regulatory Tribunal review in a moment. As I said at the outset, Labor has made it clear that it supports the Government postponing the mandated phase-out of ordinary unleaded fuel. But we are very concerned about legislation that would abolish that phase-out in the long term. Unlike The Nationals and the Liberals, who claim to support the ethanol industry, Labor supports the ethanol industry in New South Wales, the people that will benefit and the biofuel industry in this State.

This amending bill leaves us with really serious concerns and the Government needs to address them. The first, and most serious, of those is that we are debating this bill today knowing that about two months ago—

I could be wrong about that—the Government received a report from the Independent Pricing and Regulatory Tribunal. In any case, the Government has in its hands a report from the Independent Pricing and Regulatory Tribunal on this very issue, and it has not released that report to the public. Though it has refused to date to release that report to the public, it wants debate on this bill to proceed today. I call on the Government to table that report immediately, so that we can see what it says. I would now like to say what I suspect the report actually says.

My expectation is that this report will tell the Government that the Premier's promise that he is sticking with the 6 per cent mandated volume of ethanol in New South Wales is not possible if this bill is passed. I invite the Parliamentary Secretary to address that issue in his response because the information I am getting from industry is that the 6 per cent simply is not possible if unleaded petrol continues to be sold. I am hearing that they will go nowhere near being able to achieve 6 per cent and that more likely it will slip back to around 4.5 per cent in the long term—maybe 5 per cent or thereabouts. But that has serious implications for the industry in New South Wales. A key factor is the volume of ethanol needed to be produced in New South Wales.

I am sure that Manildra will be mentioned many times in this debate. Labor, like the Coalition, has received election donations and contributions from Manildra in the past. That is something we do not deny, but for a long time we also have had a consistent position of support for the ethanol industry in New South Wales, whether it be Manildra or another producer. Manildra has a plant near Nowra that employs many people in the local area and it has made a major investment. When this legislation was proposed Manildra announced that it was putting on hold its proposed expansion of the plant.

If that 6 per cent mandate is not able to be achieved and we do not have legislation that addresses the phase-out of normal unleaded fuel at some time in the future, it is likely that the volume of ethanol needed to be produced and sold in New South Wales will slip back to a level below that which is currently being produced by Manildra. That means fewer employees will be needed and less of a market will be available for New South Wales farmers who gain extra revenue from ethanol production. The E10 fuel produced in New South Wales is a genuine renewable fuel source.

It would be a real shame if industry was set back by a Government that is split and suffering disunity on this issue and that does not have the courage to stick with its pre-election promises and continue the ethanol mandate in New South Wales. The information I have received from reliable sources in the industry, which I suspect is reflected in the report of the Independent Pricing and Regulatory Tribunal that the Government so far has not released, is that it is not possible to achieve the 6 per cent mandate unless in the long term there is a phase-out of unleaded fuel.

The Opposition made it clear that at this stage it is reasonable to delay the phasing out of unleaded fuel but that provision should remain in the legislation and a timetable should be set with appropriate public information and appropriate consideration for people who own pre-1986 cars. Ethanol produces environmental benefits and benefits for New South Wales farmers and it reduces also our reliance on imported fuels. Ethanol was a key part of the previous Government's cleaner air strategies for New South Wales, and for Sydney particularly, because of its impact on reducing emissions, especially in city areas. We have seen much publicity about pre-1986 cars. The Labor Party understands that many of those cars are owned by people on low incomes but that eventually they must be phased out. All the information about pollution indicates that pre-1986 cars are the most polluting vehicles on the road.

In the long term we hope that, with the exception obviously of cars with historic value and well-maintained cars, which generally are much better mechanically than poorly maintained cars, increasingly we will see the phasing out of pre-1986 vehicles. It would be reasonable for the Government to time the phase-out of normal unleaded fuel for all but specific purposes when we have fewer pre-1986 cars on the roads. As I said earlier, the Opposition has consistently supported E10 and the ethanol industry in New South Wales. It is a pity that despite the strong public support The Nationals members gave the industry before the election today they will vote to damage the future of the ethanol industry in New South Wales.

I challenge The Nationals members to speak on this bill, reiterate not just the rhetoric of their support and indicate that they will vote today with the Opposition to oppose this legislation and support the ethanol industry in New South Wales. They should go back to the Minister and tell him to use the regulatory powers in the Act which will give him all the power he requires to postpone this phase-out. I will be interested to hear The Greens position on this matter today. It is appalling that the socialist faction of The Greens has overcome the green Greens to oppose biofuel production in New South Wales.

The Hon. Matthew Mason-Cox: It is the avocados and the tomatoes.

The Hon. STEVE WHAN: It is the avocados or the tomatoes, or it is the watermelons. The Greens spokesman on this issue opposes the biofuels industry in New South Wales, E10 and the 6 per cent ethanol mandate. That reminds me of comments I have made in this place in the past. Exactly what is The Greens energy policy? They are opposed to biofuels and biomass, and they are opposed to moving from coal to gas as a step-down fuel. They say they support wind farms but it is only a matter of time before the nimbyism that is now a part of The Greens results in them opposing wind farms that are located anywhere near a Greens stronghold.

Inevitably The Greens will oppose geothermal power because it involves fracking which they have railed against constantly in this place. We are left with a party that says it stands for the environment yet it opposes a measure that will reduce emissions in cities, help with pollution, assist farmers in New South Wales, help us to shift away from imported non-renewable fuels and encourage a movement towards renewable fuel products—an untenable position for those who say that they are interested in the environment. No doubt The Greens will attempt to rationalise their position which is totally at odds with any party concerned about the environment. We have heard the furphy about ethanol production in New South Wales reducing our food production but that is simply not true.

No doubt there is some opposition to the ethanol industry from lot feeders and so on who believe it will push up the price of second-quality grain that will not be used directly in the production of food. However, farmers should be given options when selling grain that is not top quality and that goes into the production of bread and other food. Grain that is used for starch at Manildra and that has ethanol as a by-product helps to enhance the value of that product for New South Wales farmers. Labor has always strongly supported that approach and it will continue to do so. In talking about this issue I give credit to my predecessor, Tony Kelly, a strong advocate of the biofuels industry in Cabinet and in this place, who essentially was responsible for the Biofuels Act 2007 which led to the formulation of this legislation.

The key question for members of the Liberal-Nationals Coalition is as follows: Today the Government wants us to vote for a bill that is unnecessary as the Minister already has the powers to do what the Government is promising to do. The legislation clearly states that the Minister has that power. This legislation was introduced because the Premier panicked. That is the only way to describe what the Premier did. He panicked when his own Minister for Resources and Energy—who clearly was conducting a campaign against the biofuels mandate in New South Wales—leaked information that was picked up by the popular media. Instead of taking a rational approach and saying that he would commission a report by the Independent Pricing and Regulatory Tribunal and reconsider the matter when that report was received, and instead of saying that the legislation already gives us the power to delay the introduction of this bill, the Premier made a knee-jerk decision to try to get the bad headlines out of the way. He grabbed some coverage by saying that he would introduce legislation to abolish the phase-out in the long term which, as I said, was completely unnecessary.

The Government also referred this issue to the Independent Pricing and Regulatory Tribunal and it is keeping that report a secret. I suspect that the Government does not want the public to see a report that reveals the Premier's untenable position. The Premier said he was committed to a 6 per cent ethanol mandate but I suspect that he is not committed to the phasing out of unleaded petrol. Only by releasing that report will we see whether or not my suspicions are correct. If the Government does not have the courage to release the report today to inform this debate it will be confirmation of what I have just said. Opposition members will vote against this bill. We believe that the Government should use the powers that exist in the legislation and in the regulation to postpone the phase-out of unleaded fuel until such time as the community and the fleet are ready. That would require the Government to be proactive and to undertake a proper investigation to determine how many vehicles are unable to use E10 fuel. The community must be properly informed about this issue and not be subject to misinformation and campaigns by those who oppose the use of ethanol. I urge all members to oppose this bill.

The Hon. TREVOR KHAN [11.53 a.m.]: After that exercise in convoluted reasoning, I support the Biofuels Amendment Bill 2012. The availability of ethanol fuel is an issue for small boat owners. Many newer outboard motors are compatible with E10 fuel but, just as with motor vehicles, some older outboards are not. Older outboards are likely to have carburettors and other fuel system components that are not compatible with E10. Most petrol-engine inboard motors are custom installations. Unless all components of the fuel system are designed to be E10 compatible failure can occur. E10 can cause corrosion in aluminium components of carburettors, and can perish rubber fuel lines, diaphragms and seals. Built-in fibreglass fuel tanks, unless

specified to be compatible with E10, can be dissolved by ethanol. Using E10 in an incompatible system can result in fuel leaks, engine failure or, in a worst case scenario, a fire at sea. Even if a fire does not eventuate, engine failure at sea can be life-threatening and can involve the use of considerable resources by emergency services when mounting a rescue operation.

Engine failure offshore when a southerly buster is coming, or on a coastal bar and the like, can result in tragedy. Even if all components of the boat's engine and fuel system are compatible with E10 there can still be problems with ethanol-blend fuel. The problem is water—which is commonly found in and around boats. Water does not mix with petroleum fuel; it sinks to the bottom of the tank. If there is so much water that the level rises high enough to reach the fuel intake pipe it is not really a problem. However, if there is ethanol in the petrol, instead of sinking to the bottom, the water mixes with the E10. A very small amount of water will go through the engine and out the exhaust, which is not much of a problem except for the increased risk of corrosion. But just 0.5 per cent of water in E10—100 millilitres in a 20-litre fuel tank—can lead to a phenomenon called phase separation. When phase separation occurs, the 10 per cent ethanol and the water form a separate layer on the bottom of the tank, making two litres of ethanol and water that will certainly cause engine failure.

Even if liquid water cannot directly enter the fuel tank, ethanol is hygroscopic: it absorbs water vapour from the atmosphere. It is unlikely to absorb enough to lead to phase separation, but over time it can be enough to lead to corrosion and fuel degradation. For these reasons NSW Maritime provides specific warnings to boat owners about E10 fuel. The NSW Maritime website states:

> E10 should not be used in a boat unless:
>
> - the engine manufacturer recommends the engine model is compatible with E10;
> - the fuel tank, fuel hoses/fittings and fuel filtration system use ethanol-compatible components;
> - the vessel is used frequently, ensuring fuel is not stored for long periods of time;
> - the fuel system, including fuel tank, is regularly inspected and serviced to remove water and debris;
> - specific procedures are adopted for "off season" fuel management; and
> - the vessel will not be operated in conditions where engine failure may result in a serious threat to the safety of the vessel and its occupants.

One might think that is all very sensible. Because of these issues, the Biofuels Act provides for exemptions to permit marinas to continue to obtain and sell regular grade unleaded petrol that is ethanol free. However, most petrol-engine boats are carried on trailers, not moored at marinas. These trailer boats are refuelled at service stations, not at marinas. Even if they can get to a marina for fuel, the price is likely to be much higher than the price of premium petrol at a regular service station. E10 exemptions for marinas will not provide safe, affordable fuel for the owners of trailer boats or for the boaters in small coastal communities where there are no marinas. This amendment bill will remove the requirement for all regular unleaded petrol in New South Wales to be E10 and will allow boat owners to continue to obtain safe, affordable regular unleaded petrol for their vessels. The case is compelling. I commend the bill to the House.

The Hon. MATTHEW MASON-COX (Parliamentary Secretary) [11.59 a.m.]: It is certainly my pleasure to support the Biofuels Amendment Bill 2012. As members would be aware, the bill removes the requirement which was to have begun on 1 July 2012 for primary wholesalers who sell regular unleaded petrol in New South Wales to ensure that it is E10. It has been long known that vehicles manufactured prior to 1986 are designed for leaded petrol and are not suitable for use with E10. The number of those pre-1986 vehicles on the road is falling. Currently only approximately 100,000 of them remain. I understand that the Hon. Mick Veitch has one of those.

The Hon. Lynda Voltz: That is not true. Withdraw that.

The Hon. MATTHEW MASON-COX: I am sorry, I was confused. However, there is a much larger though less-publicised group that also will be affected. The removal of regular unleaded petrol also will affect the many owners of popular small cars and models, such as the Daihatsu Charade, the Ford Laser, the Honda Civic, the Hyundai Excel and the Nissan Pulsar. I must say that in my early days I owned a few of those vehicles, but no longer. Those vehicles were manufactured between 1986 and approximately 2004, and are not

recommended by their manufacturers as compatible with E10. There are estimated to be approximately 700,000 such post-1986 vehicles whose owners will be forced to either pay up to 15¢ a litre extra for premium fuel or use E10 fuel, which could potentially damage the vehicle's engine.

The owners of those vehicles generally purchased them because they are cheap to buy and economical to operate. Those cars are necessities to many families, and assist them in carrying out their daily routines and lives. Many households would find it difficult to complete their daily tasks if they were forced to sell their car, if it became too expensive to operate. They are often low-income earners, who already are feeling the impact of high fuel prices on their weekly budget. Removal of the sale of regular unleaded petrol will take away the preferred fuel choice for those consumers. They would be forced to use more expensive premium fuel or use E10 fuel that could potentially damage their vehicles.

The replacement of regular unleaded petrol by E10 is also of particular significance to boat owners. As we heard from the Hon. Trevor Khan, just as it is the case for many cars, many newer outboard motors are compatible with E10; however, most older ones are not. E10 can cause corrosion in aluminium components of carburettors and can perish rubber fuel lines, diaphragms and seals. Older outboards are also likely to have carburettors and other fuel system components that are not compatible with E10. Most petrol-fuelled inboard motors are custom installations and failure can occur if all components of the fuel system are not designed to be E10 compatible.

Built-in fibreglass fuel tanks, unless they are specified to be compatible with E10, can be dissolved by ethanol. The result of using E10 in an incompatible system can be fuel leaks, engine failure and, in a worst case scenario, fire. As we can imagine, this could cause serious and life-threatening situations to occur to those on board, particularly when they are out at sea. Even if all components of the boat's engine and fuel system are compatible with E10, there can still be problems with ethanol-blend fuel. That was explained in some detail by the Hon. Trevor Khan. In particular, I note the warning on the Roads and Maritime Services website that specifies the problems that can occur. Because of the issues I have outlined, the Biofuels Act needs to provide exemptions to permit marinas to continue to obtain and sell regular-grade unleaded petrol that is ethanol-free. However, most petrol engine boats are carried on trailers, not moored at marinas. They are refilled at service stations, not marinas.

E10 exemptions for marinas will not provide safe and affordable fuel for the owners of trailer boats. E10 exemptions for marinas will not provide safe and affordable fuel for boaters in small coastal communities where there is no marina. The Opposition has overlooked those practical issues. It is very important for Opposition members to understand this point, so I will repeat it for them: E10 exemptions for marinas will not provide safe and affordable fuel for boaters in small coastal communities where there is no marina. Many communities do not have a marina. Opposition members should be more aware of practical issues that have very real impacts across New South Wales. This amending bill will remove the requirement for all regular unleaded petrol in New South Wales to be E10.

It is also worth noting that this legislation will be welcomed by farmers, who also have older vehicles and equipment that relies on unleaded fuel. Those machinery items and older vehicles are not compatible with E10. I have received quite a number of queries from farmers who are concerned that the practical impact of the bill not being amended would be to deny them the opportunity to pursue their livelihoods. The reality is that if farmers cannot use their augers or old trucks because they cannot obtain unleaded fuel they will have a problem running their enterprise. This is a reality that Opposition members do not understand. It is a practical problem with the existing legislation.

The Hon. John Ajaka: Point of order: There are too many interjections. The Hon. Steve Whan was allowed to speak in silence. We cannot hear.

The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner): Order! I uphold the point of order. Members will conduct private conversations outside the Chamber. Members will cease interjecting.

The Hon. MATTHEW MASON-COX: Let me reiterate that there are pragmatic problems with the Act. The reality is that this amending bill is necessary to overcome these practical difficulties. It will allow New South Wales motorists, farmers and boat owners to continue to obtain safe and affordable regular unleaded petrol for their vehicles and vessels. In some cases, we are ensuring that they can continue to pursue their livelihoods, which is most important. One of the aims of the Biofuels Act is cheaper fuel. That is an aim that the

Coalition supported in 2007 and 2009, and continues to support today. The requirement for all regular grade unleaded petrol to be E10 from 1 July 2012 simply goes against that aim. The requirement must be removed. Accordingly, I commend the bill to the House.

The Hon. MARIE FICARRA (Parliamentary Secretary) [12.06 p.m.]: I support the Biofuels Amendment Bill 2012, which will remove the requirement that was to have begun operating on 1 July 2012 for primary wholesalers who are selling regular unleaded petrol in New South Wales to ensure that it is E10. The Biofuels Act 2007 is intended to support the development of biofuels production in regional New South Wales. This is an aim that the Coalition supported when in opposition, and continues to support now in government. To encourage biofuels production, the Act mandates progressively increasing volumetric requirements for both ethanol and biodiesel. The mandates apply to both primary wholesalers and major retailers, ensuring that consumers are able to access biofuels through the supply chains controlled by major oil companies.

The ethanol mandate has led to approximately 40 per cent of our petrol now being E10—a significant penetration of a previously impenetrable market. The mandate for so-called first generation biofuels was intended to provide a viable industry base from which we could develop an advanced biofuels industry. We see that process happening right now at the Manildra ethanol plant in Bomaderry. Photobioreactors in the Algae.Tec Limited pilot plant at Bomaderry use water, sunlight and nutrients to grow algae that produce high-value sustainable fuels, such as biodiesel and jet fuel. The algae also absorb carbon dioxide from Manildra's ethanol fermenters—carbon dioxide that would otherwise contribute to climate change. When scaled up to commercial production, algae photobioreactors will be able to absorb the carbon dioxide from coal-fired power stations, and have the potential to replace significant proportions of our diesel and jet fuels.

The Hon. Robert Brown: Excellent technology.

The Hon. MARIE FICARRA: Absolutely. The current level of ethanol consumption requires approximately 240 million litres of ethanol per year, which is still less than the current approved production in the State. We therefore need to keep pressure on the oil companies to distribute and market biofuels to reach the 6 per cent mandate. At 6 per cent, we will need approximately 360 million litres of ethanol a year, which will mean at least one new major ethanol plant. While regional New South Wales benefits from the opportunities of local ethanol production, many regional residents and businesses would be adversely impacted if regular grade unleaded petrol were no longer available. Many regional residents have older vehicles and other equipment that requires ethanol-free petrol.

Many regional residents have boats that require ethanol-free petrol. They buy petrol for their boats from service stations, not marinas. Service stations in border areas would be unable to compete with those across the border if they could not obtain regular unleaded petrol. Many other service stations throughout regional New South Wales have aging underground tanks that are not suitable for E10. This will change over time but we are stating the current position. We have to be cognisant of the current position. Regional residents already pay more for their petrol, and a significantly higher differential for premium unleaded. For these reasons, regional residents would be heavily impacted by the requirement for all regular unleaded petrol to be E10. The Biofuels Act offers potential economic development in regional New South Wales. It offers possible new opportunities for farmers and foresters to produce feedstocks for biofuels. But the requirement for all regular unleaded petrol to be E10 has too many unintended consequences. It should be removed. I commend the bill to the House.

The Hon. DAVID CLARKE (Parliamentary Secretary) [12.11 p.m.]: I support the Biofuels Amendment Bill 2012. This bill, by removing the requirement for primary wholesalers selling regular unleaded petrol in New South Wales to ensure that it is E10, seeks to continue to maintain support for the development of regional ethanol industries while also recognising it is important that ethanol policy does not negatively impact on regional small businesses. The Biofuels Act 2007 is intended to support the development of biofuels production in regional New South Wales. To encourage biofuels production the Act mandates progressively increasing the volumetric requirements for both ethanol and biodiesel. The mandates apply to both primary wholesalers and major retailers, ensuring that consumers are able to access biofuels through the supply chains controlled by the major oil companies. The mandate was intended to provide a viable first-generation biofuels industry base in New South Wales.

The ethanol mandate has so far led to approximately 40 per cent of our petrol now being E10, meaning that 4 per cent of the total volume of petrol consumed in the State is ethanol. This means we are using approximately 240 million litres of ethanol per year. This is a great achievement. However, to continue to

broaden the biofuels industry it is important that the 6 per cent mandate remains in place. As members may be aware, there are a number of proposals to develop new ethanol plants in New South Wales. These include a plant at Marinna near Junee and one at Gunnedah. Under the 6 per cent mandate approximately 360 million litres of ethanol a year will be needed. This is 50 per cent more than is currently being consumed. The development of these industries will provide an important jobs boost for regional New South Wales.

While regional New South Wales benefits from the opportunities of local ethanol production, many regional residents and businesses would also be adversely impacted if regular grade unleaded petrol were no longer available. Without amendment to the Biofuels Act 2007, service stations would have been forced to replace regular grade unleaded petrol with E10. This would have placed enormous stress on and caused concern for small independent service stations, many of which are located in regional areas of New South Wales. If the ban on regular unleaded were maintained, these small businesses would need to make costly investment in new infrastructure.

The replacement of regular unleaded petrol with E10 will at the minimum require service station owners to have underground storage tanks cleaned and inspected. This may cost $5,000 or more. If the service operator has older facilities with ageing tanks and pumps or if it is identified that the tanks are incompatible with ethanol-blended petrol, the replacement cost of these essential business items could be significantly higher—possibly hundreds of thousands of dollars or more. This cost could be detrimental to a small independent family-owned service station. That is why this amendment is required. The Act provides for exemptions for small businesses on hardship grounds; however, this amendment will remove that potential hardship and therefore the need for a complex exemption regime.

Regional households, farmers and businesses would be adversely impacted if regular grade unleaded petrol were no longer available. Many regional residents have older vehicles and other equipment that require ethanol-free petrol. For these reasons, many regional residents would be adversely impacted by the requirement for all regular unleaded petrol to be E10. The Biofuels Act offers potential economic development in regional New South Wales. It offers possible new opportunities for farmers and foresters to produce feedstocks for biofuels. The inequitable measure requiring all petrol to be E10 should be removed, and this amendment bill does just that. I commend the bill to the House.

The Hon. ROBERT BROWN [12.16 p.m.]: On behalf of the Shooters and Fishers Party I contribute to debate on the Biofuels Amendment Bill 2012. I acknowledge the contributions of Government members regarding some of the technical issues and price issues that relate to the forced use of E10. Very early in the piece we advised the Government that it was an absolutely foolish position to go forward with a complete ban on unleaded petrol because of the dislocation that would occur, not just in rural New South Wales but also across certain socio-economic stratas in New South Wales—that is, people who cannot afford shiny new cars.

We had massive representation from fishermen and recreational boaters about the problems it would cause them. The Hon. Trevor Khan mentioned a few of those issues with respect to problems that occur with componentry in marine petrol engines. He also touched on an even more critical aspect—that is, the hydroscopic effect that ethanol, when added to petrol, has in the marine environment. This is so whether one has a portable fuel tank in a tinny or a built-in tank in the bottom of a larger plate alloy or fibreglass boat. Those boats are in and out of the water on a weekly basis and fuel tanks by nature of the regulation of their construction need to be vented.

When the tanks are heated up on a summer day, sitting in the front yard or sitting on a trailer at a boat ramp, the petrol vapour expands and the tanks vent outward. When those tanks go into the water, perhaps in the bottom of a plate alloy boat, a vacuum is created in the fuel tanks and those tanks suck in moisture-laden air. Probably the most difficult situation for an offshore boat in particular is when it gets a belly full of water in its engine. Sometimes that cannot be cleared. Component breakdown takes place over time. People may well be able to put their boat motor into a repairer to have some of the issues taken care of on a regular basis, but having a fuel tank full of water is an issue they cannot get out of. Some Government members have mentioned the impact that removing unleaded petrol totally would have on rural industries.

The Hon. Lynda Voltz: At length.

The Hon. ROBERT BROWN: Yes, at length; ad nauseam. Another issue is that generally speaking the whole of the southern Riverina and most of far western New South Wales do not get their fuel supplies from Sydney as the cost is far too great. They get their fuel supplies from Victoria and South Australia. Ethanol fuels

are not available from those States. So a mandate to replace unleaded petrol entirely with E10 would mean that distributors in far western New South Wales and in the southern Riverina would have to take their supplies through Sydney or some Sydney depots. That would involve an added cost.

Government members have argued the difficulty of using some fuels in old machinery. One must admit that not only cars will be affected; some petrol-driven tractors, including prime movers, and petrol-driven drilling rigs, et cetera, also will be affected. These days most equipment is diesel operated, but many farmers hang on to their old petrol equipment because they cannot afford to replace it. Government members referred to the cost to distributors and retailers as a result of having to change their tanks. I believe the Hon. Steve Whan made the point, quite rightly, that sooner or later most facilities will have to be upgraded because even petrol tanks without ethanol deteriorate. Therefore, the expectation is that over a period some capital expenditure will be required by most distributors and retailers.

I make the point that almost exclusively most distributors, not just throughout rural New South Wales but across Australia, are not major petrol companies; they are family-owned businesses that include a distributorship that may own two, three, five or 10 independent petrol stations. They need that vertical integration simply to survive. It is grossly unfair to force by mandate those family-owned businesses to undertake all that capital expenditure work in one fell swoop. The Shooters and Fishers Party has been approached by the ethanol industry and the small distributors association—those who would have to find large capital expenditure if the original Act were allowed to run its course. I presume that the other crossbenchers and the Opposition have been approached.

Neither the Government nor the Opposition were amenable to an amendment to change the definition of "petrol" to limit it to mean only unleaded petrol, therefore reducing the overall quantity to which the mandate would apply and thereby reducing further the requirement for E10 to be used in retail outlets. I understand the Opposition's position and I can perhaps understand the Government's position. We will not attempt to move that amendment. However, we support the bill. We believe it will result in a fairer outcome to all the groups mentioned today than would otherwise be the case if the Act were not amended and if the mandate were to stand.

The Hon. Dr PETER PHELPS [12.23 p.m.]: I support the Biofuels Amendment Bill 2012 but lament that it does not go far enough. The Biofuels Act 2007 is a classic example of the law of unintended consequences when governments attempt to pick winners and losers. Before proceeding, I should like to explain what this bill does. This bill amends the Act to remove the requirement, which was to begin on 1 July, for primary wholesalers selling regular unleaded petrol in New South Wales to ensure that it is E10. The term "E10" is defined by the Act to mean a petrol-ethanol blend that contains between 9 per cent and 10 per cent ethanol by volume, being ethanol that complies with a biofuel sustainability standard. The bill does not change the requirement for volume sellers to ensure that ethanol makes up not less than 6 per cent of the total volume of petrol sold.

I congratulate the Minister, the Hon. Chris Hartcher, on this amendment. He has swum against the tide of fashionable leftism to try at least to bring a little more common sense to this entire debate. I should like to demolish some myths about ethanol. One myth created by the anti-ethanol industry was that it consumes vast amounts of material that otherwise would have been used for human or agricultural consumption. The oft-quoted figure in the United States is that roughly 40 per cent of corn is used for ethanol. That excludes the fact that substantial by-products, including the high-starch and high-protein leftovers, the residuals, are then onsold for use. Quite frankly, farmers love to have that high-protein, high-starch residual. Realistically, the figure is about 23 per cent when we include returned feed.

Let us get rid of the myth that ethanol in some way impacts upon food production for either human or domestic animal use. The question then is: Why was the 2007 Act introduced? This only works if the whole premise of anthropogenic global warming alarmism is accepted. The idea that one can try to defray the amount of CO_2 going into the atmosphere by adding ethanol really is at the crux of this matter. I will not express my concerns about anthropogenic global warming alarmism; suffice it to say that my views are fairly well public. Of course, the Act was introduced to try to gain a political advantage for the Australian Labor Party in an attempt to undercut some environmental support for The Greens. It thought this was a great opportunity to try to get back the voters who may have been drifting off to The Greens. Of course, it had a whole range of unintended consequences.

One has to ask: Who benefits? To understand who does and does not benefit from the original bill and this amending bill one has to understand how the petrol station industry works. I was fortunate to speak to a local petrol station owner in Queanbeyan. He explained it to me this way: most country petrol stations normally

would have three petrol tanks in addition to their diesel tank. One would hold regular unleaded fuel, one would have E10 and the third would have premium unleaded petrol. Regular unleaded fuel and E10 are cross-subsidised by the major industry players—the producers. Premium unleaded petrol is not. Another thing to remember is that these days the money-making side of most petrol stations—other than those directly controlled, for example, by Woolworths—is not from petrol. These days in most petrol stations petrol is a break-even or loss-making operation. Petrol stations get their money from shop sales: customers fill up their tanks, go into the shop to pay, see a Coke and a Mars bar, and buy them. That is where petrol stations make their money in this day and age.

Let us think into the future. What would have happened if the Act had been left to stand unamended? What does a country petrol station owner do? The station has three tanks and E10 has to be sold, so it remains. Premium unleaded petrol, which contains no ethanol, will continue to be sold. The owner will start selling ultimate or the 98-octane equivalent from the third tank. This means that a country petrol station owner is now selling two tanks of fuel set at a market price and E10, which is set at a below-market price. That is how they will make their money. This then forces customers to transfer their choice of fuel. Those who do not want to use E10 or simply cannot run E10 will be compelled to move from regular unleaded into either premium unleaded petrol or ultimate.

That will necessitate a price increase of the order of 10¢ to 15¢ per litre. It will have a massive detrimental effect on those who are compelled by circumstance, or preference, to use a fuel that does not contain ethanol. In many cases those people are not wealthy and have had to retain cars of a substantial age, requiring them to use premium unleaded petrol or ultimate. The former Labor Government was kicking the people it is supposed to be helping—if we can believe its propaganda—the poorest members of our society. The former Labor Government was doing nothing to help the poorest members of our society. It was forcing people to buy a new car or to pay higher prices for the weekly consumption of petrol.

The fundamental problem with ethanol is it is inefficient. It is not merely inefficient on a chemical basis; it is inefficient on a cost basis. In a recent episode of *Top Gear Australia*, the hosts examined the use and relative performance of various forms of petrol products available on the market. They used as comparators diesel, ultimate, premium unleaded petrol, regular unleaded petrol and E10 petrol. Unsurprisingly, they found that the most efficient fuel was diesel, followed by ultimate, then premium unleaded petrol, then regular unleaded petrol and then E10. More importantly, the results were also assessed on a dollar-per-kilometre basis. When performance is factored, it is still the case that diesel, ultimate, premium unleaded petrol, regular unleaded petrol and E10 petrol are efficient in that order on a dollar-per-kilometre basis. E10 petrol is relatively cheaper but it is not as economically efficient for consumers as are the higher octane fuels.

What does this mean? If we get rid of regular unleaded petrol, which is more efficient than E10 petrol but less efficient than premium unleaded petrol and ultimate, we force people who cannot afford to buy regular unleaded petrol or ultimate onto E10 petrol. But because E10 petrol is less efficient, they will be required to make more trips to the service station. In other words, poorer people will be required to go to the service station more often and they will be more likely to be influenced by food packaging and demonstrations in the service station and engage in shop sales. Not only will they have to pay more for petrol; there is a greater likelihood that they will be influenced by shop sales and spend more of their income on discretionary purchases. It is another unintended consequence of the 2007 Act.

My argument is—and I say this sincerely—let the market decide. If The Greens and Labor sincerely believe that ethanol is so important in an effort to save the planet, let the market decide. I am sure they will be able to convince ordinary members of the public that there is a market for 100 per cent ethanol cars, as there is in countries such as Brazil. I am sure an import market will spring up for 100 per cent ethanol cars because of the massive demand. The change inspired by The Greens and Labor will lead to 100 per cent ethanol service stations, as they have in Brazil. I am sure these things will happen. The Greens and Labor are not prepared to let the market decide. The Greens and Labor want to select a winner. They want to engage in what Friedrich Hayek called "the fatal conceit": the idea that the planners have superior knowledge and superior ability to allocate resources than the market does. I think that idea is fatal and is a conceit. Who benefits? Milton Friedman, who had much to say about these sorts of things, stated:

> Government intervention in the market place is subject to laws of its own, not legislated laws, but scientific laws. It obeys forces and goes in directions that may have little relationship to the intentions or desires of its initiators or supporters. We have already examined this process in connection with welfare activity. It is present equally when government intervenes in the market place, whether to protect consumers against high prices or shoddy goods, to promote their safety or to preserve the environment. Every

> act of intervention establishes positions of power. How that power will be used and for what purpose depends far more on the people who are in the best position to get control of that power and what their purposes are than the aims and objectives of the initial sponsors of the intervention.

The late great Milton Friedman was absolutely correct, and his views can be applied to the ethanol program. The market already has spoken in relation to ethanol. I do not believe any member has mentioned this in the House, but I am told that during the entire five years, 60-odd months, since this legislation was introduced not once has the 6 per cent target been met—not once. In other words, not only is it a grandiose scheme based on the fundamental lie of anthropogenic global warming; it is a scheme that is functionally dysfunctional. It is completely ineffective. Every month the poor old Minister—God bless his soul—has to sign off a waiver, "We exempt you from having to meet the requirements of the legislation for yet another month." There is no way to meet the requirement.

Dr John Kaye: Point of order: Perhaps the member could pay attention to the impact he is having on the Parliamentary Secretary. The Parliamentary Secretary is clearly in pain.

The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner): Order! There is no point of order.

The Hon. Dr PETER PHELPS: I acknowledge that interjection. I believe the Parliamentary Secretary is writhing in ecstasy at my oratory. This wonderful grandiose scheme to mandate 6 per cent ethanol has failed every month of the 60-odd months it has been in existence. It is a ridiculous failure of a ridiculous scheme based on a law that failed to take into account unintended consequences. I congratulate Minister Hartcher, who has been quite visionary in this regard. The Minister has shown he is willing to stand up and be counted, to demonstrate true leadership at a time when fashionable leftism makes it so easy for many people to take the easy option. I look forward to further reforms from Minister Hartcher in the future and I wish the Minister very well in his battle to return this State to a genuine State of free markets, deregulation and limited government intervention.

Dr John Kaye: Now for something completely different.

The Hon. PAUL GREEN [12.37 p.m.]: Now for something sensible. On behalf of the Christian Democratic Party I speak in debate on the Biofuels Amendment Bill 2012 which has as its object to amend the Biofuels Act 2007 to remove the requirement from primary wholesalers selling regular unleaded petrol to move to selling E10 fuel. The term "E10" is defined in the Act to mean petrol-ethanol blend that contains between 9 per cent and 10 per cent ethanol by volume, being ethanol that complies with a biofuel sustainability standard. This bill will ensure motorists with vehicles that are not compatible with E10 petrol will not be forced to fill their vehicles with the more expensive premium fuel. The ethanol industry in this State currently comprises only one producer, the Manildra Group. The Manildra Group adds considerable value to the grain produced by our farmers and is a significant regional employer of over 300 people. The Manildra Group is a major exporter. I will elucidate further on the Manildra Group. The company is located on the South Coast and provides job security for people in the area.

Dr John Kaye: How many employees?

The Hon. PAUL GREEN: Three hundred. For the South Coast, anything that moves the goalposts on biofuels would impact significantly on mums, dads and families. There are quite a large number of young people in Manildra. Most of them have bought a house in the area and rely on the ethanol production side of the plant to fund their family's weekly needs. Am I bit nervous when I see a biofuels amendment bill in the House? Absolutely. Of a weekend I meet nervous mums and dads who wonder whether they will have a job in six months if the mandate is not enforced. It is reasonable for them to wonder about that. The Manildra Group was established in 1952 with the purchase of a single flour mill; it is now the largest user of wheat for industrial purposes in Australia, processing some one million tonnes of wheat per annum. The Manildra Group owns and operates an ethyl alcohol distillery at Nowra, on the South Coast of New South Wales. The site converts industrial grade wheat flour into its primary products of protein and carbohydrates. A by-product of the carbohydrate production is ethanol.

The Manildra Group's Nowra distillery is the largest ethanol producer in Australia, offering a range of grades suitable for all applications. The Manildra Group makes its ethanol from waste as part of an integrated manufacturing process at the Nowra plant. As part of this process, flour is separated into gluten—otherwise known as protein—and starch. The protein is removed from the flour and is sold to food manufacturers worldwide. Starch is used by a number of businesses within the confectionary, beverage and paper industries.

The residual starch from this process is converted to ethanol. The waste from ethanol production is turned into a protein-rich livestock feed that supplements the diets of hundreds of thousands of cattle across New South Wales, Australia, New Zealand and other international markets. The Manildra Group provides a massive regional injection of funds. If its investment is not honoured in the implementation of the ethanol mandate, there will be a tsunami of job losses, not just on the South Coast but across New South Wales.

I note that, under the Government's 2021 Plan to rebuild the economy by driving economic growth in regional New South Wales, members of Parliament will consult with local government and communities to develop local and regional action plans aligned to the NSW 2021 Plan. These plans focus on the most important actions that the New South Wales Government can take to improve outcomes in each region and locality. Of course, the goal of the NSW 2021 Plan is to create 40,000 new jobs in regional New South Wales—not losing any jobs, but creating new jobs. The NSW 2021 Plan includes development of regional action plans which harness business opportunities and address impediments to growth in regional areas. The plan is also to support regional business growth through tailored programs and local facilitation services, and to work with Regional Development Australia committees and the Commonwealth Government to promote regional industry opportunities.

I refer to that to highlight the investment of the Manildra Group in this region. There is no doubt that the Manildra Group was given a very clear indication by the Government that it would mandate up to 6 per cent of ethanol in biofuels, and the Manildra Group spent around $300 million upgrading its plant to meet those needs. That is $300 million that the Manildra Group put on the ground to prepare the way for the increase in ethanol content in fuel, pursuant to a virtual guarantee by the Government that the ethanol content in the fuel mix would increase. This is a business like any other, and government is entitled to change the sails if the wind changes. I do not think anyone would argue against that. But when a business is making a $300 million investment in regional Australia, it should be recognised that that investment not only sustains existing jobs but also creates more jobs. One must also realise that the outcomes of that investment are global.

For a business like the Manildra Group, which onsells its protein for instance, failure to enforce the ethanol mandate—or, as the Hon. Dr Peter Phelps said, ethanol is no longer the choice of the people—may very well mean the loss of 300 jobs. If that were to happen, not only would regional Australia lose quite a few jobs. We must be mindful that the impact would go beyond that because the Manildra Group has international markets, and if it has to shut down that one plant because the mandate is not enforced that shuts down the production of that product. Everyone knows that if one leaves open just half a crack in one's business one's competitor will take advantage of it. There is no doubt that the international protein market is strong and has many competitors. If the Manildra Group is not able to promote its business at the Nowra site, not only will it lose its opportunity to compete in international markets but also we will lose jobs regionally. I know that that is not at the heart of this Government's bill; therefore, I hope the bill will be strengthened to ensure that those jobs are secure.

In consultations and discussions with the Manildra Group regarding the bill, the group indicated that the emerging biofuel industry would prefer the current legislation to remain unchanged and noted that the New South Wales Government's amendment "will only work if the Government enforces the mandate law." The current mandate requires 6 per cent use of ethanol; the average use in New South Wales is 3.5 per cent. According to the Manildra Group, the oil majors have at no stage complied with the mandate since its inception, and if the mandated requirements are going to be reduced, then the mandate law should be enforced. Across the world, the oil majors have embraced biofuels. Why is it different in Australia? I am led to believe that well over 40 countries have embraced ethanol in biofuels, and that many of those have mandated it through State governments and their Federal counterparts. In fact, oil majors globally are the largest investors in the biofuel industry.

There is no doubt that the Manildra Group's investment in ethanol production can be affected by this bill, either positively or negatively. It will come down to a question of the good faith that the Manildra Group has shown in its investment in regional New South Wales through its plants, and the good faith of the New South Wales Government in doing what it says it will do—that is, enforce compliance of the fuel market with the mandated level of fuel mix to ensure that everyone is on a level playing field, plays by the rules and delivers in accordance with the provisions the Government has put in its laws. It would be simply unfair that one sector might get the jump on another sector by flouting the rules. I think that is fair comment, and I hope the Government will strengthen enforcement on the issues raised by the Manildra Group.

I have focused on the Manildra Group's position because any loss of business and jobs will affect the South Coast and our friendship city of Gunnedah. I am sure the mayor of Gunnedah, Adam Marshall, would be very concerned if that industry were ripped out of Gunnedah due to the lack of enforcement of the mandate. The

Manildra Group has certainly been complimentary in its attitude to the bill on the proviso that enforcement of the mandate takes place. If anything is to change, maybe the Government should have told the Manildra Group about that before it invested $300 million in regional Australia to increase its capacity to produce ethanol. Maybe someone should have told them there was a change in the wind and that investment to bring about an increase in capacity would not be required.

The Hon. Steve Whan: They did not know.

The Hon. PAUL GREEN: We know that the Manildra Group has been complimentary of both major parties in their efforts to ensure that ethanol is one of the fuels that are entertained by the public of New South Wales.

Dr John Kaye: Well said, Paul.

The Hon. PAUL GREEN: I acknowledge that interjection by Dr John Kaye. Ethanol produces clean air, it gives us fuel security—I hope I made it very clear that it is developed from a waste product and not from food sources—and it is a renewable energy. I have spoken to Dr John Kaye about renewable energies, wind sources and solar energy. We are learning a lot as we go on a new journey towards renewable energies. For example, there is speculation that wind energy causes sickness, it produces sound waves and creates electromagnetic forces—

The Hon. Lynda Voltz: Paul, there is no peer review science on that.

The Hon. PAUL GREEN: I did not say that; I am just saying that as these renewable energies are accepted and embraced scientists are finding potential adverse effects from them. No-one is claiming that ethanol is the answer to everything, but the Manildra Group just wants a fair go and for natural justice to be served because it has invested $300 million in this enterprise. It wants the Government to honour the commitments that were given, and I do not think there is anything wrong with that.

Reverend the Hon. FRED NILE [12.51 p.m.]: I support my colleague the Hon. Paul Green, who has extensive knowledge of the Manildra factory in the Shoalhaven, the main producer of ethanol in Australia. The Manildra factory is an important provider of jobs and economic support in the region. We all want to see regional development and companies should be encouraged to move into regional areas. Manildra has set up business in a regional area a long way from Sydney and it is making a very important contribution to the local community. As members know, particularly Labor Party members when they were in government, the Christian Democratic Party has always strongly supported the 6 per cent ethanol fuel mandate and we supported the Labor Government's legislation on ethanol content. We would be very unhappy if the Coalition, through some backdoor approach, sought to water down the 6 per cent ethanol mandate.

The Biofuels Amendment Bill 2012 seems innocent. The object of the bill is to amend the Biofuels Act 2007 to remove the requirement, which was to have begun on 1 July 2012, for primary wholesalers selling regular unleaded petrol to ensure that it is E10. The term "E10" is defined in the Act to mean a petrol-ethanol blend that contains between 9 per cent and 10 per cent ethanol by volume, being ethanol that complies with a biofuel sustainability standard. The Christian Democratic Party has always been consistent in its attitude towards the requirement for ethanol and even, in due course, for the percentage to be reviewed in New South Wales and throughout Australia. A previous speaker referred to Brazil, and I have referred to Brazil a number of times in previous debates. I believe we should study very carefully the approach taken in Brazil to develop ethanol as a substitute fuel for oil. Unlike Australia, Brazil is no longer dependent on oil from the Middle East, which is a very insecure supplier because of the unrest in that region. Brazil has the cleanest air of all the nations in the world and that is because Brazil has a requirement for the use of ethanol fuel. The approach taken in Brazil has been very successful and it is a model at which we should look.

The statement that ethanol will impact on the food supply resulting in millions of people starving is a red herring. We know that is not true. Ethanol is made from waste products—as occurs in the Manildra plant—and other sources of material are being investigated to produce ethanol. In Brazil ethanol producers use sugarcane, of which there are abundant supplies in Queensland. Australia has a great supply of alternative materials that can produce ethanol and those alternatives should be fully investigated. It is important that the report of the Independent Pricing and Regulatory Tribunal on this issue is made available to members. We are rightly suspicious that the Government has not tabled the report because that is contrary to the Government's current policy direction. The House should not vote on the bill until the report of the Independent Pricing and Regulatory Tribunal is tabled.

Dr JOHN KAYE [12.55 p.m.]: I had intended to make a lengthy speech but I will be brief. The Greens do not oppose the Biofuels Amendment Bill 2012 because, in part, it moves in the right direction in a very small way. However, we have major concerns. We believe that given the 6 per cent mandate that exists on ethanol this legislation will have very little impact. We also are very concerned that there has never been proper scientific investigation around the issue of ethanol, particularly in relation to claims about its environmental impact. Two threshold tests ought to be applied. First, before consumers are asked to spend money, does ethanol deliver cost-effective environmental benefits? Are there better ways to take and spend consumers' money? Ethanol certainly does not pass that test. Secondly, does it create a pathway to a cost-effective market for environmental benefit in the long run? The fundamental problem is that the ethanol mandate creates a monopoly. That is not just me saying that; that is what the New South Wales Treasury says and information has been obtained under the Government Information (Public Access) Act.

I had intended to talk at length on each of those points, but I will talk briefly on one issue—the report of the Independent Pricing and Regulatory Tribunal. On 7 February the Premier wrote to the Independent Pricing and Regulatory Tribunal requesting that it conduct an inquiry into the supply of ethanol. The tribunal effectively had until 20 March to respond. This morning I contacted the Independent Pricing and Regulatory Tribunal and was told that the O'Farrell Government has had that report since 20 March. The Government has been sitting on that report since then. The report contains crucial information—a crucial piece of the jigsaw. Although The Greens want to support this legislation we do not feel we can until we see the report. Therefore, I move:

> That this debate be now adjourned until after the tabling in this House of the Independent Pricing and Regulatory Tribunal report on the Review of Ethanol Supply and Demand in NSW.

Motion for adjournment of debate agreed to.

Debate adjourned and set down as an order of the day for a later hour.

[*The Deputy-President (The Hon. Jenny Gardiner) left the chair at 12.59 p.m. The House resumed at 2.30 p.m.*]

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

QUESTIONS WITHOUT NOTICE

SYDNEY DESALINATION PLANT

The Hon. LUKE FOLEY: My question is directed to the Minister for Finance and Services. Which companies were paid to manage the transaction process for the long-term lease of the Sydney Desalination Plant on behalf of the Government, and how much was paid in total to third parties during the transaction process?

The Hon. GREG PEARCE: The parties are a matter of public record, but I will obtain the detailed information requested by the Leader of the Opposition.

TRIBUTE TO DONALD TAYLOR RITCHIE, OAM

The Hon. DAVID CLARKE: My question is addressed to the Minister for Police and Emergency Services. Will the Minister inform the House on the important work of Don Ritchie?

The Hon. MICHAEL GALLACHER: I pay tribute to Don Ritchie who spent almost 50 years of his life talking people out of committing suicide. Don, who passed away on 13 May at the age of 85, prevented around 500 people from jumping to their deaths at the Gap in Sydney's east. Mr Ritchie, who was known also as the "Angel of The Gap", was born in Vaucluse in 1926 and attended Vaucluse Public School and Scots College. After serving in the Royal Australian Navy during World War II, Mr Ritchie worked in the corporate world as a life insurance salesman. In 1984 he moved into a house on Old South Head Road, Watsons Bay, across the road from the southern end of Gap Park. It was from this time that he began coaxing people out of taking their lives.

Mr Ritchie, in his own words, would get people "away from the edge, to buy them time, give them the opportunity to reflect, and to give them the chance to realise that things might look better the next morning". He would often bring suicidal people back to his house for a cup of tea or something to eat. In 2006, in recognition of his extraordinary compassion and kindness, Mr Ritchie was rightly awarded the Medal of the Order of

Australia. In 2010 Mr Ritchie and his wife, Moya, were named Woollahra council's citizens of the year. Last year he was presented with the local hero award by the National Australia Day Council. Most importantly, Mr Ritchie did not seek out praise or recognition for his good deeds. He plainly wanted to help and have a positive effect on the lives of people so sorely in need. Mr Ritchie left an outstanding legacy of public service, evidenced by the hundreds of people whom he guided back from the edge.

Depression and suicidal tendencies are issues for which we should share responsibility as a society. The New South Wales suicide prevention strategy for 2010 to 2015 provides the basis for a whole-of-government strategy to promote a shared community approach to suicide prevention. Within the context of the suicide prevention strategy, police and emergency services agencies make their contribution to the aim of preventing suicides. For example, the NSW Police Force mental health intervention team program, supported by NSW Health, includes training to improve suicide awareness of front-line police and provide strategies for dealing with suicidal persons. I remind the community that support is available for distressed persons by phoning Lifeline on 131 114, MensLine on 1300 789 987, or the Kids Helpline on 1800 551 800. Thank you, Mr Ritchie, for the job you have done for our community.

SYDNEY DESALINATION PLANT

The Hon. ADAM SEARLE: My question is directed to the Minister for Finance and Services. When did the privatisation of the Sydney Desalination Plant go from being a 99-year lease to a 50-year lease with an almost certain transfer of the asset at the end of this period? Were all bidders afforded the opportunity to bid on this basis?

The Hon. GREG PEARCE: I acknowledge the interest of the Deputy Leader of the Opposition in this important transaction. Incidentally, this transaction was one in which great value was realised for the people of New South Wales. In excess of about $300 million has been made available, in addition to repaying the debt, to go towards much-needed infrastructure. That is unlike the performance of members opposite, particularly in relation to the electricity industry where they managed to destroy about $5 billion of value for the people of New South Wales. Thank you, Eric. Last week the Treasurer announced that the Government had successfully refinanced the Sydney Desalination Plant for $2.3 billion. As I said, it is an excellent result that is well above book value for the plant.

Of the $2.3 billion achieved, $300 million will be directly invested in Restart NSW, which is the New South Wales Government's Infrastructure Fund. A further $1.8 billion will be used to repay debt held against the plant. This enables the State to raise up to $1.8 billion in new debt to fund infrastructure without affecting the State's credit rating. The refinancing is a great achievement as it unlocks both cash and debt-raising capacity which can be used for priority infrastructure projects across New South Wales such as roads, schools and hospitals. The refinancing involves a 50-year lease of the desalination plant from the Government to a private sector consortium comprising Ontario Teachers' Pension Plan Board, Hastings Managed Infrastructure Funds Utilities Trust of Australia and the Infrastructure Fund.

The consortium will own the Sydney Desalination Plant Pty Limited and lease its assets from the Government. This consortium was selected following a highly competitive bidding process which attracted unprecedented interest from a broad range of national and global players. It is a fantastic outcome for the people of New South Wales and it is a great achievement, unlike the work of the previous Government. I am just looking at my notes to see whether I have the answer to the question asked by the Leader of the Opposition relating to advisers. From memory it was Goldman Sachs and King and Wood Mallesons, but I will have to confirm that detail.

The Hon. ADAM SEARLE: Mr President—

The PRESIDENT: Order! Does the Hon. Adam Searle wish to ask a supplementary question?

The Hon. ADAM SEARLE: Yes, Mr President.

The PRESIDENT: I remind members that if they wish to ask a supplementary question they should seek the call by saying, "Supplementary question."

The Hon. ADAM SEARLE: Thank you, Mr President. I ask a supplementary question. Will the Minister elucidate his answer?

The Hon. GREG PEARCE: I will because I now have the information available to me. The advisers were Goldman Sachs, King and Wood Mallesons and KPMG.

FIREARMS PERMITS

The Hon. ROBERT BORSAK: My question without notice is directed to the Minister for Police and Emergency Services. Is the Minister aware that the Firearms Registry or police ministry, in anticipation of the passage of the ammunition bill through the lower House, are urgently changing the permits to acquire issued under the Firearms Act 1996 so that the calibre is specified on the permit? Does the Minister or the Firearms Registry understand that purchasers under the permit to acquire system may not know which particular calibre they will end up purchasing? Does this change mean that the Firearms Registry will have to revert to manual processing of all permits to acquire, and what effect would this have on the cost of running the Firearms Registry and the inherent delay of processing these permits?

The Hon. MICHAEL GALLACHER: It is good to have present members of the Shooters and Fishers Party and the Christian Democratic Party who are prepared to ask questions during question time. Sadly, the coalition partners of the Labor Party, The Greens, must work in shifts as sometimes they turn up and sometimes they do not. Be that as it may, I thank the member for his question and for his genuine interest and participation in this issue. I will seek advice from the registry about the matters that he has raised. I would like to think that I will be in a position to respond before the end of the day, but if I am not I assure the member that I will obtain an answer as soon as possible. Again I recognise that at least half the crossbench members are in the Chamber for question time.

M5 EAST RESURFACING

The Hon. JOHN AJAKA: My question is addressed to the Minister for Roads and Ports. Will the Minister update the House on the resurfacing of the M5 East?

The Hon. DUNCAN GAY: What a great question.

The Hon. Walt Secord: Apologise.

The Hon. Greg Donnelly: What about the air bubbles?

The Hon. DUNCAN GAY: On behalf of the Opposition that created this mess, I apologise—but we are here to save the people of New South Wales by providing good government. Today I was amused to hear the Opposition spokesman for roads criticising the Government for getting on with the job of resurfacing the full length of the M5 East. Robert "Road Crash" will need to drive according to the conditions.

The PRESIDENT: Order! There is far too much audible conversation.

The Hon. Greg Donnelly: Point of order: As a Minister of some standing and a member who has spent some time in this House over many years, the Minister is aware that he cannot refer to a member of the other place in that manner. He should be asked to withdraw that statement.

The Hon. DUNCAN GAY: To the point of order: I did not name anyone. I referred only to Robert "Road Crash", and Opposition members made an assumption that I was referring to a member in the other place.

The Hon. Greg Donnelly: To the point of order: The shadow Minister has the name Robert Furolo. The Minister knows exactly to whom he was referring and he should be asked to withdraw his statement.

The PRESIDENT: Order! I did not hear the comments because there is so much noise in the Chamber.

The Hon. Greg Donnelly: Ah, cut it out!

The PRESIDENT: Order! I call the Hon. Greg Donnelly to order for the first time.

The Hon. Greg Donnelly: Everyone heard it.

The PRESIDENT: Order! I call the Hon. Greg Donnelly to order for the second time. I did not hear it. As it is a difficult situation, it might assist the House if the Minister withdrew the remark.

The Hon. DUNCAN GAY: Mr President, certainly if you request that, I withdraw it. In case anyone is in any doubt, if the Opposition spokesman had done his homework he would have known that the vast majority of recent night-time closures on the M5 East were to allow the road to be resurfaced. A bit of extra homework on his part would have meant he would have known that the surface was reaching the end of its life. The M5 East has not been resurfaced since it was opened more than a decade ago. In fact, 2001 was the last time it was resurfaced. This $10 million project has a resurfacing area of approximately 163,000 square metres, which is the size of 24 rugby league playing fields or seven times the area of the Sydney Harbour Bridge resurfacing project that was completed earlier this year.

The works are designed to provide a safer, smoother and quieter ride for approximately 100,000 vehicles that use the freeway each day and include a resurfacing of the multiple on-and-off ramps and numerous intersections. Resurfacing the pavement that runs through Sydney's longest road tunnel presents genuine engineering and traffic management challenges. Some have said that we should have closed the M5 East. [*Time expired.*]

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

The Hon. DUNCAN GAY: Those who say we should have resurfaced the M5 East in the same way as the Sydney Harbour Bridge was resurfaced will remember that it took two complete weekends, day and night over four days, to do that. The M5 East road is seven times the length of the Sydney Harbour Bridge. Seven fours are 28, which means that the M5 East tunnel would have been closed for at least 28 days, or a month. It is the busiest conduit in this city. That is what the Opposition would support. Thank God they are not still running the roads, or it would be even worse. It is a ridiculous proposition. When faced with the option of closing the major link to the Port Botany precinct for a month or closing the road for a couple of nights a week outside peak times, we naturally decided to take the approach that minimised disruptions. As opposed to previous Labor governments, this Government is not afraid to tackle major road projects of this nature.

The Hon. Luke Foley: Including closure of the M2 on Mother's Day. Congratulations.

The Hon. DUNCAN GAY: That is the price of progress in this city. That is also the price of 16 years of neglect by the noisy and silly Opposition. However, I must congratulate the Opposition spokesman for roads on doing a first-rate job of exposing the failures of past Labor governments. For instance, he criticised us for reaching an agreement to widen the M5 West, even though Labor had failed for more than two years to negotiate an outcome on the project. He called for the Government to rip out revenue-raising speed cameras and then, after an independent review by the Auditor-General, did an about-face. [*Time expired.*]

BUDGET ESTIMATES 2011-2012

Dr JOHN KAYE: In directing my question to the Minister for Finance and Services, I refer to budget estimates that were examined on Monday 24 October 2011 and to remarks made by the director general of his department, Mr Coutts-Trotter, who said:

> Councils can choose to use the State Debt Recovery Office as a collection agency, they can collect revenue themselves or they can contract x, y or z corporation to do it for them.

Does the Minister stand by those remarks, or was Mr Coutts-Trotter misleading General Purpose Standing Committee No. 1?

The Hon. GREG PEARCE: Dr John Kaye asks me about remarks made by the director general and says, "Do I stand by them?" Well, I did not say it. However, I know that the director general is a very competent director general. I have certainly enjoyed working with him over the past year and a bit. I am sure I have spoken in this Chamber in response to a question about some of the activities that are occurring in the Office of State Revenue, the ways and means with which we are addressing some of the debt problem that was left by the previous Government, and improvement in services for the community. It is interesting that The Greens are asking a question today. I have been amusing myself by reading comments made yesterday by Mr Paul Howes. He warned that the Labor Party had to stay away from The Greens. He branded the Greens as an anti-jobs movement and vowed to fight that leftist movement "to the hilt". I could go on.

The Hon. Trevor Khan: Please do.

The Hon. GREG PEARCE: No, I want to reserve some of it for later. The headline for his comments states, "Labor should bring back former leader Mark Latham ...", and the article states that Mark Latham "should be welcomed back to the Labor Party to encourage internal debate".

Dr John Kaye: Point of order: My point of order relates to relevance. I was totally happy while the Minister was attacking The Greens, but if he intends to go on about Mark Latham, then I must take a point of order in relation to relevance. I ask the Minister to resume attacking us.

The PRESIDENT: Order! It is difficult for me not to uphold the point of order. Does the Minister have any other generally relevant information to provide?

The Hon. GREG PEARCE: This is very relevant, Mr President, and I will tell you why. The reason I make the point about Mr Howes suggesting that Labor bring back Mark Latham is the numbers I reported to the House yesterday. John Robertson is down to 14 per cent. I am really worried that the remnants of the Labor Party might do what they do so often—change leaders.

The PRESIDENT: Order! If the Minister does not have any more generally relevant information, he should resume his seat.

SYDNEY DESALINATION PLANT

The Hon. SOPHIE COTSIS: My question is directed to the Minister for Finance and Services. Will the Minister confirm that the final bids were received on 4 May, less than a week before privatisation of the Sydney Desalination Plant was announced?

The PRESIDENT: Order! The Hon. Dr Peter Phelps and the Hon. Steve Whan will not converse across the Chamber while a question is being asked. They will not converse audibly at any time in the House. I ask the Hon. Sophie Cotsis to repeat the question.

The Hon. SOPHIE COTSIS: My question is directed to the Minister for Finance and Services. Will the Minister confirm that the final bids were received on 4 May, less than a week before the privatisation of the Sydney Desalination Plant was announced?

The Hon. GREG PEARCE: It is a matter for the team that worked on the transaction to say what the dates were and what the time frame was for receiving final bids. However, I can answer the Leader of the Opposition's question because I am informed that the transaction costs on the desalination plant were around $20 million. Let me put that in context. The Labor Party under the Hon. Eric Roozendaal spent around $300 million on the gentrader transaction, and I do not think that included the $700,000 that Joe Tripodi spent on his round-the-world trip.

The Hon. Lynda Voltz: Point of order: My point of order is on relevance. The question was clearly about confirming whether final bids were received on 4 May. It had nothing to do with costings.

The PRESIDENT: Order! The Minister is starting to stray from the question. However, I note that the Minister has concluded his answer.

WORKERS COMPENSATION SCHEME

The Hon. MATTHEW MASON-COX: My question without notice is directed to the Minister for Finance and Services. Will the Minister comment on concerns that have been raised about the State's workers compensation scheme as opposed to the workers compensation schemes of other States?

Dr John Kaye: That's a trick question. Watch it Greg; he's trying to take your job.

The Hon. GREG PEARCE: At least the Hon. Matthew Mason-Cox has a chance of getting the job, whereas you will be irrelevant forever and none of The Greens will ever get to have the job. I look forward to the Hon. Matthew Mason-Cox being promoted because when he is he will do a fantastic job. Dr John Kaye, however, will never have the opportunity—thank goodness. As I have told the House previously, and I repeat today, the New South Wales scheme is $4.1 billion in deficit. I am informed that about 80 per cent of the scheme's costs relate to the expected cost of claims and, therefore, the primary determinant of scheme premium

costs is compensation benefits design. Current compensation services and benefit design are the major impediments to scheme performance. In particular, weekly payment arrangements do not sufficiently incentivise return to work. Lump sum, particularly fault-based, compensation is expensive and wasteful and results in inferior health and return to work outcomes for workers. A significant amount is spent on services and benefits that do not contribute to improved health or return to work.

The most recent national data available, the comparative performance monitoring report for the 2009-10 financial year, shows that New South Wales has the highest expenditure of all the States on services to workers. Those include medical treatment, rehabilitation, legal costs, return to work assistance, transportation, employee advisory services and interpreter costs that are used to assist employees to recover from injury and to return to work. However, this spending has not translated to superior health or return-to-work outcomes. I am aware of comments that comparisons suggest that a similar benefit design to that used by Victoria and Queensland may improve scheme performance. Weekly payment arrangements should incentivise return to work for those with the capacity to work.

In the New South Wales scheme medical costs have increased from around $1.8 billion in June 2008 to over $3.3 billion in December 2011, and now represent 24 per cent of the scheme's liabilities. Medical costs are not capped in New South Wales and are met until after retirement age. In contrast, Victoria is liable for the cost of medical treatment provided while weekly benefits are paid and for one year after the cessation of weekly benefits. In Queensland, a cap of five years applies to the payment of weekly benefits and benefits for medical and related treatment. Tasmania limits the amount of time medical services will be provided in line with weekly benefit caps.

Current thresholds in the New South Wales scheme for accessing statutory permanent impairment lump sums are 1 per cent for general whole person impairment, 6 per cent for binaural hearing loss and 15 per cent for psychological injury. In New South Wales, around 66 per cent of people who received a statutory lump sum payment experienced whole person impairment under 1 per cent. This may not create the right incentives for recovery and return to work. In some cases, the cost of medical assessments and legal representation in a permanent impairment matter can exceed the amount of compensation ultimately paid to the injured person.

In Victoria and the Commonwealth, minimum thresholds of 10 per cent whole person impairment apply for physical impairment. In Victoria the worker must have a 30 per cent whole person impairment to make a claim for psychiatric impairment. The Queensland WorkCover fund has enjoyed the highest funding ratio in the country for a significant time. This could be a tribute to the model under which the Queensland fund operates. As a short tail fund the Queensland scheme focuses on adequate benefits through the statutory phase coupled with a streamlined process for early claim resolution, supported by an election for a statutory lump sum or common law benefits for the majority of claims in the scheme. New South Wales deserves a solid scheme that will provide injured workers with the support they deserve.

ALCOHOL ADVERTISING

Reverend the Hon. FRED NILE: I ask the Minister for Police and Emergency Services, representing the Premier and Attorney General, a question without notice. Is it a fact that the Australian Foundation for Alcohol Research and Education has released a new survey showing widespread support for a ban on alcohol advertising, and that such a ban is supported by 65 per cent of Coalition voters, 62 per cent of Australian Labor Party voters and 67 per cent of The Greens voters? Therefore, will the Government give serious consideration to supporting my private member's bill that will prohibit the advertising of alcoholic beverages, which is Private Members' Business item No. 9 in the Order of Precedence on today's *Notice Paper*?

The Hon. Luke Foley: Is the Minister about to take a point of order?

The Hon. MICHAEL GALLACHER: No, I am about to congratulate the member for referring to a private member's bill that I am sure we will all have the opportunity to consider and support. I will most certainly refer the question to the Ministers nominated and get back to the member with an answer as soon as I can.

SYDNEY DESALINATION PLANT

The Hon. STEVE WHAN: My question is directed to the Minister for Finance and Services. How many bidders were left in the tender process for the privatisation of the Sydney Desalination Plant at the stage final bids were considered?

The Hon. GREG PEARCE: I thank the member for his ongoing interest in this transaction. The Government has made good its election commitment to deliver the transaction of the Sydney Desalination Plant. On 10 May the Government accepted an offer, which I referred to earlier, from Ontario Teachers Pension Plan and Hastings Funds Management. This first transaction under the O'Farrell Government was a success. It was a very competitive process with unprecedented interest from national and global players. It achieved value for taxpayers—$2.3 billion; well above book value.

The transaction has been strongly endorsed. In that regard Infrastructure Partnerships Australia stated, "The refinancing of the distillation plant will have zero impact on consumers in terms of price or quality but frees up the State to begin funding the major projects." The New South Wales Business Chamber stated, "It is a common-sense approach to making a substantial dent in New South Wales's infrastructure backlog." The real winners from this transaction are the people of New South Wales. There are multiple benefits to individuals and to communities across the State. It unlocks cash for infrastructure—

The Hon. Steve Whan: Point of order: My point of order is on relevance. The question was specifically about the bidders who were in the tender process at the final stage. I ask you to draw the Minister back to answering the specific question.

The PRESIDENT: Order! The Minister's answer is in order.

The Hon. GREG PEARCE: The Opposition's water spokesman, Luke Foley, knows how good this transaction is.

The Hon. Amanda Fazio: The Hon. Luke Foley.

The Hon. GREG PEARCE: I am sorry, the Hon. Luke Foley. He also knows it will not impact on water prices. In a press release of 9 December 2011 on the Independent Pricing and Regulatory Tribunal's decision in relation to water prices the Hon. Luke Foley stated, "Today's decision won't have an additional impact on household water prices." The problem is that that press release has disappeared from the Labor Party website. As we all know, the former Labor Government held a series of meetings from March to June 2010 to discuss the long-term lease of the desalination plant. That was at a time when the member for Maroubra was a shareholding Minister. The difference between us and those opposite, who talked about this transaction two years ago, is that we have delivered the transaction for the people of New South Wales. The member for Maroubra made a number of comments about the desalination plant. First he said, "It should have remained in public hands in case of drought." I do not know what he thinks is going to happen—

The Hon. Lynda Voltz: Point of order: My point of order is on relevance. The Minister is now talking about drought. The question specifically asked how many bidders were left in the tender process for the privatisation of Sydney Desalination Plant.

The PRESIDENT: Order! A number of Presidents have ruled that while some generality is permitted in a Minister's answer, the bulk of the answer should be relevant. Although the Minister has been generally relevant in most of his answer, in the time remaining to him to respond he might like to address the nub of the question.

The Hon. GREG PEARCE: In the case of the Labor Party, the gentrader transaction— [*Time expired.*]

The Hon. STEVE WHAN: I ask a supplementary question. Could the Minister elucidate his answer by actually telling us how many bidders were left in the tender process for the privatisation of the desalination plant? If he cannot tell us now, will he take the question on notice and provide us with the information?

The Hon. GREG PEARCE: I refer to my previous answer.

NATIONAL VOLUNTEER WEEK

The Hon. SARAH MITCHELL: My question without notice is addressed to the Minister for Police and Emergency Services. Given that the theme of this year's National Volunteer Week, held between 14 and 20 May, was "Volunteers—Every One Counts", could the Minister inform the House of any noteworthy recent achievements by volunteers with our emergency services?

The Hon. MICHAEL GALLACHER: I thank the member for her question. National Volunteer Week presents an opportunity for us to acknowledge the dedication and commitment of the 70,448 NSW Rural Fire Service volunteers. The backgrounds of the volunteers of our Rural Fire Service are as broadly diverse as the communities they serve, and the manner in which they perform their roles is a constant source of inspiration and pride. Volunteers are integral to the vital service provided by the Rural Fire Service to communities throughout New South Wales during times of emergency. Last financial year Rural Fire Service volunteers attended 18,830 incidents across the State—an extraordinary feat. These volunteers respond not only to bushfires. They attend also structure and transport fires, motor vehicle accidents and other emergencies within their rural fire districts.

In recent months, NSW Rural Fire Service volunteers have assisted other emergency service organisations during storm, flood and other emergencies both within New South Wales and interstate. People may choose to become a volunteer member of the NSW Rural Fire Service for many reasons—perhaps the need to protect their families, homes and communities, a desire to help others, a sense of duty or personal satisfaction, or as an opportunity to learn new skills. Volunteering provides a unique way to connect with the wider community, even though at times they serve in the most arduous and challenging conditions. There is no doubt that the spirit of volunteerism and community service is well and truly alive within the NSW Rural Fire Service.

Firefighter Paul Simpson is but one example of a dedicated, committed and courageous Rural Fire Service volunteer. Paul was recognised at the NSW Rural Fire Service Commissioner's Awards ceremony held recently on St Florian's Day, 4 May, when he was awarded the Commissioner's Commendation for Bravery. Paul is a firefighter with the Huskisson Rural Fire Brigade. On 21 November 2010 he came across a two-car vehicle accident and stopped to assist. A witness to the accident was already attempting to remove a female passenger through a window of the overturned sedan. At this point the vehicle caught fire, so Paul obtained fire extinguishers from onlookers and attempted to put out the fire. He then went to free a male passenger, obtaining a knife to cut a seatbelt to enable the man to be dragged clear. Paul then returned to try to rescue the driver whose legs were trapped in the vehicle. The driver kept yelling at Paul and others to get away from the car as it was engulfed by fire. However, the bystanders persisted with their efforts to rescue the driver under extremely hazardous conditions and succeeded in dragging him from the damaged vehicle.

When the Huskisson Rural Fire Brigade arrived at the scene of the accident it found two vehicles fully enveloped in flames, a section of grass paddock alight and a number of casualties about 10 metres from the burning vehicles. Paul used his body to shield the injured and ambulance officers from the approaching grass fire. The crash site was littered with the fire extinguishers that Paul had used to try to extinguish the burning vehicles and surrounding grass. Paul had used his own bushfire jacket to shield one of the passengers from the fire, and as a result he sustained burns and abrasions to his arms. Paul's actions in such terrible circumstances brought great credit on himself and the NSW Rural Fire Service. I am proud to publicly acknowledge the fine contribution that Paul Simpson has made to the NSW Rural Fire Service and the fine example he sets for the whole community. His bravery award was indeed well deserved. On behalf of the people of New South Wales, following National Volunteer Week, I convey sincere thanks to all our Rural Fire Service volunteers, in particular, Paul Simpson.

FIREARMS ACT

Mr DAVID SHOEBRIDGE: My question without notice is directed to the Minister for Police and Emergency Services. When will the Minister respond to growing community concern and move to repeal section 6B of the Firearms Act?

The Hon. MICHAEL GALLACHER: I thank the member for turning up at question time with a very important question. Section 6B is an important matter, and I have spoken about it a number of times in the past. It is important that we work with the industry and those who participate in the sport to ensure that we deliver the safest possible parameters for the use of firearms in this State. We will continue to do that and continue to listen to police. I await the recommendations that no doubt will come at some stage from the New South Wales Coroner. But unlike others, we are not simply waiting. We are talking to people to get them to start thinking about what needs to happen to ensure that we have a safer firearm regime in this State—those involved from a business, hobby, sport and community perspective. We are doing everything we can to make sure that this State is as safe as it possibly can be.

Mr DAVID SHOEBRIDGE: I ask a supplementary question. Could the Minister elucidate his answer by advising to whom he has spoken about the repeal of section 6B of the Firearms Act?

The Hon. MICHAEL GALLACHER: I continue to talk to many people and people speak to me as I move around the State. I am not in a position to give the detail of their names, chapter and verse. There are people everywhere. Everywhere I turn people want to talk to me about section 6B. That is what I like about it. I just have to turn around and people want to talk about it, and will continue to talk about it.

The Hon. Duncan Gay: Section 6B.

The Hon. MICHAEL GALLACHER: There is another one. People just keep appearing. The issue is important and I will continue to talk to as many people as I possibly can about it. I talk to police and many others about this issue, just as I do about all law and order issues in this State.

SYDNEY DESALINATION PLANT

The Hon. MICK VEITCH: My question is directed to the Minister for Finance and Services. What is the value of the availability payments under the 50-year water supply agreements signed between Sydney Water and the Sydney Desalination Plant as part of the privatisation process?

The Hon. GREG PEARCE: I do not have that number in my head. I will have to obtain that detail and get back to the member.

PACIFIC HIGHWAY UPGRADE

The Hon. JENNIFER GARDINER: My question without notice is addressed to the Minister for Roads and Ports. Can the Minister please update the House on the latest progress on the Pacific Highway upgrade?

The Hon. DUNCAN GAY: I know that the Hon. Jennifer Gardiner shares my concern and disappointment about the Federal Government's budget announcement to cut its share of future funding for the Pacific Highway upgrade from 80 per cent to 50 per cent. It is important that we get on with the job of delivering existing projects. Last week I had the opportunity to inspect ongoing work on the highway at Banora Point, Farlows Flat, Devils Pulpit and Bangalow. At Banora Point I was joined by that fantastic—

The Hon. Walt Secord: You were heckled.

The PRESIDENT: Order! The Hon. Walt Secord will cease interjecting and the Minister will resist the temptation to respond.

The Hon. DUNCAN GAY: I am reminded that whilst I was at Banora Point—to public accolade I might add—the local newspaper reported that the Hon. Walt Secord had apparently travelled to the Tweed on Labor Party local government business. I would be disappointed if the member used a New South Wales parliamentary warrant to travel to the Tweed to deal purely with Australian Labor Party, political, local government issues. I seek an assurance from the member that he did not use New South Wales parliamentary resources to do that. Can the member give the House that assurance?

The PRESIDENT: Order! The Minister will direct his comments through the Chair. He will be generally relevant in his response.

The Hon. Luke Foley: Point of order: Mr President, I direct your attention to many rulings of former Presidents that members must not cast aspersions on or make imputations about another member except by way of substantive motion. I suggest that the Minister has crossed the line in that regard. If the Minister has an allegation to make, he should do so by way of substantive motion.

The PRESIDENT: Order! The Minister was raising questions. He may have been close to making an imputation, but he did not make it. I caution the Minister not to transgress the standing order that prohibits him from making imputations against other members in the Chamber.

The Hon. DUNCAN GAY: I take your advice, Mr President. At Banora Point I was joined by the fantastic local member for Tweed, Geoff Provest, to see the northbound section of the highway opened to traffic. The completion of the northbound road will allow the completion of the final stages of the Banora Point upgrade project. In the next three months new ramp connections to the upgraded highway will be progressively

completed and opened to traffic. With the hardworking member for Clarence, Chris Gulaptis, I also inspected the progress of work on the Devils Pulpit section of the Pacific Highway. Construction on this important section of the Pacific Highway began in December last year. It is great to see the progress that has been made despite the bad weather. The project is now 65 per cent complete. The $77 million project will be completed by mid 2013. [*Time expired.*]

ABORIGINAL HOUSING OFFICE BOARD

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, and Minister for Women. Will the Minister advise the House of the current membership of the Aboriginal Housing Office Board, explain why the chief executive of the board has been in an acting position for three years, and advise if and when the position will become a permanent position?

The Hon. GREG PEARCE: I cannot explain why the Labor Party did not make the appointment permanent during the time its members were in government. I will have to ask the Minister what has happened about that more recently. I will do that and get the member a detailed answer.

TRIPLE-A CREDIT RATING

The Hon. SHAOQUETT MOSELMANE: My question is directed to the Minister for Finance and Services, representing the Treasurer. Given the blowout in State Government debt, forecast rolling budget deficits, falling infrastructure spending and the Treasurer's comments in today's *Australian Financial Review* that the Government will take whatever action is needed to retain our triple-A credit rating, will the Minister inform the House whether increasing taxes in the upcoming budget has been ruled out?

The Hon. GREG PEARCE: The member knows full well that I will not speculate about what is in the budget. The Opposition will have to wait for the budget to be delivered.

DATA CENTRES PROJECT

The Hon. DAVID CLARKE: My question is directed to the Minister for Finance and Services. Will the Minister inform the House what is the latest information on the Government's data centres project?

The Hon. GREG PEARCE: I thank the honourable member for his question and commend him for his continuing interest in the Government's use of information and communications technology to improve and deliver services and boost administrative efficiency for the benefit of the taxpayers of New South Wales. There are presently over 130 older-style government data centres in New South Wales, many of which are operating at full capacity, using electricity inefficiently and prone to outages.

After a rigorous tender process, Metronode (NSW) Pty Ltd has been selected to provide scalable capacity in two brand new state-of-the-art facilities under a 10-year lease arrangement with two 5-year options to extend the contract. The contract with Metronode marks a major milestone in the State's bid to use information and communications technology to streamline secure robust service delivery and reduce costs. The two new data centres, one in Sydney's inner west, at Silverwater, and the other in the Illawarra at Unanderra—

The Hon. Lynda Voltz: Does the Minister not know where the inner west starts and finishes?

The Hon. GREG PEARCE: The member is correct; I agree that it is mid-west. Those two new data centres will provide a secure platform for delivering private government cloud services. This is the first concrete step in a major whole-of-government information and communications technology strategy to reduce costs, improve the State's critical infrastructure and operations, enhance service delivery and employ cloud computing services. Additional benefits will flow from within the facilities by rationalising platforms, reusing software applications and mitigating risks associated with increased costs, expensive electricity charges, system and service failures and ad hoc market sourcing.

The project will provide capacity to consolidate the existing data centres and their computer infrastructure into two more efficient and reliable facilities. The proposed contract builds on the aggregate capacity requirements of the anchor tenants, which include the Ministry of Health, the Department of Education and Communities, the Department of Finance and Services and Corrections NSW. The Government will require

all other government agencies to move into the new data centres within four years of opening. This coincides with information and communications technology replacement cycles and lease renewals, so the contract allows for contiguous growth at these sites to accommodate 100 per cent of the data centre load as required.

Compared with other data centre expansion options, the Data Centre Reform Project will cost less over a 10-year period than allowing each agency to handle its own expansion or replacement of its existing data centres on an autonomous basis. The data centres will generate employment opportunities during the building and migration phases and offer long-term employment that will benefit the Illawarra and western Sydney. It is estimated that construction of the centres will create 250 jobs across both sites, while the operational phase will support network and information and communications technology jobs in New South Wales on an ongoing basis.

The project will also provide an opportunity for the information and communications technology industry to partner with Government to consolidate managed services and leverage private cloud computing through a managed services catalogue. These data centres have significant potential to attract global information and communications technology organisations to set up cloud computing facilities in New South Wales. The Government is committed to making it easier for New South Wales citizens and businesses to interact with government, to harness the opportunities provided by information and communications technology to improve government operations and to develop a vibrant information and communications technology industry in New South Wales. Metronode has scheduled construction to start almost immediately for the Sydney data centre, which is forecast to open by mid 2013. The Illawarra data centre will open shortly after the Sydney facility, in late 2013.

HERBICIDE RESISTANCE

The Hon. PAUL GREEN: My question without notice is directed to the Minister for Roads and Ports, representing the Minister for Primary Industries. Given recent media attention to one of the greatest modern challenges facing farmers—herbicide resistance, which is stifling crop yield leading to higher farm costs, increased fuel costs and more expensive herbicides—will the Minister update the House on what actions and strategies the Government has taken to deal with the increased resistance of weeds to herbicide, in particular glyphosate?

The Hon. DUNCAN GAY: As the Opposition often reminds me, it is a long time since I was a farmer; in fact, it is 22 years since I was a full-time farmer. Back in those days plant resistance had started to the range of broad-spectrum chemicals that were such a saviour when we moved on from the organophosphate chemicals—and thank God we did—which had been the only chemicals useable at the time. Interestingly, we did that without the help of The Greens; most of the achievements round the world have been done without The Greens. It is a serious question and it seeks a detailed response. I undertake to convey the question to my colleague the Minister for Primary Industries and seek a detailed answer.

WORKERS COMPENSATION SCHEME

The Hon. HELEN WESTWOOD: My question is directed to the Minister for Finance and Services. Given that WorkCover has confirmed it did not author the workers compensation issues paper released by the Government, and given the scheme actuaries have confirmed that they were not asked to cost the proposals contained in that paper, who wrote the issues paper and who did the costings contained within it?

The Hon. GREG PEARCE: To the best of my knowledge, WorkCover and the Office of Industrial Relations authored it.

FIRE AND RESCUE NSW FIREFIGHTER REGIONAL CHAMPIONSHIPS

The Hon. MELINDA PAVEY: My question is directed to the Minister for Police and Emergency Services. Will the Minister update the House on the recent Firefighter Regional Championships held in Corrimal?

The Hon. MICHAEL GALLACHER: Last weekend more than 100 Fire and Rescue firefighters from across New South Wales converged on Corrimal to put their wits and skills to the test. The event was the second

round of the 2012 Fire and Rescue NSW Firefighter Championship series. It was Corrimal's first time at hosting the championships, with the event being hosted at Judy Masters Park, the home of the Balgownie Brigade. Corrimal and Berry each entered two teams, together with other teams from Albion Park Rail, Budgewoi, Kurri Kurri, Scarborough, Thirroul, Unanderra, Wyong, Bega, Delroy, Dorrigo, Forbes, Kelso, Mudgee, Tumut and Wellington. A Rural Fire Service team from Kootingal also entered the competition.

The teams participated in exercises that included setting up and deploying firefighting equipment in emergency situations, rescue simulations, community safety demonstrations and fire drills. Fire and Rescue NSW Commissioner Greg Mullins joined the community, who came out to witness the skills of our firefighters, who are the best in country, if not the world. The team from Dorrigo was the ultimate winner on the day, with Kelso, Berry and Scarborough rounding out the top four.

The Firefighter Regional Championships are a true test of operational skills. Firefighters train for these events for many months and their strong competitive streak ensures the event is truly memorable. As an indication of the dedication of some of the competitors, the captain at Tocumwal, Mervyn Reed, has attended every single championship since 1970. Through his efforts over 40 years Captain Reed personally worked to enhance the firefighting skills of countless volunteer and retained firefighters and, ultimately, the safety of the communities they serve. Fittingly, Mervyn was awarded the Australian Fire Service Medal on Australia Day this year.

The next regional championship will be held at Casino on 4 and 5 August. These championships will enable teams to fine-tune before the highlight of the year: the State Championship at Tamworth, from 13 to 18 October. I look forward to that event with keen interest. I wish to congratulate all those who participate and thank them once again for their ongoing dedication to ensuring the safety of their communities and the people of New South Wales.

VICTIMS COMPENSATION

The Hon. ROBERT BROWN: My question without notice is directed to the Minister for Police and Emergency Services. What action can the Minister take to stop the recently reported scam whereby indebted drug dealers get shot in the leg by creditors, tell police they were shot by someone unknown to them, and then make a claim for criminal injury compensation? Can the Minister obtain from the Attorney General, and report to the House, an indication of how much of the reported $63 million paid out by the Victims Compensation Tribunal last year was paid to known criminals?

The Hon. MICHAEL GALLACHER: That is a very good question; it falls to the Shooters and Fishers Party, who are serious about making our streets safer, to ask such an important question. I thank the member for drawing it to the attention of the House. I will seek an answer from the Attorney General. I think everyone agrees that victims compensation is for victims, not those who are victims today but are offenders tomorrow or yesterday. It is difficult, of course, to delineate victims in some cases, but I am sure police would have advice available to them. However, determinations are made by the Victims Compensation Tribunal from allocations of assistance made available for victims. I will not comment further on this matter until I get some advice from the Attorney General.

PACIFIC HIGHWAY UPGRADE

The Hon. LYNDA VOLTZ: My question is directed to the Minister for Roads and Ports. On 10 May 2012 the Minister advised the House that he had received a preliminary report on the contaminated material on the Herons Creek to Stills Roads section of the upgrade of the Pacific Highway. Was the Minister aware that contractors had been employed on a day-to-day contract by the principal contractor, and that since 9 April their plant and operational equipment has been put under lock and key by Roads and Maritime Services? Given that the Minister has received only a preliminary report on the contamination at that site, and that Roads and Maritime Services has been aware of the contamination at this site for 30 years, what action has the Minister taken to ensure that the contractors are being paid for their equipment which they are now unable to use while the site is under lock and key?

The Hon. DUNCAN GAY: I thank the member for her question. She is correct: I made a statement on 10 May; I was informed on 9 May. I received the preliminary report on the contaminated material on the Herons Creek to Stills Road upgrade. As the House knows, it was prepared by a former head of the National Parks and Wildlife Service, Brian Gilligan. The report has been released. I am unaware of the concerns that the member has just raised. As a matter of urgency, I will obtain a report on the situation and come back to the House tomorrow.

F3 ELECTRONIC MESSAGE SIGNS

The Hon. TREVOR KHAN: My question is directed to the Minister for Roads and Ports. Can the Minister update the House on the rollout of electronic messaging signs on the F3?

The Hon. DUNCAN GAY: I am pleased to inform the House that Roads and Maritime Services has begun work to install permanent electronic message signs on the F3 Freeway between Ourimbah and Stockrington. The Central Coast and Hunter Liberal members of Parliament have been very vocal in arguing for an expansion of the live travel time signage, as have the Hunter and North Coast members of The Nationals. I am pleased to say we have listened to them and we are delivering. Last week work started on the freeway northbound at Kangy Angy for the first of 10 new permanent electronic message signs. It will take approximately three months for the installation to be completed at each site, and the installations will be carried out progressively until the last sign is activated in October this year.

When we came to government last year we said that we would work to improve road safety and customer service for motorists. The installation of these new electronic message signs will do just this. The signs will display road safety and traffic management information about both planned and unplanned incidents such as the location of crashes, events, delays and detours. It would have been good to have had that information under the previous regime. These signs will be linked to the 24-hour Transport Management Centre so up-to-date advice on traffic incidents and detours can be displayed to motorists. Motorists will be more informed and able to plan ahead on one of the busiest roads in the State.

The new rollout on the F3, coupled with the live travel time technology—which is already operating and is damn good—providing estimated travel times, is aimed at making travel on the F3 as easy as possible. Work to install these electronic message signs includes identifying underground utilities; building a footing and installing the support structure and message board; excavating the site to bring power and telecommunications cables to the sign; and trimming tree branches near the location to ensure that the signs are able to be read and are visible to motorists. Every effort will be made by Roads and Maritime Services to minimise disruptions to motorists and the impact of noise on local residents.

The 10 locations to receive permanent electronic message signs will be Kangy Angy, Blue Haven, Wyee, Freemans Waterhole, Stockrington, Alison, Wakefield, Bushells Ridge, Dora Creek and Ourimbah. The locations of the 10 new signs were chosen after consultations with the local community and they are aimed at getting the key messages to as many motorists on the F3 as possible. I ask motorists to be patient while this important work is being carried out. I encourage motorists who want more information to contact the Transport Management Centre on 132 701 or to visit our traffic website, *www.livetraffic.com*. This is just another example of the Liberal-Nationals Government getting on with the job of upgrading infrastructure to help motorists, this time on the F3—an area well neglected by previous administrators.

The Hon. MICHAEL GALLACHER: We are well over the time allocated for questions. If members have further questions, I suggest that they place them on notice.

FIREARMS PERMITS

The Hon. MICHAEL GALLACHER: Earlier in question time I was asked a question by the Hon. Robert Borsak in relation to the Firearms Registry. I can indicate to the House that individuals permitted to acquire a firearm make a decision in a carefully considered way, as the member knows. Surely that would include knowing which calibre firearm an individual intends to purchase. As members are aware, there is always a transition phase in the implementation of a new policy.

In relation to the changes to permits to acquire I am advised that the NSW Police Force already has an implementation plan in place to transition to any new regulatory requirements brought about as a result of the Government's legislation. As the Hon. Robert Borsak would also be aware, the bill is scheduled to commence upon proclamation to ensure that appropriate systems are in place to ensure compliance with legislation. I thank the member for his question and I hope that that answer satisfies his inquiry.

Questions without notice concluded.

THE HON. WALT SECORD TWEED VISIT

Personal Explanation

The Hon. WALT SECORD, by leave: I wish to make a personal explanation. The Hon. Duncan Gay made comments about a recent visit that I made to the Tweed. I met with parents at Pottsville community centre to discuss their displeasure and their anger at the failure of the local member of Parliament, Geoff Provest, to honour his commitment to build a high school.

Leave withdrawn.

The PRESIDENT: Order! I remind members that a personal explanation is not an opportunity to debate an issue.

DEATH OF BARBARA HOLBOROW, OAM

Ministerial Statement

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [3.34 p.m.]: It is my sad task to inform the House of the passing earlier today of Barbara Holborow, OAM, at the age of 81. On behalf of all members I pass on our condolences to Louise, Jacob and the many foster children she took under her wing. Our thoughts are also with all of Barbara's extended family today. Barbara was an outstanding advocate for the children of our State. Her philosophy was simple: every child is everybody's responsibility. She spent many decades both throughout her career and after her retirement ensuring all those around her also lived up to that philosophy.

Like many members in this House and in the other place, I have known Barbara for a number of years. She was quick to make her thoughts known on what she thought you were doing or not doing. It was a quality I think everyone in this place appreciated. I knew that when she agreed with me I was on the right track and that if she disagreed with what I was doing I should probably boost my argument for why I thought I was right. Barbara knew her stuff and knew it incredibly well.

Throughout her life Barbara fought—whether it was against diabetes, which she developed as a teenager, or to gain her law degree at the age of 39 or for the rights of the myriad children and young adults who came before her to have the chance to become good citizens. Barbara was recognised throughout her life for her work with children. She was heavily involved in establishing a system of free legal aid for children in 1973. In 1982 Barbara was appointed to the bench and remained a Children's Court magistrate for 12 years. She was a key player in setting up the care court, which heard complaints about the neglect of children. In 2002 she was awarded the Medal of the Order of Australia [OAM], which recognised her work with children and their families. This year she was honoured as New South Wales Senior Australian of the Year.

Earlier today I came across the transcript of an interview she did in 2000 for *Australian Biography*. Barbara spoke about her childhood and the experience of being an only child and the way she entertained herself. She said:

> I used to have a favourite spot in the plum tree here. Because I've lived in this house for 70 years—

that was the house in which she passed away—

> And I used to climb into that plum tree and pretend.

But pretend was not what she did when dealing with the kids and young adults who came before her in court. In the same interview she spoke of how her childhood affected her later life. She said:

> I had 27 years of too much love to overcome. And I've been able to share that around. There are very, very few kids that I've ever come across that I can't put my arms around. Very, very few. There were some real tobies that would come before me in court, and I'd think this is sad because I can't see a nice thing about you. But always, didn't matter how, how, how bad they were, I could always—there was always something about them.

Barbara, I know that you made such a difference in the lives of many of the children you came across. You gave them the hugs they needed, the words that stung them and the guidance that saved them. I hope that your legacy has provided the plum trees that the children of the future will climb, pretend and grow in to continue your work throughout future generations.

The Hon. LUKE FOLEY (Leader of the Opposition) [3.38 p.m.]: On behalf of the Labor Opposition I endorse all of the comments made by the Leader of the Government. Today we remember the life of Barbara Holborow. We express our deepest condolences to her family and loved ones. Barbara served for 12 years as a magistrate in the Children's Court and devoted her life to the welfare of children. Her compassion and outspokenness was legendary—perhaps because of her own beginnings. Barbara was 39 when she graduated as a solicitor. It was through her work at a women's refuge that she met Jacob, a young Aboriginal boy she adopted. Since then many foster children came under her care.

But it was as a magistrate that Barbara had an impact on the lives of thousands of children. Committed to reforming the judicial system for children, she was involved in setting up free legal aid for children in New South Wales—a care court that deals with cases of neglect—and a special jail for first time offenders aged 18 to 25 years. Her commitment continued until her retirement from the bench. As the Leader of the Government said, she was awarded the Medal of the Order of Australia for her service to the community. On behalf of the Labor Opposition I pay respect to this woman, who was such a tireless advocate for better and improved judicial outcomes for children.

JUDICIAL OFFICERS AMENDMENT BILL 2012

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

Motion by the Hon. Michael Gallacher agreed to:

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

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

LEGISLATION REVIEW COMMITTEE

Membership

The PRESIDENT: I report the receipt of the following message from the Legislative Assembly:

The Legislative Assembly informs the Legislative Council that it has this day agreed to the following resolution:

That Garry Keith Edwards be appointed to serve on the Legislation Review Committee in place of Gareth James Ward discharged.

Legislative Assembly
23 May 2012

SHELLY HANCOCK
Speaker

TATTOO PARLOURS BILL 2012

Second Reading

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [3.41 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

I am pleased to introduce the Tattoo Parlours Bill 2012.

This bill is part of the Government's continued response to gang crime in New South Wales.

It follows on from the Crimes Amendment (Consorting and Organised Crime) Act 2012, and the Crimes (Criminal Organisations Control) Act 2012, which the Government brought before the Parliament earlier this year.

The Tattoo Parlours Bill 2012 aims to break the stranglehold that outlaw motorcycle gangs have over the tattoo industry in New South Wales.

But I note that the bikie problem is not unique to New South Wales—nor is the dominance of bikies in the tattoo industry.

I expect other States will be watching New South Wales closely, particularly South Australia and Queensland, which as we have seen recently, are no strangers to outlaw motorcycle gang violence.

Recently a man and woman were shot in broad daylight in a crowded Gold Coast shopping centre; while a nearby tattoo parlour was the target of a shooting only days before.

Removing bikies from the tattoo industry will reduce the reasons for rival gangs to fight turf wars, because these businesses will no longer be symbols of a gang's territory.

The fatal brawl between members of the Comancheros and Hells Angels at the Sydney Domestic Airport Terminal in March 2009 has been linked to the Hells Angels opening a tattoo parlour on what the Comancheros considered was their 'turf'.

When tattoo parlours are no longer controlled by bikies, they will not be so closely associated with serious acts of violence, such as shootings and fire-bombings.

Bikies will no longer feel that they 'own' the industry—that they have the right to stand over, and extort, owners of tattoo businesses who are unaffiliated with outlaw motorcycle gangs.

Nor will tattoo parlours be able to provide a means for organised criminals to launder the proceeds of crime.

I am advised that currently some parlours even advertise themselves as cash-only businesses. This is highly suspicious, to say the least.

This bill makes good on the Premier's announcement to get bikies out of tattoo parlours.

The bill introduces a licensing and regulatory regime for tattoo parlours and tattooists.

The bill provides for the Commissioner of Police to conduct investigations into licence applicants and licensees to ensure that only fit and proper persons are granted and able to hold licences.

The bill makes it compulsory for any person currently operating, or wanting to operate a business that offers body art tattooing services, to obtain a licence.

I say body art tattooing, because there are a few different types of tattooing procedures and this scheme does not seek to regulate them all.

The bill differentiates between different types of tattooing and regulates what it defines as 'body art tattooing'. The bill's definition is provided in three parts:

1. tattooing procedures,

2. body art tattooing procedures, and

3. cosmetic tattooing procedures.

The bill defines a tattooing procedure as:

> "…any procedure involving the making of a permanent mark on or in the skin of a person by means of ink, dye or any other colouring agent."

The bill defines a body art tattooing procedure as:

> "…a tattooing procedure performed for decorative purposes, but does not include a cosmetic tattooing procedure."

The bill defines a cosmetic tattooing procedure as:

"(a) a tattooing procedure performed for the purpose of providing the individual on whom it is performed with an eyeliner, eyebrows or any other make up effect on a permanent basis,"

and:

"(b) a tattooing procedure performed by a medical practitioner or for a medical reason (for example, to hide, disguise or correct a medical condition or a post-operative outcome)",

The bill also provides for other cosmetic tattooing procedures to be prescribed by the regulations.

This three part definition allows for the differentiation of body art tattooing from cosmetic tattooing.

The bill does not regulate cosmetic or medical tattooing. Businesses that only undertake cosmetic and medical tattooing procedures will not need a licence.

Providing that their employees do not carry out body art tattooing, employees of cosmetic and medical tattooists will also not require a licence.

Tattoo parlours, and cosmetic and medical tattooists, are currently subject to regulation under the Public Health Act 1991, the Public Health (Skin Penetration) Regulation 2000 and the Skin Penetration Code of Best Practice.

These current regulations, which seek to reduce the health risks associated with tattooing, remain appropriate and do not require amendment at this time.

However, they are insufficient to end the criminal penetration of the tattoo industry.

The regulatory scheme this bill creates will operate alongside these health-focused regulations, and does not seek to limit their requirements.

Nor does it seek to limit any requirements under the Environmental Planning and Assessment Act 1979 which are primarily concerned with the development approval process for tattoo parlours.

The bill creates two classes of licence: an operator licence and a tattooist licence.

Applications for licences will be made to the Commissioner for Fair Trading.

An operator licence will authorise the licensee to carry on a body art tattooing business at a specific premises.

A tattooist licence will authorise the licensee to perform body art tattooing procedures.

Sole operators will only require an operator licence.

The bill includes a regulation making power which will allow for exemptions from these requirements, for example, exempting body art tattooing where it is being undertaken for a body art or trade show exhibition.

Only an individual can apply for a licence, even where the individual is applying on behalf of an organisation.

Offences and penalties under Part 5A of the Crimes Act 1900 will apply in relation to false or misleading applications. A person who is under 18 years, or who is a controlled member of a declared organisation, may not apply for a licence.

Controlled members of declared organisations are those persons who are subject to interim control orders or control orders under the Crimes (Criminal Organisations Control) Act 2012.

An applicant must also be an Australian citizen or resident.

Applicants for operator licences must include the following information:

1. The address of the proposed licensed premises;

2. The names and addresses of each staff member employed or proposed to be employed at the premises; and

3. Specific details on 'close associates'.

It will be important to ensure that every licensee is who they claim to be, accordingly, an applicant must also consent to having his or her fingerprints and palm prints taken.

Former licence holders may apply to the Commissioner of Police to have their fingerprints and palm prints, along with any copies, destroyed and if an application is withdrawn, the Commissioner of Police is to ensure that any fingerprints, palm prints or copies of these are destroyed as soon as is practical.

The bill provides a definition of close associate. Defining close associates is important to ensure that all persons with a relevant interest in a body art tattooing business are identified.

A close associate is someone who will hold a financial interest, or can exercise any power in the applicant's business, and who by virtue of that power will be able to exercise a significant influence over the business.

Close associate will also include a person who has any relevant position in the business that will be carried on under the authority of the licence.

In some cases bikie gangs who have effective control over a tattoo parlour have, on paper, no legally enforceable interest in the business.

So the bill makes it clear that a close associate is someone who can, in fact, direct the business, or receive a financial benefit from it, whether or not it is legally enforceable.

Applicants for both an operator licence and a tattooist licence must also pay a fee.

It will be an offence for applicants to fail to notify the Commissioner for Fair Trading of a change in the information provided within an application, while that application is still under consideration and before a decision is made.

The maximum penalty for this offence will be 20 penalty units.

The bill permits the Commissioner for Fair Trading to undertake investigations and inquiries with respect to a licence application and requires him to refer the application to the Commissioner of Police.

The Commissioner of Police will determine whether the applicant is a fit and proper person and whether granting the applicant a licence would be in the public interest.

Either the Commissioner for Fair Trading or the Commissioner of Police may require a licence applicant or close associate to provide or produce further information or records.

Where an applicant fails to provide or produce such information, the Commissioner for Fair Trading may refuse to determine the application.

The Commissioner for Fair Trading may grant, or refuse to grant, a licence, after having considered the Commissioner of Police's report on whether the applicant is a fit and proper person.

The Commissioner for Fair Trading is not permitted to grant a licence if the Commissioner of Police has reported that the applicant is not a fit and proper person or that granting the licence would be contrary to the public interest.

The Commissioner for Fair Trading must also not grant licences where:

- an application has not been duly made; or
- the applicant is a controlled member of a declared organisation.

In addition, the Commissioner for Fair Trading may refuse to grant an operator licence:

- in respect of premises where a prohibition order under Part 3 of the Public Health Act 2010 is in force in connection with the carrying out of skin penetration procedures; or,
- where development consent is required under the Environmental Planning and Assessment Act 1979 and there is no development consent or approval in force.

Both classes of licence will remain in force for 3 years unless surrendered, suspended or cancelled.

Licences cannot be renewed.

Where licences are due to expire, licensees will be required to apply for a new licence if they wish to keep operating their body art tattooing business or working as a body art tattooist.

The bill sets out the role of the Commissioner of Police in the scheme.

In addition to the role of the Commissioner of Police in the granting of a licence, the Commissioner of Police can undertake inquiries into licensees at his own initiative, or at the request of the Commissioner for Fair Trading.

This will be important where police become aware that a licensee is engaging in conduct that might cause the Commissioner of Police to determine that the licensee was not a fit and proper person, or that it would be contrary to the public interest for the licensee to retain a licence.

The bill provides that the Commissioner of Police may consider criminal intelligence or other criminal information in relation to an applicant or licensee or in relation to a close associate of an applicant or licensee.

Criminal information and intelligence can include information relevant to the business or procedures to be carried out under the licence, or that gives an indication that some improper conduct could occur if the applicant were granted a licence, or a licensee were permitted to retain a licence.

But it should be made clear that some people currently in the tattoo industry may regularly associate with bikie members unwillingly.

For example, they may be forced to pay them protection money.

The Commissioner of Police will distinguish between those who have willingly assisted and associated with criminals on the one hand, and on the other, people who are essentially victims of extortion.

The bill also provides protections for criminal intelligence considered by the Commissioner of Police or the Commissioner for Fair Trading.

The Commissioner of Police is not required to give any reasons for making a determination and recommendation that an applicant or licensee is not a fit and proper person, or that granting a licence is contrary to the public interest, if giving those reasons would disclose criminal intelligence or other criminal information.

For the same reasons, the Commissioner for Fair Trading is not required to give any reasons for having acted on such a recommendation by the Commissioner of Police and as a result refused to grant a licence, or suspended or cancelled a licence. In fact, the Commissioner for Fair Trading is obliged to follow the Commissioner of Police's recommendations on these matters.

The bill makes it an offence to carry on a body art tattooing business without an operator licence.

The maximum penalty for this is 100 penalty units in the case of a corporation and 50 penalty units in any other case.

However, a continuing offence provision also applies to this requirement, meaning that the penalty will increase by the same amount each day that the offence continues.

This is an important provision as it will provide a strong deterrent and recognises the considerable resources that many criminal elements have at their disposal.

This offence will not apply during the 7 day period after the death or incapacitation of a licensee who holds an operator licence for the premises, and—in either of these cases—if an application for an operator licence is made during the 7 day period, the offence will not apply until that application is determined by the Commissioner for Fair Trading.

Performing any body art tattooing procedure for a fee or reward without a tattooist licence will also be an offence, with a maximum penalty of 50 penalty units for a first offence, and 100 for second and subsequent offences.

The bill also makes it an offence for a body art tattooing business, whether that business is licensed or not, to employ an unlicensed body art tattooist. The maximum penalty for this offence is 100 penalty units for corporations and 50 penalty units in any other case.

Again, a continuing offence provision applies in respect of a breach of this requirement, allowing the penalty to increase by the same amount on a daily basis.

The bill also creates a defence if the person can satisfy the court that they did not know, or could not reasonably have been expected to know, that the body art tattooist they employed was unlicensed.

Licences will be subject to conditions.

The bill sets out a number of these conditions, though the bill also makes provision for further conditions to be prescribed in the regulations.

It will be an offence to fail to comply with any condition of a licence, with a maximum penalty of 20 penalty units.

One of the Government's aims in introducing this legislation is to ensure that tattoo parlours cannot be used to launder the proceeds of crime.

To that end, the bill makes it a condition of an operator licence that the licensee must make certain business financial records available for inspection by an authorised officer at a reasonable time.

Licensees will also be required to report on any change of licence particulars within 14 business days of the change occurring.

Particulars could include change of the licensees' residential address, or a change in close associates.

The regulations may also make provision for other relevant particulars.

To ensure that a business cannot employ unlicensed tattooists in a body art tattoo business, and that all employees are subject to proper scrutiny, it will be a condition of an operator licence that the operator informs the Commissioner of Fair Trading within 20 business days of any change in staff member employment at the licensed premises.

A change in staff member employment includes a new staff member commencing employment, or a staff member ceasing employment at the licensed premises.

The definition of staff members is not limited to licensed tattooists, but to any staff member employed at the licensed premises.

Without this definition, there is a risk that, in an attempt to avoid scrutiny by the regulators, the real operator of the premises may be employed there in another capacity, for example as a book keeper or receptionist.

Licensed operators will also be required to conspicuously display a copy of their licence at the licensed premises and it will be required that the licence number be included in any advertising.

The bill also provides for suspension and cancellation of licences in certain circumstances.

The Commissioner for Fair Trading may suspend licences for a period of no more than 60 days, by serving the licensee with a written notice advising of the reasons for suspension, and requesting that the licensee provide, within 14 business days, reasons why the licence should not be suspended.

The Commissioner for Fair Trading is to cancel a licence if he receives a report from the Commissioner of Police that the licensee is not a fit and proper person, or that it would be contrary to the public interest for the licensee to continue to hold the licence.

As noted earlier, the Commissioner of Police can undertake inquiries into licensees at any time and make a determination regarding the licensees' fitness to retain a licence.

The Commissioner for Fair Trading may also cancel a licence where a licensee has:

- provided false or misleading information in the licence application;
- contravened any provision of the Act or regulations; or
- contravened a condition of the licence.

The regulations may also provide for other circumstances.

The Commissioner for Fair Trading may cancel a licence by serving the licensee with a written notice.

The cancellation takes effect when the notice is served, or at a later date specified on the notice.

Except in cases where a licence is cancelled on the recommendation of the Commissioner of Police on fit and proper person or public interest grounds, the licence will first be suspended and the licensee will have an opportunity to provide reasons as to why the licence should not be cancelled, and the Commissioner for Fair Trading will need to consider those reasons.

The bill provides that applicants and licensees, other than a controlled member of a declared organisation, have a right of appeal to the Administrative Decisions Tribunal.

The following decisions are appealable:

- refusal or failure to grant a licence;
- imposition of licence conditions; and
- suspension or cancellation of a licence.

The bill provides for the protection of criminal information and intelligence in appeals of licensing decisions made on fit and proper person or public interest grounds.

In such appeals, the Administrative Decisions Tribunal is to ensure that it does not disclose the existence or content of any criminal intelligence report or other criminal information without the approval of the Commissioner of Police.

The Commissioner of Police and the Commissioner for Fair Trading are also to be party to any such appeal proceedings.

To help police keep illicit activity out of tattoo businesses, the bill provides for police to enter licensed tattoo parlours, or premises that a police officer reasonably suspects are being used to perform body art tattooing procedures, and use drug and firearm and explosive detection dogs within the premises.

Police know that illicit drugs and firearms have been kept at tattoo parlours in the past.

In 2010, police seized over 250 ecstasy tablets, a quantity of other drugs, a loaded .45 calibre pistol and a push dagger knife from an inner west tattoo parlour.

The bill also provides that the Commissioner of Police can direct that a tattoo parlour close for a period of 72 hours if it is operating unlicensed, or if he suspects serious criminal activity is occurring there.

The Commissioner of Police may also apply to the Local Court for a long term closure order on the same grounds.

These provisions are similar to those in the Liquor Act.

Carrying on business contrary to a closure order will carry a penalty of 100 penalty units for corporations and 50 penalty units in every other case, as will working as a body art tattooist at such premises.

The bill also provides for penalties to continue every day that a person keeps operating in closed premises.

The bill also provides for authorised officers, being Police and Fair Trading officers, to issue penalty notices for prescribed offences.

Importantly, the majority of the bill will commence on assent, meaning that police can use detection dogs as soon as the Act commences.

The bill provides for a transitional period before offences relating to the regulatory scheme commence.

This will provide the necessary time for the NSW Police Force, NSW Fair Trading and other relevant agencies to put the nuts and bolts of the scheme in place.

It will also allow current business owners and tattooists to apply for, and, where appropriate, be issued with licences under the new regulatory scheme.

The bill also provides for a Ministerial review of the bill after 5 years from the date of assent; with a report to be tabled in Parliament within 12 months of the 5 year period.

This is important legislation and a bold step for New South Wales. We urge other jurisdictions to follow our lead.

I commend the bill to the House.

The Hon. SOPHIE COTSIS [3.42 p.m.]: The Opposition will not oppose the Tattoo Parlours Bill 2012. The Opposition continues to support the NSW Police Force and is committed and willing to work with the police to give them the resources and the laws they need to combat crime. The shadow Minister who is responsible for this bill, Tania Mihailuk, also acknowledged Minister Robertson's assistance for the open dialogue regarding this bill. The bill aims to counter the activities of outlaw motorcycle gangs by disrupting their control of tattoo parlours.

Criminal organisations have been known to use legitimate businesses such as tattoo parlours to cover illegal activities such as money laundering. Imposing stringent controls on such businesses is an attempt to remove the influence of illegal organisations on those businesses. Many tattooists and tattoo parlour owners run legitimate businesses whose only agenda is to provide a service to customers and receive payment in return. While this bill may lead to a burden on these small businesses, we hope the benefit will outweigh the cost. The bill does not cover tattooists who purely perform cosmetic or medical procedures. These operators are regulated under separate legislation.

Tattoo parlour operators and tattooists will have to register with the New South Wales Department of Fair Trading. If a business operates on multiple premises an operator licence is required by the person for each set of the premises. Sole owner operators will only have to register once as an operator. Corporation non-compliance will result in 100 penalty units. A continuing offence will result in 100 penalty units for each day the offence continues. Tattoo parlour operators will be obligated to ensure that their employees hold a tattooist licence. Applicants for licences must be 18 years or older. Australian citizens or residents must not be subject to a control order.

Applicants must provide information about their close associates. "Associates" are defined within the legislation as having financial interest, power or position within a tattoo parlour business. The Opposition noted in the other place that it is concerned that this definition may not be broad enough to cover all persons. The shadow Minister asked the Minister to consider extending the definition to incorporate close relatives of tattoo parlour operators. We hope that the Minister has taken that into account. There is potential for members of outlaw motorcycle gangs to use their relatives' details to register a business. This may go unnoticed by the regulator if the particular relative has no direct or financial involvement in illegal activities.

Applicants must provide finger and palm print records. Licences remain in effect for three years from the day on which they come into force; they cannot be renewed. After expiry of a licence an application must be made for a new licence. A holder of an operator licence must make their business financial records available for inspection. Officers must provide written notice before such inspections. Officers will be allowed to take copies and extracts or make notes from those records. Operators must inform Fair Trading of any change to their licence particulars or change in their employment arrangements. Operator licences must be conspicuously displayed on the premises.

The Director General of Fair Trading can suspend a licence by serving the licensee with written notice. The licence holder then has 14 business days to provide written reasons why the licence should not be cancelled. The licensee must return a licence that has been suspended to the director general in the period specified by the director general. Failure to comply carries 20 penalty points. The director general is required to cancel the licence if adverse security findings are made by the Commissioner of Police about the licence. The mechanism and penalties associated with failure to comply are the same as for suspension of a licence.

Persons who are unsuccessful in their licence application, or who have their licences suspended or cancelled, can appeal to the Administrative Decisions Tribunal to have their matter reviewed. This ensures judicial oversight of this process and it is hoped that it will ensure fair outcomes. The Commissioner of Police may issue an interim or long-term closure order of a tattoo parlour that is operating without a licence. Penalties apply if body art tattooing continues on a closed premises. Police officers are able to enter licensed premises with police dogs at any reasonable time to carry out drug, firearms or explosives detection.

The Opposition remains strongly supportive of the NSW Police Force and providing our police officers with the powers they need to fight crime. The New South Wales Legislation Review Digest provides a detailed analysis of this bill. The digest noted a number of concerns with this legislation, which I will draw to the attention of the House. The digest referred to Parliament potential issues with the implementation of this legislation insofar as activities which are presently legal. For example, tattooing without a licence will become illegal. The committee was concerned that affected persons may not receive sufficient notice that the activity they are undertaking may become illegal.

The committee referred to Parliament issues with the process for the review of licences. These included the closed nature of these determinations in which a person may not be notified of the reason for refusal of a licence. However, the committee noted there is a need for law enforcement to prevent criminals from accessing intelligence concerning them personally or their organisation. The shadow Minister also stated in the other House that we would like the Government to address the potential for this legislation to be challenged in the courts.

The Opposition is concerned the Government will pass this legislation only to have it overturned by the judiciary. Outlaw motorcycle gangs and other criminal organisations have proved willing and able to use the courts to further their agendas in the past. The shadow Minister asked the Minister for Fair Trading to confirm during his speech whether the Government sought advice from the Solicitor General on the potential for a legal challenge to this legislation. I commend the bill to the House.

The Hon. AMANDA FAZIO [3.49 p.m.]: At this stage I concur with comments made by my colleague the Hon. Sophie Cotsis. However, my concern relates to licensing conditions. I believe it may be worthwhile considering an amendment to licensing provisions to require individual tattoo operators to provide evidence that they have completed training in infection control procedures. At the moment, there are Department of Health guidelines that apply to infection control procedures in tattoo parlours, but there is no requirement for individual tattoo artists to have undergone infection control training.

I believe this is an issue that is worthwhile considering during this debate because, for the first time, we will set up a licensing regime for tattoo parlours. We should endeavour to ensure that public health and safety requirements are enshrined in this legislation to ensure that tattoo artists are trained and physically capable of complying with the guidelines. I will leave my comments at that, except to foreshadow that I may circulate an amendment before the Committee stage.

The Hon. SARAH MITCHELL [3.51 p.m.]: I commend the New South Wales Liberals-Nationals Government for introducing the Tattoo Parlours Bill 2012. This bill is part of our Government's continued response to gang crime in New South Wales. It is widely known that in some cases tattoo parlours and organised criminal activity can go hand in hand. It is also the case that outlaw motorcycle gangs often are heavily associated with tattoo parlours. This tough new legislation aims to break the hold that outlaw motorcycle gangs have over the tattoo industry in this State. Unfortunately, it is not uncommon to see tattoo parlours that have been the target of drive-by shootings and firebombings. Those incidents are incredibly dangerous and severely risk the safety of law-abiding citizens in our community.

Lawful tattoo parlour operators who operate outside the organised criminal world often have been the subject of intimidation tactics, violence and aggression. This must stop. Legitimate operators need the assurance that their businesses will not be tainted due to the activities of outlaw bikie gangs. Legitimate operators also need assurance that they will not become a potential target of rival outlaw criminal gangs. This legislation will provide that assurance and will do so in a number of ways. Firstly, this bill will create two categories of licences—operator and tattooist. The main reason for such a provision is to ensure that legitimate licensed operators of tattoo and body art businesses do not employ people who are associated with organised crime. It is logical to make certain that both the operator and all tattooists employed by the premises are subject to the same checks.

Clause 6 of the bill creates new offences for unlicensed operators and the penalties for breaching the provisions are very strong. A corporation that has committed an offence faces a fine of $11,000 and, in the case of the offence continuing, 100 penalty units for each day the offence continues. In the case of an individual, the penalty is $5,500 and 50 penalty units for each day that the offence continues. I draw to members' attention other specific clauses in the bill that will be important to stopping bikie criminal activity in our State. Clause 13 of the bill will require an applicant for a licence to consent to be finger and palm printed to successfully complete prerequisites that are determined by the director general. Those prints will be analysed through a database as part of the application process. If necessary, clause 15 will allow the director general and the Commissioner of Police to seek further information to allow the granting of a license. Clause 16 sets out the circumstances for which the director general may refuse a licence application.

The bill also establishes the Office of Fair Trading as the regulator and provides that NSW Fair Trading is bound by the recommendations of the Commissioner of Police with regard to either granting or revoking a licence. It is also important to note that the bill will provide provisions for police officers to enter tattoo parlours at a reasonable time to carry out general drug detection and general firearms and explosive detection by using sniffer dogs. Police and authorised Fair Trading officials also will be permitted to enter parlours to conduct financial business record checks. I am pleased that clause 32 makes it an offence for a licensee, without reasonable excuse, to not produce his or her licence on demand by an authorised officer. The maximum penalty provided for that offence is $2,200, which I believe is tough but fair. The same penalty is imposed if a person hinders an authorised officer in the exercise of his or her duties.

It is also important to state that safeguards are in place in the form of appeals against a decision of the director general to suspend or cancel a licence. The Administrative Decisions Tribunal will review appeal cases but crucially also will protect the confidentiality of criminal intelligence. It should also be noted that cosmetic or

medical tattooing will not be captured by the new regulatory scheme. The bill will ensure that legitimate tattoo parlour operators will be able to run their businesses without the risk of being caught up in violence and criminal activity. The bill will reduce the risk currently faced by law-abiding citizens when they choose to use the services of a tattoo parlour. Finally, the bill will provide the New South Wales Police Force with real powers to take action on outlaw motorcycle gangs who are involved in organised crime in our State. I congratulate the Minister for introducing this legislation. I commend the bill to the House.

The Hon. TREVOR KHAN [3.55 p.m.]: I support the Tattoo Parlours Bill 2012. This legislation is part of the O'Farrell Government's continued response to organised and gang crime. As well as bringing in long overdue regulation in an industry that is rife with bikie gang involvement, the bill will provide police with the tools they need to get to the root of the issues behind Sydney's current wave of drive-by shootings. The people of western Sydney in particular are absolutely fed up with their streets being used as the setting for violent feuds between criminal gangs. The links between tattoo parlours and outlaw motorcycle gangs are undeniable.

The connection between tattoo parlours and outlaw motorcycle gangs was demonstrated in the last two years in Tamworth where a series of firebombings of tattoo parlours occurred. The issue not only relates to Sydney or western Sydney but affects all of New South Wales. Anyone who queries the necessity for this bill should watch the ABC's *7.30 Report* program that was telecast on 20 April. In that program, the mother of a murdered tattoo artist explained very clearly how bikie gangs run the tattoo industry. Bikie gangs see tattoo parlours as their exclusive preserve and are quite prepared to unleash violence against anyone who threatens their turf. Having legally represented various people previously, I can state that they are quite happy to unleash violence upon each other as well. The violence consists of attacks on rival parlours and their staff by the use of guns, fire and explosives.

We also know that the drug trade is at the centre of bikie life and business. If we are ever to clean up the tattoo industry and release the stranglehold of criminals we must get rid of the guns, the explosives and the drugs. The bill will allow the police to use dogs to detect drugs, firearms and explosive agents in a tattoo parlour at any reasonable time. The inspections could take place at any reasonable time without a warrant. The phrase "at any reasonable time" is used in other legislation that confers powers on the police or other authorised officers. What is a reasonable time will depend on the industry, the particular business and its location. For example, in the case of a small suburban tattoo parlour that keeps pretty standard trading hours, it may not be reasonable for the police to take their dogs through the premises at 2.00 a.m. But for a busy parlour located in, for instance, Kings Cross, 2.00 a.m. may be a perfectly suitable time for the police to do a walk-through with their detection dogs.

Some might ask, "Why not just say that the power can be exercised during business hours?" As the examples I have cited show, business hours may vary greatly from location to location. Trading hours are determined entirely by the operator. As legislators, we would not want any operator to be able to thwart police inspections by simply turning the sign on their front door from "open" to "closed". As the House would be aware, police now have a general power to take drug detection dogs through pubs and clubs without warrant. It is ridiculous that at present they can take detection dogs through hotels but not through tattoo parlours, which may be located next door, where, in many cases, there is a much higher likelihood of criminal behaviour being conducted. Eventually, as the licensing scheme cleans up the industry, there should be less need to use detection dogs to locate firearms and drugs. However, in the immediate and near future their use will be a valuable tool for police in their efforts to combat bikie gangs and other serious criminals.

I will touch on a subject that I am sure The Greens will talk about, that is, the reliability of drug detection dogs. Those who think the drug trade should be left unmolested will try to tell us that NSW Police drug detection dogs are uniquely incompetent at sniffing out drugs. Just because Police, Australian Customs and prison services around the world use drug detection dogs and find them reliable, that is no reason to trust them in New South Wales, they claim. The naysayers might mention an Ombudsman's report released some years ago which found that in only about 20 per cent of cases where dogs had indicated drugs on people were drugs found. There are a number of reasons for that.

First, at dance parties, nightclubs and the like people with drugs on their person will often throw the drugs away at the first sight of police with dogs. But the residue can still be picked up, hence the positive indication by the detection dogs. Secondly, by law, police are only permitted to conduct an external clothing search in cases where drug possession is suspected. This means that those who do not throw their drugs away might shove them inside their clothing knowing that police will not be able to locate the drugs and then charge or caution them. Interestingly, many people admit to police that they have had recent contact with illicit drugs, the odour of which the dogs are detecting.

When these figures are added to those where drugs are located, the detection rate rises to more than 70 per cent. That is right, detection rates reveal that in more than 70 per cent of cases of persons searched following a positive indication by a detection dog prohibited drugs were found to be in their possession or the person admitted contact with prohibited drugs. The vast majority of the remaining 30 per cent are suspected of having been in contact with prohibited drugs but may not have made any admission in this regard. It is time to stop the furphies about our drug detection dogs being unreliable and let them and the firearms detection dogs get on with the job of helping to enforce the law.

Under this bill police and Fair Trading inspectors will have the right to examine the business records of licensed tattoo parlours. These businesses have long been suspected of being vehicles for money laundering by bikie gangs. The Government is determined to stop that activity as well as stop their use as a place to store firearms and drugs. Some may say that bikies will move into other kinds of businesses, such as coffee shops, newsagencies, fruit vendors and so on. There is an undeniable risk of that occurring, but police will do what they currently do—maintain vigilance in the detection and prosecution of crime, whatever the source.

Bikies love their gang tattoos, so much in fact that I am told those who leave a club or disgrace it are subjected to having the club insignia burned off their skin in a variety of ways, including with acid. Unfortunately, these are the kinds of people we are dealing with. I congratulate the Premier, as well as the Minister for Police and Emergency Services and the Attorney General on this legislation. I note that those on the other side, Labor and The Greens members, find this issue funny. Mr David Shoebridge constantly finds reasons to support bikie gangs and organised crime in this State. It is time that he understood the people of New South Wales are legitimately concerned about their criminal activities, and his smug attitude to the issue does not help the people of New South Wales in any way.

The Hon. DAVID CLARKE (Parliamentary Secretary) [4.04 p.m.]: I speak in support of the Tattoo Parlours Bill 2012 and congratulate the Minister for Police and Emergency Services on its introduction. This is yet another good bill from a very good Minister. As members are aware, the bill provides for a stringent probity assessment of all licence applicants, whether operating or working in a tattoo parlour, to be conducted by the NSW Police Force. The assessment will include the checking of fingerprints on a national database managed by CrimTrac to determine whether an applicant has a criminal history in any Australian jurisdiction or is linked to any current police warrants or warnings. This is already part of the licensing process for security industry licensees.

The bill also provides that licence applicants must show evidence of an intention to operate a business in the tattoo industry or evidence that they will be earning an income from body art tattooing. This will help to ensure that tattoo parlours are not used as fronts for illegitimate business operations. Close associates of the licence applicant, such as company directors and employees, also may be considered by police in probity assessments conducted of licence applicants. Given that to date tattoo parlours have been regulated by the government in only a limited sense, this represents a significant change indeed—but the Government does not apologise for that. Advice received from the NSW Police Force indicates that the risk of criminal activity in the tattoo parlour industry is sufficiently high to warrant a strong response. Police have asked the Government for the tools to enable them to tackle crime occurring in and around tattoo parlours, and through this bill the Government has delivered.

I make it clear that the aim is not to shut down the body art tattoo industry but to ensure it is operating in a professional and legitimate manner. That is why regulation of the tattoo parlour industry will focus on probity assessments and will not seek to encompass training or elements captured in other regulatory schemes. The regulatory model proposed for the tattoo industry will provide for procedural fairness in the making of licence decisions. One difference from the provisions of the Security Industry Act, for example, is that no offences will lead to mandatory disqualification from holding a licence. It may be that a person wishing to work in the industry has committed a criminal offence in the past—even a serious offence—but has since been rehabilitated and has led a blameless life since. If the commissioner considers that the person is now a fit and proper person and that there is little risk of improper conduct occurring if a licence is granted, that person may be free to remain in or join the industry.

On the other hand, there are people with serious criminal links—for example, members of outlaw motorcycle gangs—who do not have criminal records, at least for serious offences. In such cases the commission may decide it is not in the public interest to approve a licence because the applicant's criminal associations mean he or she is not a fit and proper person. Where someone is denied a licence or has a licence revoked on probity grounds, the bill provides for that person to seek a review of the decision by the

Administrative Decisions Tribunal. Where a decision has been based on criminal intelligence held by the NSW Police Force, the Administrative Decisions Tribunal is required to hear evidence in camera, that is, without the applicant, the applicant's representative or anyone other than representatives of the NSW Police Force. In this way police intelligence, which is relied upon in the investigation and prosecution of crime, is given full protection and can be used to inform licensing decisions.

Individuals who have been refused a licence or have had a licence revoked also will be free to reapply at a later time when their circumstances have changed. Obviously, anyone who has been made subject to a control order in respect of a declared criminal organisation will be unable to hold a licence either as an operator or as a tattooist. The Government will work with the tattoo parlour industry to ensure a smooth transition to the new regulatory model. Honest people who want to work in the industry without either belonging to a bikie gang or paying them protection money should welcome this initiative. I commend the bill to the House.

Mr DAVID SHOEBRIDGE [4.09 p.m.]: On behalf of The Greens I indicate that we fully support some aspects of the Tattoo Parlours Bill 2012, but other aspects are deeply troubling in so far as they infringe upon civil liberties. It is entirely appropriate to regulate the tattoo industry, dealing as it does with, effectively, something akin to medical procedures by injecting ink into the skin. The Greens for some considerable time have supported regulating the tattoo parlour industry and do support a licensing arrangement for that industry. The Greens would like that licensing arrangement to look at the medical and technical competence of those who perform the operation of applying a tattoo so that the public will experience safety when they go to a parlour for a tattoo. It is appropriate also for there to be general security checks for people engaged in the tattoo parlour industry.

For those operating in such parlours, it is entirely proper that there be security checks, including police records through the Commissioner of Police or his or her delegate, of someone who proposes undertaking the business of operating a tattoo parlour. To this point I believe we are on common ground with the Government on those elements of this bill. We diverge with the Government and, indeed, the Opposition, which supports this bill in its entirety, on the extent to which this bill trespasses upon people's civil liberties regarding anyone operating a tattoo parlour. The New South Wales police have indicated that many tattoo parlours have links to organised crime and outlaw motorcycle gangs. Of course that is deeply troubling, but the way to deal with criminals, including if they are a member of a motorcycle gang, a bicycle gang or any other element of organised crime, is to crack down on their actual criminal activities.

If an outlaw motorcycle gang is involved in extortion, as the second reading speech of the Minister in the other place indicated was apparently commonplace, then the crime is one of extortion. If the New South Wales police and the Government are aware of this activity, they should move heaven and earth to ensure that adequate police resources are directed to uncovering these crimes and prosecuting and jailing those who are engaged in extortion. If legitimate tattoo parlour operators are regularly subjected to extortion attempts by outlaw motorcycle gang members, that should be identified, evidence should be gathered and the New South Wales police should come down like a tonne of bricks upon those operators and criminals engaged in that activity.

Equally, illegal drug trading in tattoo parlours or any kind of small business can be dealt with through the suite of laws that criminalise that activity and impose harsh penalties. Police resources should be directed to identifying and prosecuting existing crimes, not making a whole slather of new crimes for basically operating a business in the form of a tattoo parlour. If the New South Wales police cannot make the laws of extortion, murder or intimidation stick and get successful prosecutions, what hope is there that this new suite of laws criminalising the operation of tattoo parlours will make any meaningful difference to organised crime in New South Wales? The truth of the matter is that this bill will have minimal, if any, impact.

It is a very loose connection between regulating the tattoo industry and stopping drive-by shootings in Sydney. Apparently, this is one of the O'Farrell Government's centrepieces for stopping crimes by outlaw motorcycle gangs in Sydney. What does it do? Is it actually finding people doing drive-by shootings? Is it tracking down and working out where the weapons these criminals use in drive-by shootings come from? No. I have placed questions on notice to the police Minister as to whether he or the New South Wales police know where the weapons that outlaw motorcycle gangs use come from, if those weapons have been registered in New South Wales or if they have been registered interstate. The police Minister's response was that he did not want to divert police resources to finding the answers to these questions.

The Hon. Charlie Lynn: He's not going to tell you. You'd tell them.

Mr DAVID SHOEBRIDGE: I hear the interjection from the member opposite that he will not tell us. The questions were asked on notice through this Chamber of the police Minister. Rather than say, "We are looking into finding out where the firearms come from; we are troubled that a source of firearms might come from existing registered owners in New South Wales and other States" or even finding out from where the weapons come, the Minister says that he does not want to divert police resources to find out from where the weapons used in drive-by shootings come. It is too much trouble and bother for the New South Wales police to find out where the weapons come from. Instead, the O'Farrell Government moves to license the tattoo industry. What an oblique response at best to drive-by shootings in New South Wales. The police could be doing real things: finding out where the guns come from and use their resources to try to shut down the sources of guns to outlaw motorcycle gangs in New South Wales.

Instead, police will be going round looking at the financial accounts of tattoo parlours. That is what this bill proposes. When this bill inevitably becomes law, the New South Wales police, instead of looking at extortion crimes, tracking and gathering evidence for crimes of murders and drive-by shootings, will be spending their time following a bunch of sniffer dogs into tattoo parlours and looking through the financial accounts of those small business operators across New South Wales. The police will not be out investigating drive-by shootings, examining bullet casings and taking them to ballistics, and working out where the guns and ammunition come from. Instead, the police will be running through the accounts of tattoo parlours and working out whether the Tattoo Parlours Bill 2012 regulations have been fully complied with in New South Wales. What a remarkable diversion of police resources from the main game, which is looking at criminal acts, identifying criminals and prosecuting people for criminal activity.

Again from the Premier there is a lot of huff and puff, a lot of hot wind and hot air about how the Government wants to crack down on outlaw motorcycle gangs, and what do we get? The licensing of tattoo parlours—it would be laughable if it were not actually happening as the main game in New South Wales politics. The Hon. Trevor Khan said that the police are concerned that after the crackdown on tattoo parlours outlaw motorcycle gangs and other unsavoury types will move to other industries. So in 12 months time we will have the kebabs industry bill, followed by the coffee shop industry bill and, according to the Hon. Trevor Khan, if I understand his contribution correctly, after that we will have the fruit shop industry bill as we give the Commissioner of Police and police officers some of the most intrusive powers to simply go, effectively unannounced, through people's finances, demand the production of records and demand also their fingerprints and palm prints before they can engage in business in New South Wales.

This bill contains an array of deeply troubling elements, but I will not dwell on all of them in this second reading debate. I shall highlight three. The first is that this Government proposes that before people can get a licence to either operate or run a tattoo parlour they must give their fingerprints and palm prints to the New South Wales police with next to no constraints as to what the police can do with those prints. These provisions will apply to anyone seeking to operate a tattoo parlour and provide no discretion to the Commissioner of Police to request that only people with an adverse security warning provide their fingerprints and palm prints. Anyone at all wanting to run a tattoo parlour in New South Wales from this day forward will be required to give fingerprints and palm prints to the Commissioner of Police that can then be used for whatever purpose the commissioner chooses. That is an extraordinary proposition. The Greens will be moving an amendment in Committee to strip that provision from the bill.

The other concern relates to the limited grounds upon which an adverse security determination can be reviewed by the Administrative Decisions Tribunal. I would be interested to hear the Minister's response to that issue. How does the current provision, which at best is obliquely worded, deal with a review of an adverse security determination by the Commissioner of Police? The Greens will be moving amendments to make it clear that an adverse security determination can be reviewed on its merits before the Administrative Decisions Tribunal. It may be that during the course of that appeal there is secret evidence from police that is inappropriate for an applicant for a licence to have. Those protective provisions, which will be retained in the bill, will allow the Administrative Decisions Tribunal to review an adverse security clearance determination. The next element I will address that was referred to in the Minister's second reading speech relates to the remarkable power that this bill proposes to give the Commissioner of Police under clause 28 to make interim closure orders. Clause 28, as currently drafted, provides:

> (1) The Commissioner may make an order that specified premises be closed (an ***interim closure order***):
>
> (a) if the Commissioner is satisfied that a body art tattooing business is being carried on at those premises without the authority of an operator licence, or
>
> (b) if the Commissioner reasonably suspects that any serious criminal offences are being committed at the premises.

(2) An interim closure order must be served on the person apparently in charge of the premises (if any) or be posted in a conspicuous place at the entrance to the premises.

(3) An interim closure order takes effect from the time it is so served or posted and has effect for a period of 72 hours, unless sooner repealed or revoked.

(4) More than one interim closure order closing the same premises may not be made under this section in any period of 7 days.

There is no review of that decision. The interim closure order acts as soon as it is taken and delivered to the premises. It provides that if the Commissioner of Police has a reasonable suspicion that there are serious criminal offences occurring at a premises, the Commissioner of Police, for three days out of every seven for the entire operation of the business—which I imagine would be short if the commissioner sought to shut it down in this manner—can close the business just by issuing a notice. There is no review. There is no capacity for the business operator to challenge the notice and no capacity for the business operator to be notified whether a closure will be ordered. The Greens will move an amendment to remove that power from the Commissioner of Police and grant it to the Local Court to make an interim closure order on the basis of a prima facie case. That will give any legitimate operators in the tattoo industry the capacity to have their day in court. If there is a legitimate reason to shut down a tattoo parlour because there is genuine evidence identifying criminal activity on the premises, The Greens would not oppose that action. The bill needs to provide an open process for that to occur, not just by fiat of the Commissioner of Police without any review.

As the Hon. Trevor Khan indicated, The Greens have significant concerns about the further intrusion of police sniffer dogs beyond railway stations, public streets, airports and the public transport system. The bill allows police—without having to go to the Local Court or Supreme Court to get a warrant if there is a suspicion of criminal activity—to intrude on private premises with sniffer dogs and to do that at any time. As the Hon. Trevor Khan noted, the power is not limited to business hours; it relates to "any reasonable time", whatever that is. The police can barge into premises at any time with sniffer dogs, without a warrant, and without any reasonable suspicion that illegal activity is being conducted at the premises. The use of sniffer dogs causes intrusive searches to be undertaken. On more than two-thirds of the occasions on which those searches occur the positive indications from sniffer dogs are found to be incorrect. This bill will give expanded scope to the sniffer dog program beyond public streets and public transport and into private premises across New South Wales, which is deeply troubling for anyone concerned about civil liberties. I note that the Liberal Party is supposed to be against excessive State powers and excessive operation of the State.

The Hon. Dr Peter Phelps: Hear, hear!

Mr DAVID SHOEBRIDGE: I acknowledge the interjection of the Government Whip. Whenever it comes to increased police powers the Liberal Party lines up all its ducks in a row and supports them to the nth degree. A fundamental contradiction in how they operate in New South Wales is that there is one rule for the police and another rule for any other reasonable regulation. There are positive elements in this bill, such as the regulation of the tattoo parlour industry. It would be better if this bill were focused on health outcomes rather than on notional connections to drive-by shootings in Sydney. Those aspects can be supported. A number of extreme elements in this bill should be stopped now. As has become clear from the contributions of Government members, if this bill is not stopped it will become a model that the Government intends to roll out in other industries where there are ongoing security concerns. This bill is a matter of substantial public concern and a matter that deserves further debate in Committee.

The Hon. CHARLIE LYNN (Parliamentary Secretary) [4.26 p.m.]: I speak in support of the Tattoo Parlours Bill 2012. It is no surprise to me that organised crime has a great champion in The Greens. The Greens' sole aim in life is to disempower, disarm and disenfranchise the police from protecting our society. I should declare that I have both a tattoo and ride a Harley.

The Hon. Sophie Cotsis: Where is it?

The Hon. CHARLIE LYNN: There will be a private viewing later for the member. The people of New South Wales are sick and tired of The Greens and gang crime; they are sick of the shootings and sick of the violence. The New South Wales Government and the NSW Police Force share these sentiments. Every other morning we hear reports of another drive-by shooting. The ease with which the perpetrators resort to these acts of violence is both shocking and disgusting. It comes as no surprise when we hear that these shootings are more often than not related to gang crime. Again it is no surprise that the gangs that are the most likely culprits are the outlaw motorcycle gangs—the bikies. Those same bikies who divide this State amongst themselves and say, "This is my turf", will go to almost any lengths to protect their turf.

One of the symbols of a bikie gang's turf today is a tattoo parlour. A rival gang opening a tattoo parlour on another gang's turf can result in violent gang war. When a Hells Angel motorcycle gang member opened a tattoo business in Brighton-Le-Sands, a suburb that the Comancheros motorcycle gang claimed as its own, we all saw the results of the ensuing war. The business was vandalised and painted with Comanchero slogans, then sprayed with bullets, and finally destroyed in a firebombing. A short time later when the head of the Hells Angels was on the same flight as five Comancheros a massive brawl between the two gangs left a man dying on the floor of Sydney's domestic airport terminal.

Anthony Zervas was beaten with a bollard and stabbed with a pair of scissors during that brawl, which all took place in full view of the public. It is pretty clear that bikie gangs think they own the tattoo industry. And it is safe to say that if that was not the case that brawl would never have happened and Anthony Zervas would not have been murdered. Unfortunately the bikies' sense of ownership is not limited to keeping other gangs off their turf. Anyone who is not affiliated with a bikie gang who opens a tattoo studio can expect to be intimidated, stood over and extorted; and if that person does not comply with the local gang's demands he or she can expect to be attacked and very likely have the business destroyed.

Even where the location of a tattoo parlour may not be at issue, when there is a feud between gangs about something else, tattoo parlours are a lightning rod for drive-by shootings and firebombings. We need only look back a couple of weeks to see an example of this. In the early hours of 17 April two tattoo parlours were the target of drive-by shootings, one in Baulkham Hills and the other in Merrylands. No legitimate industry should be so overwhelmingly dominated by organised criminals. This has to stop. It is our responsibility to make it stop. It is time to get bikies out of the tattoo business. The bill put before this House by the New South Wales Liberal and Nationals Government will do just that.

The bill provides that the Office of Fair Trading will issue licences. But importantly, Fair Trading will be bound by the decision of the Commissioner of Police as to whether a licence can be issued. I expect that when considering a licence application the Commissioner of Police would consider criteria such as the applicant's criminal history as well as any relevant criminal intelligence. Based on information such as criminal intelligence and coupled with police knowledge of criminal networks, the checks that police will conduct will provide a good basis for determining a person's suitability to operate a tattoo parlour or work in the tattoo industry.

Other regulatory schemes rely on fit and proper person tests to determine an applicant's suitability. A couple of examples are firearms and the security industry. In an ideal world, tattooing would not be in the same realm of risk as firearms and the security industry; current regulations focusing on hygiene would be enough. Unfortunately, organised crime, supported by The Greens, is now so heavily entrenched in the tattoo industry that blood-borne diseases are no longer the greatest risk that tattoo parlours pose. That is why this bill is necessary. The new regulatory scheme will reduce the involvement of organised crime in the tattoo industry, and at the same time reduce gang violence. This Government is about empowering police to protect our community—not disarming and disenfranchising them, as The Greens would like to do. I commend the bill to the House.

The Hon. PAUL GREEN [4.32 p.m.]: On behalf of the Christian Democratic Party I speak briefly in debate on the Tattoo Parlour Bill 2012. The object of this bill is to create a licensing and regulatory scheme for the carrying on of body art tattooing businesses and the performing of body art tattooing procedures. I would like to highlight some parts of the bill that will give the NSW Police Force the power to shut down illegitimate tattoo parlours acting as shopfronts for drug sale and distribution and money laundering. The bill makes it an offence for a person to carry on a body art tattooing business at any premises unless the person is authorised to do so by an operator licence, and makes it an offence for an individual to perform any body art tattooing procedure for fee or reward unless authorised to do so by a tattooist licence. It will be an offence for a person to employ an individual to work as a body art tattooist unless the individual is the holder of a tattooist licence.

The bill provides that two types of licence may be issued under the proposed Act: The first is an operator licence, which authorises the carrying on of a body art tattooing business at a single set of specified premises; and the second is a tattooist licence, which authorises its holder to perform body art tattooing procedures on other individuals. An applicant for an operator licence will have to provide a statement with his or her application setting out certain information about the applicant's close associates; and an applicant for a licence will have to consent to being fingerprinted and palm printed as a precondition to having his or her application determined by the Director General of Fair Trading. I think the most important point will be that registered members of outlaw motorcycle gangs will not be eligible to apply for a licence to run such a business, and that police will be given the power to search tattoo parlours in the company of drug detection dogs without a warrant.

The Shoalhaven has spent a lot of time and effort trying to put up closed-circuit television cameras, only to have its proposals challenged by one individual in the whole of the city who believes we should not impinge on the civil liberties of either the good people of the Shoalhaven or citizens who choose to do the wrong thing. A tribunal is trying to deal with the issue of whether the Shoalhaven has the right to monitor its streets for those who would cause damage in the central business district. The same issue seems to be the theme of applicants who run tattoo parlours. The simple core principle is that if someone is not doing the wrong thing he or she has nothing to worry about. That is the basis of the approach taken by this bill. The Christian Democratic Party is of the view that we need to give the Commissioner of Police and the police whatever powers they need to deliver us a safe community. Therefore, the Christian Democratic Party commends the bill to the House.

The Hon. JENNIFER GARDINER [4.35 p.m.]: I support the Tattoo Parlours Bill 2012, which will provide the NSW Police Force and the director general of Fair Trading with the powers they need to get bikies and other organised criminals out of the tattoo business. This bill deals with an industry that appears to be in large part under the sway of organised crime. We do not have to look very hard to see the hallmarks of that. When a tattoo parlour is riddled with bullet holes or destroyed by fire, this is likely to be a direct result of the parlour's owner being linked with outlaw motorcycle gangs; or it could be the result of the owners who are unaffiliated with gangs refusing to capitulate to a bikie gang's standover and extortion demands. The bill presented by the O'Farrell-Stoner Government sends a clear message: First, that bikies do not own the tattoo industry, or any other industry for that matter; and, second, that the bill will protect legitimate owners, operators and tattooists to operate their business or pursue their trade without fear of violence or intimidation.

The bill creates a rigorous framework of licensing, conditions, entry and inspection powers, and it provides for severe penalties. But this harsh line must be considered against the current level of criminal penetration of the tattoo industry. The bill makes it a requirement that a licence can be obtained only after an applicant is subject to a police check to establish whether the applicant is a fit and proper person to hold the licence; and whether, on public interest grounds, the person should have such a licence. The Commissioner of Police is entitled to consider criminal intelligence relating to the applicant and his or her associates. As well, the bill provides that members or associates of declared criminal groups will be excluded from working in the tattoo industry. When the bill is passed, it will be very likely that any crooks, their mates and their enablers will be locked out at the gate.

However, the possibility is that some nefarious operators might make it through a backdoor, or decide that they do not need a licence and will go ahead and operate their tattoo parlour anyway. Obviously, experience shows that organised criminals are renowned for their ability to exploit any means available to get what they want. So the bill provides within the new regulatory framework a system of ongoing checks and sanctions. The Commissioner of Police will still be able to review a licence and conduct necessary investigations at any time. And if the commissioner's inquiries indicate that a licensee is no longer a fit and proper person, or that it is no longer in the public interest for the licensee to hold a licence, the commissioner can report that to the director general of Fair Trading, and the licence will be cancelled.

The bill also sets out licence conditions aimed at keeping tattoo parlours under heavy scrutiny. An operator licensee must agree, as a condition of the licence, to keep business financial records and permit police and Fair Trading officers to enter and inspect those records at any reasonable time. This will mean that tattoo parlours cannot be used as a means of laundering the proceeds of crime. An operator licensee must also inform Fair Trading of any change of staff at licensed premises within 20 business days and any change of licence particulars within 14 business days. Licensees who fail to comply with a licence condition can have their licences suspended for up to 60 days. The director general may also then cancel the licences.

The bill provides for immediate licence suspension in cases where the commissioner makes an adverse finding against a licensee on fit and proper person or public interest grounds. The commissioner will also be able to issue interim closure orders, which can last for up to 72 hours. As well, the commissioner may apply to the Local Court for long-term closure orders. Closure orders can be issued where a tattoo business is operating unlicensed or where the police reasonably suspect that serious criminal offences are being committed at a tattoo parlour. Penalties also will prevail for failing to comply with licence conditions or for operating without a licence. The Government knows that organised criminals have deep pockets and can afford to pay a one-off fine and then keep flouting the law, so a number of these penalties will increase each day that an offence continues.

Operating a body art tattoo business without a licence will attract a maximum penalty of 100 penalty units for a corporation or 50 penalty units for an individual. The same penalties will be reapplied for each day the offence continues. The same penalties and the same daily rate for continuing offences will apply to the

offence of operating a body art tattooing business contrary to a closure order. These fines will mount up quickly. An individual operator who carries on a tattoo business contrary to a closure order for two weeks will receive fines totalling 700 penalty units, which currently equates to $77,000. The bill also provides police with a new power to enter and use drug detection dogs and firearms and explosives detection dogs to search tattoo parlours. These new search powers will apply regardless of whether or not the parlour is licensed and it will ensure that tattoo parlours cannot be used by gangs to facilitate illegal activities.

Existing businesses and tattooists will need to be put on notice during the transition period that new regulations are being introduced and they will have to apply for a licence to keep operating. A communications strategy will be implemented by the New South Wales Government to that effect before the new licensing scheme is up and running and before penalties for operating unlicensed parlours come into force. Once they are licensed all operators and tattooists will be on notice that their licences could be suspended or revoked at any time if they misbehave, and that will always be subject to review by the Administrative Decisions Tribunal. This bill provides a good framework to clean up the tattoo industry, which is long overdue, and to reduce violence and gang crime in this State. For those reasons I support the bill.

The Hon. JOHN AJAKA (Parliamentary Secretary) [4.43 p.m.]: I speak in support of the Tattoo Parlours Bill 2012. I am opposed to regulation for regulation's sake, particularly the overregulation of small businesses. We all know that retailers are doing it tough in this economy, so why introduce a licensing scheme into an area that has only been regulated for health purposes until now? Sadly, while tattoo parlours may seem to be the quintessential small business, mostly they are controlled by a very big business indeed—organised crime—and, in particular, outlaw motorcycle gangs. The only way to prevent bikie control over this industry is to licence tattoo parlours and give the police commissioner the final right of approval or refusal of licences.

I remind the House of some recent violent events connected with tattoo parlours and bikie gangs. As court cases are pending arising from some of these events I will not mention the names of the gangs involved. In 2006 police were advised that a person who had opened a tattoo business in south Sydney was assaulted in the toilets of a local restaurant. The victim was approached by a person who identified himself as a member of a well-known bikie gang and asked why the victim had not obtained permission from that gang to open the tattoo parlour. When the victim asked why he should have to do that he was punched in the face and his nose was broken. A friend of the victim approached the bikie gang member a short time later and was told that the location of the tattoo parlour was in that gang's territory and that the owner should have approached the gang and paid it $200 a week.

On 24 June 2008 police responded to reports of loud noises at a tattoo business in Bay Street, Brighton-Le-Sands, which was known to be owned and operated by members of a bikie club. Police found a number of bullet casings in the street. On 10 July 2008 police responded to a further report of shots fired in the area and recovered more projectiles. Witnesses reported a male on a motorcycle leaving the area shortly after the shooting. On 24 August 2008 police received information that 60 to 70 motorcycle riders were congregating in Bay Street. These bike riders were riding continuously around streets, ignoring red lights and abusing people. When police attended they found that the riders were wearing colours belonging to a rival gang to those that ran the tattoo parlour. The next day police observed words and colours relating to the rival club painted on the window of the Bay Street tattoo parlour. On 20 October 2008 the parlour was firebombed and sustained extensive damage. Several nearby buildings had to be evacuated. Police believe this turf war ultimately led to the murder at the Sydney airport domestic terminal in March 2009.

On 17 May 2009 the *Sydney Morning Herald* reported that it had been informed that a Hells Angels outlaw motorcycle gang insider said that gang members used a blowtorch to burn a Hells Angels tattoo from the arm of now convicted murderer Christopher Wayne Hudson as part of a ritual of punishment for bringing police attention to the club. Hudson had surrendered to police in June 2007 and was later jailed for 35 years for the shocking murder of lawyer Brendan Keilar and the shooting of his girlfriend Kaera Douglas and Dutch tourist Paul de Waard. That incident shows how intrinsic tattoos are within bikie culture and the importance outlaw motorcycle gang members place on their club tattoos in particular.

In April 2010 a tattoo business was opened in south-western Sydney, unaffiliated with any crime groups. The owner was subsequently approached by members of a well-known bikie gang and told that he had four weeks to start paying $400 in "rent", in addition to paying protection money, or the gang "would not be responsible" for what happened to the owner or his shop. If the owner failed to pay or fell into arrears the bikies said they would take control of the business on a 60:40 basis, with the outlaw gang the 60 per cent owner. The owner was warned also not to advertise his business in nearby suburbs. On 25 June 2010 men wearing the bikie gang's colours attended the business, armed with a sawn-off shotgun, knives and a hammer, and assaulted the owner and an employee. The offenders also placed further demands on the owner.

On 3 June 2010 the former national president of an outlaw motorcycle gang and owner of a Newtown tattoo parlour was involved in a physical confrontation with members of a rival gang in which a gun was produced. The dispute related to tattoo parlours in the area. On 29 July 2010 seven members of a rival gang attended the Newtown tattoo parlour, threatened staff and stole a number of valuables, including a custom Harley-Davidson motorcycle valued at $50,000. Five members of the rival gang were later charged in relation to the robbery.

Police Strike Force Crinan investigated extortion of tattoo parlours on the New South Wales North Coast by members of a bikie gang. The investigation resulted in gang members being charged with multiple counts of offences, including demand property by force in company with intent to steal, knowingly deal with the proceeds of crime, and participate in a criminal group. The offenders included the gang's local chapter president, the sergeant-at-arms, the vice president, a member and an associate. Advertising regarding the Sydney Tattoo and Body Art Expo in March 2011 stated under its safety guidelines that "no club colours or patches" were permitted to be worn at the event. What clearer indication could there be of a strong association between outlaw motorcycle gangs and the tattoo industry and their well-known tendency for violence?

On 26 March 2011 at a West Ryde tattoo parlour with bikie links two persons with their faces disguised entered the business via the rear door. One of the persons was armed with a firearm and fired a number of shots at an employee who died as a result of his injuries. The day before, on 25 March 2011, a male wearing a balaclava had fired a handgun into the front door of the Tattoo World parlour in Baulkham Hills, which is known to be linked to a rival bike gang. Police later found five damaged projectiles in the front metal roller door of the premises. On 7 March 2012 Tattoo World was targeted for a second time, with a man in dark clothing and a hooded jumper seen running away after shooting bullets into the premises. On 17 April 2012 Tattoo World was yet again the target of a shooting.

On the same night another tattoo parlour in Merrylands, as well as three homes in Merrylands, Northmead and Granville, were also the targets of drive-by shootings. On 6 December 2011 the Naked Gun II tattoo parlour in South Windsor, with alleged links to one of the lesser-known bikie gangs, was destroyed in a suspected arson attack. There are other incidents I have not mentioned, but one that occurred recently is so outrageous that it cannot be omitted. In light of the recent tit-for-tat shootings between bikie gangs, sometimes involving tattoo parlours, police placed a paddy wagon outside a Newtown parlour for its own protection. What happened? Someone set fire to the paddy wagon. This shocking event alone should be enough to convince the House that this is a gang-infested industry and that it needs to be cleaned up quickly. Giving the Commissioner of Police the final say on who can and cannot operate a tattoo parlour, or work in one, is the only way to do this. I commend the bill to the House.

Dr JOHN KAYE [4.52 p.m.]: In his contribution to the debate on the Tattoo Parlours Bill 2012 Mr David Shoebridge went into some detail about the sections of the legislation that The Greens oppose. I will speak about some of the sections that The Greens support. In a sense I will talk about those sections of the legislation that Mr David Shoebridge did not cover, which are the sections that relate to creating a licensing and regulatory scheme for tattoo businesses and procedures. The legislation creates two types of licence. The first is an operator licence and the second is a tattooist licence. The latter is for people who perform the tattooing operations and the former is for the operators of a tattooing business. There are good reasons to support the licensing of tattoo businesses. The Greens strongly support the idea of a licensing and registration scheme specifically to ensure that there are appropriate checks on those who operate in the industry.

It states the obvious to say that tattooing has a lasting impression. People will have their tattoos forever. In many cases people enjoy that and there is no reason that we should stop it happening. However, there are cases of people who have come to regret their tattoos and who were not appropriately cautioned or counselled about the tattoo procedure. I do not wish it to be said that The Greens are anti-tattoo in any way. Tattooing is a form of cultural expression in which many people engage and they derive cultural and self-expression benefits from doing so. That is their democratic right and it should be preserved and defended.

The Hon. Rick Colless: They do not look so good when they are 50.

Dr JOHN KAYE: What was that?

The Hon. Rick Colless: You heard.

Dr JOHN KAYE: There are a number of public health matters related to tattooing that cause concern and the need for regulation. The biggest concern is bloodborne diseases. If tattoo equipment is not treated appropriately and, in particular, if it is contaminated with blood from another client there are real risks of contracting various bloodborne diseases, some of which are very nasty. In particular, I refer to tetanus, hepatitis B, hepatitis C and in some cases it has even been suggested that HIV has been transmitted. An excellent article from the *Hep Review* from March 2011 entitled "Think before you ink" states:

> In 2010 a team of researchers from British Columbia, Canada published an overview of medical studies which looked at the risks of acquiring hep C from tattooing. The overview (known as a systematic review and meta-analysis) pooled the results of the 83 research studies which examined the experiences that people with hep C had of tattooing.
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> The researchers found that statistically there was a strong correlation between people with hep C (or hep B or HIV) and tattooing. The researchers couldn't prove that cases of hep C were caused by tattooing; it may simply be that someone who contracts hep C is more likely to have been living a lifestyle where tattooing is more acceptable.
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> Nevertheless, the association was strong enough for researchers to suggest that as much as 6% of cases of hep C in the general community and 25% of cases in the prison population could be caused by tattooing. The risk is higher in the prison population because of the reduced likelihood of sterile equipment being available in prison, coupled with the very high prevalence of hep C among prisoners.

That raises severe concerns about the risk of bloodborne diseases. In New South Wales the regulations governing the tattoo industry fall under the Public Health (Skin Penetration) Regulations 2000, which set out the basic minimum requirements for procedures for body art practitioners. It covers issues such as cleanliness, sterilisation, use of gloves and the disposal of waste and sharps. But the regulation alone is not sufficient. A survey carried out by a body jointly set up by NSW Health's Sydney West Area Health Service, Hepatitis C NSW and the Professional Tattooist Association of Australia and called the Skin Penetration Working Group recently carried out an online survey amongst New South Wales operators.

The results were quite frightening. They found that 63 per cent of respondents had not received any accredited training in infection control. They also found that 53 per cent did not rate their own knowledge of transmission of bloodborne infections highly, 26 per cent were unfamiliar with the standard precautions and 25 per cent of premises had not been inspected by local councils within the past 12 months. That says that the industry is largely operating without the watchful eye of local councils and by operators and tattooists who do not have a strong grip on the procedures they should undertake to minimise the transfer of bloodborne diseases.

Angela Llewellyn-Sare is a specialist nurse and author of the book *Puncture Kit*, which is a safety information guide to tattooing and body piercing. She believes that licensed tattoo operators are generally good at adhering to legislation, but that there are individual licence operators who flout the regulations. Of course the answer is to have better regulations and to ensure that the organisations are inspected. It is not only the risk of bloodborne diseases that is of concern. Skin infections that can cause redness, swelling and pain, and a puslike drainage happen after tattooing in some cases. Some clients of tattoo parlours also have allergic reactions to the dyes—particularly the red, green, yellow and blue dyes—which can result in an itchy rash at the tattoo site. That can occur even years after the tattoo has been completed, as the Minister for Police and Emergency Services will attest.

The real issue is that there is significant public interest in ensuring that the Public Health (Skin Penetration) Regulation 2000—which sets minimum requirements for body art practitioners in respect of cleanliness, sterilisation, the use of gloves, the disposal of waste and sharps—is adhered to. The part of the legislation that refers specifically to the registration, licensing and regulatory system of tattoo businesses and procedures is a welcome step towards enforcing that regulation. Often young people, and sometimes older people, have tattoos as a form of self-expression. That act of self-expression should not become a public health risk and should not leave a person disfigured. There should be some confidence that tattoo parlours are operating within the law and are appropriately regulated.

To that extent The Greens support the provisions within the bill that establish a licensing and regulation system for tattoo businesses. Such regulations are founded on good science as well as genuine and real fears of the spread of skin-borne viruses. They also are founded on the genuine risk that individuals will undergo tattooing in a way that they subsequently regret. They also are founded on the idea that the public has an interest in regulating and licensing tattoo parlours.

The Hon. RICK COLLESS [5.01 p.m.]: I support the Tattoo Parlours Bill 2012. As other participants in this debate have pointed out, the current regulation of tattoo parlours focuses only on the health and hygiene aspects of the trade with a view to reducing the transmission of bloodborne diseases, which is very important for

customers of tattoo businesses. The Government sensibly is leaving that regulatory framework in place, but the tattoo industry is sick. It is infested with organised criminals. Hygiene standards and regulation are insufficient to cleanse the industry of the disease of organised crime.

Just as customers in tattoo parlours should feel confident that their new tattoo will not come with health issues or a drive-by shooting, a firebombing or a violent assault while they are sitting in the waiting room of a tattoo parlour or in the tattooist's chair, so should employees of tattoo businesses feel that they are safe from organised crime. But currently that is not the case. In a recent episode of the Australian Broadcasting Corporation's *7.30 Report*, the mother of a man who was murdered last year while he worked as a tattooist in a Sydney tattoo parlour described how gunmen entered the tattoo parlour through the back door and shot the tattooist, who was not a bikie. She said that the victim wanted to open his own tattoo business without affiliating with bikie gangs. The bikies resisted that and threatened the man, his friends and his associates. The bikie gangs would not permit him to work as a tattooist unless he was affiliated with a bikie gang. When he refused, he was shot dead.

The victim's mother believes that her son was an accidental victim and that the incident was an attempt by a rival gang to intimidate the owners of the tattoo parlour. That those types of extortion and standover tactics still occur is next to unbelievable, but they are still happening. In particular, bikie gangs seem to be so closely entwined with the New South Wales tattoo industry that they regard it as "their business". Bikies will react with extreme violence when business owners from rival gangs or people who are not affiliated with bikie gangs open tattoo parlours in what the bikies regard as their turf. The bikie brawl and murder at the Sydney domestic airport terminal in 2009 originated from a feud between the Hells Angels and the Comancheros over the opening of a Hells Angels tattoo parlour on Comanchero territory. The only way to stop violence that is related to tattoo parlours is to get organised crime out of that industry. That means regulating the industry to ensure that organised criminals, like bikies, are not permitted to operate and work in tattoo parlours. That is exactly what this bill will do.

This Government and the previous Government both recognised the threat that outlaw motorcycle gangs and other organised criminals pose to public safety in New South Wales. Over recent years this Parliament has taken steps to enhance the State's laws and make it easier for police to put an end to ongoing violence among organised criminal groups. Police have had some success in breaking up those gangs. In particular I note that Strike Force Raptor, which was set up to specifically target outlaw motorcycle gang crime, effectively dismantled the pseudo-bikie gang, Notorious. With a number of its prominent members in jail and others giving up the gang lifestyle because they buckled under pressure from a police crackdown, the gang is simply no longer able to operate. That is a big win for the Minister for Police and Emergency Services and the people of New South Wales. I commend the police for that excellent result.

Yet it seems there is still is no shortage of thugs and drive-by shooters in Sydney. In recent months the Government reintroduced legislation to revive the Crimes (Criminal Organisations Control) Act 2009 that had been struck down previously by the High Court. The Government remedied the deficiencies in the previous Government's legislation and introduced a model that it believes will withstand further legal challenge. I note the first gang that police targeted under the previous Government's legislation was the Hells Angels outlaw motorcycle gang. The police applied to the Supreme Court to have the Hells Angels declared a criminal organisation, but the declaration was never made because the former head of the Hells Angels initiated a High Court challenge. The High Court ruled that the act was invalid. But even if the High Court had not struck down the Act and the declaration had been made, members of Hells Angels still would have been able to maintain their interest in the tattoo industry. But this legislation will change that.

Ownership of, and employment in, tattoo parlours will be regulated by this bill. Tattoo parlours will be included within the list of high-risk industries in the Crimes (Criminal Organisations Control) Act 2012. Should this bill pass into law, the Government also will be introducing a regulation to include tattooing as a high-risk industry in which declared criminal organisations and their members are prohibited from working. Such a change would be impossible without the bill and the regulatory scheme it introduces. That adds further impetus for this House to pass the bill. I commend the bill to the House.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [5.07 p.m.], in reply: I thank all members who contributed to debate on the Tattoo Parlours Bill 2012. It is interesting when members add their personal understanding of the industry to their speeches just how broad their knowledge is revealed to be.

The Hon. Sophie Cotsis: Would there be many members with tattoos?

The Hon. MICHAEL GALLACHER: I am sure members have secret tattoos and piercings that we do not want to know about. Given the scope of contributions to the debate, I am sure there a considerable degree of personal knowledge. I will not discuss that further. The debate once again demonstrated the hypocrisy of The Greens. They referred to their support for the police and who have been championing the cause of enabling the police to better be able to do their job, but their diatribe revealed that they are happy to regulate the industry from a health perspective while denying the involvement of motorcycle gangs in the tattoo industry. The Greens did not confirm during the debate that they are convinced motorcycle gangs are involved in the tattoo industry.

The litmus test of The Greens hypocrisy is a question I was asked earlier about what the Government will do in relation to section 6B of the Firearms Act. The question alluded to a very tragic and sad event involving a person, who was suffering a mental illness and obtained access under the Firearms Act to a firearm, that killed a loved one. That was a tragic event and we need to ensure that we take the necessary steps to safeguard that it does not happen again. Today the Hon. Rick Colless, in particular, spoke about some of the events of recent times. Some members, particularly those on this side of the House, detailed tragic events. The Hon. David Clarke spoke about the event at Sydney airport. A number of serious and tragic events have resulted in death.

Of course, The Greens do not talk about that. They do not want to admit that there is a problem with outlaw motorcycle gangs and their infiltration of this industry. The Greens do not want to talk about the fact that legitimate operators are being pressured. The Greens continue to say that we should use the current law but these people, like so many criminal organisations, have made the transition from criminality to the facade of business enterprise. These businesses are a front for their criminality; there are often convoluted tentacles leading back to the organisation. It can often be difficult for the police to address that.

This legislation comes from talking to people who know what they are talking about—the police, not just interstate but around the nation. They realise that there is a problem. If one listens to police and their advice one often finds that the advice is simple. Police stare these organisations right in the face and know what needs to happen. Police learn from other jurisdictions around the world how to address organised crime. If we pursue this issue from a criminal law perspective, these outlaw motorcycle gangs will have the best and brightest lawyers available to them. We need to employ the expertise that exists within government—for example, within Fair Trading—so that there is a degree of compliance across industry, a multifaceted approach not limited to traditional methods that have been employed in the past.

The key objective of this bill is to sever the connection between the body art tattooing industry and organised crime. In a nutshell, that is what this bill is about. We believe that currently that connection is a strong one—so strong that outlaw motorcycle gangs, in particular, feel they have some kind of ownership of the industry. It is a connection that makes working in the tattoo industry unsafe. It makes having a small business next to a tattoo parlour a risk—a risk that the small business will be collateral damage when a tattoo parlour is firebombed or shot at. It is a connection that makes tattoo parlours a potential hub for other crimes commonly associated with organised crime, such as illegal drugs, firearms and money laundering. It presents a danger to the wider community when a dispute between rival gangs over a tattoo parlour spills into the local community in the form of targeted drive-by shootings, as we have seen for a number of years.

This Government is determined to put a stop to that. We will break the nexus between criminals and the tattoo industry and we will do it via the licensing scheme and increased police powers within this bill. The licensing scheme provides the means for each applicant and licensee to be subject to fit and proper person and public interest tests. Those tests will involve consideration of criminal histories and criminal intelligence. Those tests will incorporate consideration of the same information with respect to the close associates of an applicant or licensee. We would anticipate that an applicant or licensee whose close associates, or indeed employees, have known links to organised and serious crimes could be deemed to be not fit and proper on those grounds. In this way, we will prevent criminal gangs from using cleanskins to operate tattoo parlours on behalf of criminals.

Importantly, licensing provides a basis for regulation in an ongoing sense. Licensees will be subject to ongoing checks of their tattoo parlours' financial and business records, and tattoo parlours will be subject to police searches with drugs and firearms dogs. That I can guarantee. In creating a regulatory scheme for the tattoo industry, we are providing the means to exclude controlled members of declared criminal organisations from working in the industry. This bill provides what both the NSW Police Force and NSW Fair Trading need to get criminal elements out of the tattoo industry in New South Wales and to keep them out. Legitimate business operators and tattooists will be able to operate without fear of standover tactics or reprisals from outlaw motorcycle gangs.

Today one of the lucid and easy to understand contributions was made by the Hon. Amanda Fazio, who spoke about health implications and the need to ensure there are some standards in relation to the penetration of skin. A number of members raised those issues in the debate. She indicated to the House that she was looking at an amendment to that effect. I sought advice from departmental personnel. Quite simply, we will need to take advice from the Minister for Health on whether a suitable and accredited training scheme is available. If so, we will make evidence of completion of such a course a precondition of issuing a tattooist's licence. This can be put into the regulations to be issued under the legislation. It would be unwise to make this a condition of the bill until we know for sure that such courses or training are available. I thank the Hon. Amanda Fazio for bringing it to the attention of the House. It is quite a sensible observation.

I thank all honourable members for their contributions. As I indicated, it was interesting to see the breadth of knowledge. There was a degree of predictability from The Greens, but in concluding this debate I draw to the attention of members the significance of the legislation. I am told that New South Wales is the first jurisdiction to legislate to clean up the tattoo industry. Whether this is a symptom of this State's tattoo industry—an industry which is dominated by bikies—or whether it is simply that other jurisdictions have failed to make the hard decisions is not certain. I am certain that this legislation will be used well by the NSW Police Force and NSW Fair Trading to take the criminal element out of the body art tattooing industry.

It cannot be an instantaneous process where everything will be fixed tomorrow, but it will certainly be effective over coming weeks and months. I thank all members for their contributions to this debate. I thank those who have assisted in the development of the bill—the hardworking staff from the Ministry of Police and Emergency Services, NSW Fair Trading and the police officers and staff of the NSW Police Force. 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 [5.19 p.m.]: by leave, I move The Greens amendments Nos 1, 2, 5, 6, 7 and 9 on sheet C2012-082A in globo:

No. 1 Page 3, clause 3 (1), lines 9 and 10. Omit all words on those lines. Insert instead:

closure order means an order made by the Local Court under Division 1 of Part 4.

No. 2 Page 3, clause 3 (1), lines 32 and 33. Omit all words on those lines.

No. 5 Page 21, clause 28, lines 3–18. Omit all words on those lines.

No. 6 Page 21, clause 29, line 19. Omit "Long term closure". Insert instead "Closure".

No. 7 Page 21, clause 29 (2) and (3), lines 27–34. Omit all words on those lines. Insert instead:

(2) On an application under this section, the Local Court may (without any hearing of the evidence) make one or more interim closure orders pending the final determination of the application if the Court is satisfied that there is a prima facie case for the making of a final closure order.

(3) An interim closure order has effect for a period of 72 hours, unless it is sooner revoked by the Court.

No. 9 Page 29, schedule 1, line 34. Omit "28 (1) (a) or".

These amendments have a simple effect: they delete clause 28 which allows the commissioner simply to make an order for three days out of every seven shutting down tattoo parlours if the commissioner is satisfied of certain factors and gives that power to the Local Court to make an interim order. That has two important features.

The Hon. Dr Peter Phelps: It's not as if local courts haven't got a lot to do at the moment, is it?

Mr DAVID SHOEBRIDGE: I note the irrational interjection from the Government Whip. I point out that, as I understand, the Commissioner of Police has a fair amount of work to do as well. Transferring work from the Commissioner of Police to the Local Court would, on the whole, transfer it to a body that has greater capacity than the commissioner. There are a great deal more magistrates than commissioners of police. The importance of these amendments is that once the matter is before the Local Court, those who have an interest will actually be heard. Before someone's business is shut down, a hearing will be held during which interested parties are able to make a submission and talk to the person who may make an order or direction shutting down the business. The current proposal does not provide that opportunity to be heard and simply enables the Commissioner of Police to shut down a business without any notice requirements, procedural fairness or any sense of fair play.

The commissioner's decision to shut down any business will be unable to be reviewed. It is far better to give that kind of broad discretionary power to a court. If the police believe their evidence needs protection because it reveals police information, processes or procedures that they do not want to disclose to the applicant, all of those protective provisions will remain and any such material can be seen just by the Local Court and not given to the applicant for the licence. This is not a question of public safety or public order; it is a question of fair and due process before someone has their business shut down for three days out of seven. If the police make a good case, the court no doubt will agree with the Commissioner of Police and allow the interim order to be made. If the case cannot be made out or there is a valid contrary argument, that should be put, heard and decided by an independent person, not by the Commissioner of Police. These amendments provide for the basic principle of natural justice and fairness.

The Hon. SOPHIE COTSIS [5.23 p.m.]: The Labor Opposition does not support The Greens amendments. Local courts already are clogged and the proposed process is subject already to judicial oversight. These amendments remove police options by clogging up the courts. As I said, the Administrative Decisions Tribunal provides judicial oversight. We will not support these amendments.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [5.23 p.m.]: The bill provides police with the power to shut down tattoo parlours operating contrary to the new licensing scheme or if serious crimes are being committed within that business. Closure orders of 72 hours can be issued on an interim basis or police can apply to the Local Court for long-term closure orders. The reason is simple: these closure orders prevent people from operating in contravention of the new regulatory scheme and prevent the continued operation of parlours where crimes are being committed. The Greens propose amendments to remove the power for police to apply for a long-term closure order.

Mr David Shoebridge: No we haven't.

The Hon. MICHAEL GALLACHER: Look at it. Only an interim closure order can be sought for a maximum of 72 hours. The long-term closure orders are appropriate for dealing with outlaw motorcycle gangs and will be granted only in cases where a court considers it justified. The closure orders in the bill are modelled on those in the Liquor Act for long- and short-term closures. It is essential for a court-ordered long-term closure order to be obtained, particularly where a tattoo parlour is operating unlicensed. If serious grounds exist to shut down a tattoo parlour, the court needs to be able to order a long-term closure. Under The Greens amendments the commissioner would have to keep making fresh applications to the court every 72 hours. If an operator is unlicensed there must be a power available to stop them operating the business. The Greens amendments would remove this power.

The bill gives the Commissioner of Police the ability to make interim orders. Of course, The Greens amendments promote a system that will simply see additional work moved into the Local Court in excess of what is proposed already for long-term orders as spelled out in the bill. Quite simply, this bill is about putting in place a simple process that will give police the ability to act quickly in relation to tattoo parlours that operate contrary to the legislation. As I have indicated, this is not groundbreaking stuff; this is not new frontier, blue sky thinking. In effect, this bill is an adaptation of the Liquor Act. I have not heard much from The Greens. I might have missed it, but I am sure I would have heard if The Greens had said that the Commissioner of Police was probably being a bit too tough with the liquor industry and we needed to let go of the reins. Had The Greens said that I am sure I would have heard it.

Mr David Shoebridge: Hardly.

The Hon. MICHAEL GALLACHER: Hardly, that is right. My point is that this bill is, if you like, modelled on the Liquor Act. It works for police in the short and long term and the bill was drafted in that context.

Mr DAVID SHOEBRIDGE [5.26 p.m.]: Vastly more rights and review provisions exist for liquor licences than are proposed for these interim closure orders. The Minister has drawn a false analogy. In fact, the Australian Hotels Association expressed such concern about the original three-strikes proposal that the Government amended its liquor licensing proposals to provide greater natural justice and greater capacity for those facing a potential three-strikes determination than had been crafted originally last year—if the police Minister remembers the real history. None of those checks and balances is proposed at all with this bill. The Minister simply is wrong when he says that The Greens amendments will remove the capacity for the Local Court to make, effectively, a permanent closure. The Greens amendments will retain within this bill clause 29 (1), which states:

> (1) The Local Court may, on the application of the Commissioner, order that specified premises be closed for such period or until such time as the Court considers appropriate if the Court is satisfied—

The clause then cites certain factors. That would allow for permanent closure, which is a period of time. No doubt that power will be retained with The Greens amendments. The Local Court would have the power at a final hearing to make a permanent closure order for one or six months, two weeks, two years or whatever it thought was appropriate, but would have the capacity also to make an interim order. It is remarkable to argue that somehow the Local Court cannot burden its many magistrates with this additional work but, instead, can burden the Commissioner of Police, who, as I understand the Government's position, seems to have huge amounts of leisure time to deal with these kinds of applications. Obviously, the Commissioner of Police has a huge amount of work. Transferring work from the commissioner to the Local Court is hardly an issue for delay of resources. The Local Court has far more resources than the Commissioner of Police. The main aim is to put in place good process and some kind of natural justice, and not give police an ever-expanding capacity to exercise these kinds of arbitrary judgements.

Question—That The Greens amendments Nos 1, 2, 5, 6, 7 and 9 [C2012-082A] be agreed to—put and resolved in the negative.

The Greens amendments Nos 1, 2, 5, 6, 7 and 9 [C2012-082A] negatived.

Clause 3 agreed to.

Clauses 4 to 12 agreed to.

Mr DAVID SHOEBRIDGE [5.30 p.m.]: I move The Greens amendment No. 3 on sheet C2012-082A:

> No. 3 Page 11, clause 13, lines 9-32. Omit all words on those lines.

This amendment will delete proposed clause 13, which provides that an applicant for a licence must consent to having his or her fingerprints and palm prints taken by a police officer in order to confirm the applicant's identity. It then makes a number of other consequential provisions including that if a person withdraws their application for a licence then the fingerprints and palm prints are destroyed. If the person continues with their application for a licence, even if refused, the fingerprints and palm prints are retained by the police and will be available for use by the police with no constraints at all.

The devil in this provision is that it is hoped, I assume, that going forward this bill will clean up the tattoo industry and remove organised criminals and outlaw motorcycle gangs from the tattoo industry. I assume that is the intent of the Government in introducing this bill to regulate the tattoo industry. Let us run the clock forward four years from now when this amazingly successful bill not only has regularised the tattoo industry, it has stopped drive-by shootings in Sydney and we are in a happy place. People will want to operate tattoo parlours because there will continue to be a demand for tattoos. Following the removal of the criminal element from this industry as a result of this far-sighted bill, people will make application for tattoo licences. Those people will have no connection at all with outlaw motorcycle gangs or criminal gangs because the Government will have cleaned up the industry.

This section will remain in legislation and everyone making an application for a licence to run a tattoo parlour will have to provide their fingerprints and palm prints to the Commissioner of Police. There are no constraints as to what the Commissioner of Police can do with that information. It is an inappropriate provision

to have in place going forward. The Government may believe this serves a short-term purpose, but this proposed legislation will be in place for the ongoing regulation of the tattoo industry, and it is inappropriate to have this provision remain on the statute books in New South Wales for the future. It is a serious infringement of civil liberties. There must be constraints on when the police can demand fingerprints and palm prints and run that information through a database. There are no constraints in this bill and it is for that reason that The Greens move this amendment.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [5.34 p.m.]: I will expose to all in the House the sheer hypocrisy of The Greens. On any other day The Greens are ringing their friends at the Police Association saying, "We are with you, comrades. We support you." But what The Greens say in Elizabeth Street is different from what they say in Macquarie Street. The Greens say in this House, "We do not trust police; they will abuse the power." We do not hear anything from The Greens about fingerprinting in the security industry, which becomes part of the identification process in determining suitability for a licence. The Government does not support the amendment.

Applicants for tattoo industry licences will be required to have their palm prints and fingerprints checked against a national database as part of the probity assessment for a licence. The Greens have not put forward any alternative identification system that would result in a guaranteed assurance of a person's identity. The Greens may want to introduce DNA testing. If The Greens want to go down that path, perhaps we should look at it. People move around the country and, surprisingly, we might find that people have forms of identification that may not be legitimate.

The Hon. Dr Peter Phelps: No, surely not.

The Hon. MICHAEL GALLACHER: I know; it is shocking stuff. When police take fingerprints and use that information in a database context they will have a good understanding of who they are dealing with and whether that person is known to police. Fingerprints and palm prints will be taken using Livescan machines. The Greens like to give the impression of the old days when fingers were dipped in black ink and rolled across paper and people were assaulted. That does not happen. These days a person puts their hands on a pink screen and the machine can make an identification within seconds. That is how far this Government has come to supply police with the necessary equipment to make their job faster and safer. Livescan machines are located in police stations across the State, making it easy for licence applicants to complete this part of the licensing process. This mirrors the process already in place for security industry licence applications. It will ensure a thorough probity assessment is conducted of every licence applicant.

The inclusion of this requirement is considered entirely appropriate in light of the strong links between the tattoo industry and criminal elements. The Government considers these powers crucial to the proposed regulatory system. If an application is withdrawn or refused, an applicant can apply to have their fingerprints and palm prints destroyed and the police commissioner must comply. That is what currently happens with people who are determined not guilty by a court: they can make an application to have their fingerprints and palm prints destroyed. It is important I place on record that the Government has been advised by those involved in drafting the bill that this provision is about identifying a person's antecedents. There will be people with a past criminal record who will try to obtain employment in this industry so that they can make a better life for themselves. For many, it is a way to end a life of uncertainty, using the skills they have to earn a quid. They might be making a U-turn in the road to try to make a better life, and for many it is a very difficult road. Outlaw motorcycle gangs target those people and put pressure on them, making it impossible for them to operate legitimately.

The outlaw motorcycle gangs undercut legitimate operators with cheaper product. They are able to do so because they have alternative sources of income that operate in and around the criminal tattoo operations. That gives them an advantage in terms of their ability to attract more people through their front door and thereby undercut the legitimate operators. The Greens amendment will make it difficult for police to fulfil their job in relation to removing the criminal elements from the industry. Again, it underscores the true intent of The Greens not to support this legislation. Forget the sugary words spoken by The Greens earlier. The Greens are only interested in licensing from a health perspective; they are not interested in licensing from a criminal law enforcement perspective—that is the difference.

Reverend the Hon. FRED NILE [5.38 p.m.]: The Christian Democratic Party fully supports the Government's opposition to The Greens amendment, which will water down the proposed legislation and make it ineffective. People would not fear having their fingerprints or palm prints taken if they were not involved in illegal activities.

The Hon. SOPHIE COTSIS [5.39 p.m.]: The New South Wales Labor Opposition opposes The Greens amendment.

Mr DAVID SHOEBRIDGE [5.39 p.m.]: Throughout history many people have been quoted using the line used by members of the Christian Democratic Party and supported by the Government and the Opposition: Those who have done nothing wrong have nothing to fear. That is the last defence of those who want to attack our civil liberties, left, right and centre. The argument that those who have done nothing wrong have nothing to fear is an argument that they should carte blanche hand over their civil liberties to the police and the Minister for Police. That is an extraordinary proposition. On that basis, we would have no restraints at all on what police could do. They could walk into your home at any time and observe you in your home; they could walk into your shop at any time and take samples of your financial records; or they could bring sniffer dogs into your workplace at any time.

The argument that people have nothing to fear if they have done nothing wrong is the kind of argument that sees an unlimited growth in coercive police powers; it is an unlimited growth in a secret police State in which people are subject to constant surveillance. That is an appalling line for anyone in this Parliament to run. But, of course, that is the core of the Government's argument for this bill. It is that people who have done nothing wrong have nothing to fear—they should just willy-nilly give police their fingerprints and their palm prints and the police, on the wording of this legislation, can use those prints for any purpose that the commissioner sees fit. This is not about identity at all. Everyone knows that there are countless ways to establish identity. Accused in defended criminal hearings—on murder charges or other serious criminal charges—time and again have their identity established in court without having to resort to fingerprinting. Doctors who want to practise as medical practitioners have their identity established without the need for fingerprinting. So do lawyers and other professional practitioners. People have their identities established from hundreds of sources other than fingerprinting.

This is not about establishing identity at all; it is about procuring information and giving it to the Commissioner of Police to use for whatever purpose the commissioner sees fit. Let it be clear that this provision will stay on the statute books well after this industry is notionally cleaned up by the Government; and it is totally inappropriate to have provisions for this gathering of information, with no constraints, remain on the statute books into the future. By all means, let us regularise the tattoo industry; but let us not do so at the expense of our civil liberties, as proposed by the bill.

Dr JOHN KAYE [5.42 p.m.]: I speak briefly in support of the words of Mr David Shoebridge. I note the line of members of the Christian Democratic Party that those who have done nothing wrong have nothing to fear. It is actually the dictum of the dictator; it is the thin end of the wedge; it is exactly the way in which civil liberties are chipped away and democracies descend into dictatorships. They say if you do nothing wrong you should not have a care, but the reality is that civil liberties are universal and they must be respected by everybody. The second reason I support the amendment to delete clause 13 from the bill is that it criminalises a profession. If people who apply for a licence are treated as if they are criminals, then only criminals will apply. If decent, honest people front up and are told, "Oh, you have to have your fingerprints and your palm prints taken," instantly that creates the assumption of criminality. That will not deter criminals because they are used to that sort of thing; but decent, law-abiding people will say, "Well, that's just too tough. I'm not going to do that."

I take members to the final phrase in subclause (3) regarding the taking of fingerprints and palm prints. Those prints are not used just to assess the suitability of an individual to have a licence; they are to be "used by the Commissioner for any purpose that the Commissioner sees fit." If the commissioner wants to use those fingerprints and palm prints for any purpose, he or she can. That is to say, it is an intelligence-gathering exercise; it is not restricted to making sure that the applicant is a fit and proper individual to run a tattoo parlour. This clause of the bill smacks of the sort of law and order rhetoric that not only is ineffective but also damages the democratic fabric of a society. We do ourselves a great injustice by passing legislation such as this.

Question—That The Greens amendment No. 3 [C2012-082A] be agreed to—put and resolved in the negative.

The Greens amendment No. 3 [C2012-082A] negatived.

Clause 13 agreed to.

Clauses 14 to 26 agreed to.

The CHAIR (The Hon. Jennifer Gardiner): The Committee now moves to division 6, clause 27.

Mr DAVID SHOEBRIDGE [5.46 p.m.]: I move The Greens amendment No. 4 on sheet C2012-082A:

No. 4 Page 19, clause 27 (3) (c), lines 17–20. Omit all words on those lines. Insert instead:

(c) the Tribunal may review the adverse security determination of the Commissioner to determine whether the Commissioner made the correct and preferable decision concerning that determination, and

(d) the Tribunal may set aside the decision of the Director-General if the only ground on which the Director-General relied for his or her decision was an adverse security determination that the Commissioner should not have made.

This amendment seeks to delete subclause (3) (c) of clause 27 and to replace it with the new subsections (3) (c) and (d) as moved. The amendment seeks to give the tribunal the capacity to review the adverse security determination made by the Commissioner of Police. As the bill is currently drafted, it is unclear as to the tribunal's capacity to actually review that determination. It can review the final determination of the director general, but the amendment moved by The Greens makes it clear that the tribunal can review the adverse security determination of the commissioner. It is for that purpose that we move the amendment.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [5.48 p.m.]: The amendment is not about the director general; it is about the police. The amendment proposed by The Greens seems to be based on a misreading of the relevant subclause of the bill. In effect, the provision in the bill is that the Administrative Decisions Tribunal is not precluded from reviewing the decision of the Director General of Fair Trading if that decision was entirely based on the security determination made by the Commissioner of Police. That is the very import of subclause (3); it applies only to situations where the grounds for refusal, cancellation or suspension are on the basis of an adverse determination by the Commissioner of Police. The Administrative Decisions Tribunal will have full access to the material that the commissioner relied on. The proposed amendment merely restates the effect of the provision already in the bill, but in more confusing language.

The Hon. SOPHIE COTSIS [5.49 p.m.]: New South Wales Labor does not support The Greens amendment. We need to trust that the police will get it right. We need to support the police and give them all the powers they need to fight crime.

Mr DAVID SHOEBRIDGE [5.49 p.m.]: That contribution of the Opposition is interesting; but the subclause we are considering relates to the Administrative Decisions Tribunal and the determination that it will be making. It was a somewhat oblique contribution by the member. I understand the Minister for Police is saying that subclause (3) (c) will allow the tribunal to review the security determination in the course of working out whether or not the director general made the correct decision. If the Opposition understands how the bill operates, it would know that the director general has a secondary role: reviewing the adverse security determination. Therefore, the director general makes the determination, but in light of the determination of the commissioner. If I understand what the Minister for Police is saying it is open to the Administrative Decisions Tribunal to review and form a different opinion to the commissioner about the adverse security determination, although it is not immediately apparent from the wording of clause 27 (3) (c).

The Hon. Michael Gallacher: I think it is.

Mr DAVID SHOEBRIDGE: I heard the police Minister say that he thinks it is. I may well be satisfied with having got that clarification in *Hansard* because at best it is an oblique provision in clause 27 (3) (c). For the sake of clarity I have moved the amendment.

Question—That The Greens amendment No. 4 [C2012-082A] be agreed to—put and resolved in the negative.

The Greens amendment No. 4 [C2012-082A] negatived.

Clause 27 agreed to.

Clauses 28 and 29 agreed to.

Clause 30 agreed to.

Mr DAVID SHOEBRIDGE [5.51 p.m.], by leave: I move The Greens amendments Nos 8 and 10 on sheet C2012-082A in globo:

No. 8 Page 22, clause 31, lines 18–27. Omit all words on those lines.

No. 10 Page 30, schedule 2.2, lines 10–17. Omit all words on those lines.

This amendment would have the effect of deleting clause 31 from the bill and a consequential provision in one of the schedules. Currently the proposal is that a police officer may at any reasonable time enter any licensed premises or any other premises that the police officer reasonably suspects are being used to perform body art tattoo procedures for fee or reward for the purpose of carrying out general drug detection, using a dog or carrying out general firearms or explosives detection using a dog. There is no requirement for a warrant, no requirement for establishing some sort of reasonable cause and no requirement to trouble a Local Court or a magistrate before doing so.

The police can just walk into the premises at any reasonable time—which is probably almost any time when one thinks about how the tattoo industry operates—and have sniffer dogs in private premises, and no doubt the sniffer dogs will then be used as a basis upon which to provide intrusive personal searches. But the statistics in relation to sniffer dogs show that they have an extraordinarily high level of false positives. From figures produced by New South Wales police, in 2009 of the 17,321 searches conducted after a sniffer dog had indicated that persons had drugs on them, 71 per cent of those searches found no drugs. Those people searched would have been subjected to an intrusive public search, often quite humiliating, at railway stations and public places. It would be equally humiliating for that to happen at one's place of work.

The police may have said they had reason to believe that the persons involved may have come into contact with drugs at a previous point or they may have dumped the drugs, but there is no empirical evidence to support that allegation. In any event, the purpose of sniffer dogs is meant to be finding people who are breaching the law by being in possession of drugs, because the offence specifies "in possession of drugs". In 2009, in 71 per cent of the searches that were conducted, sniffer dogs returned false positives. The figures get worse. In 2010, of the 15,779 searches that were conducted, sniffer dogs turned up false positives in 74 per cent of searches—three-quarters of the number of searches. In all those searches an intrusive search was done—people were patted down and humiliated at railway stations and on public streets, and identified to all and sundry effectively as being in possession of drugs.

In 74 per cent of those searches the sniffer dogs were wrong—no drugs were found on those persons. Each of those searches involved an invasion of someone's civil liberties—an intrusion—and those searches were conducted with no result. Police resources were wasted and ordinary citizens going about their business were humiliated for no purpose. The figures get worse. In the first nine months of 2011 of the 14,102 searches that were conducted a staggering 80 per cent returned false positives from sniffer dogs. This Government wants to extend the operation of sniffer dogs to private workplaces, which would offend all principles.

Reverend the Hon. Fred Nile: Hear, hear!

Mr DAVID SHOEBRIDGE: Reverend the Hon. Fred Nile from the Christian Democratic Party said "Hear! Hear!" No doubt he would like sniffer dogs in everyone's home, in everyone's workplace, wherever the police want to take them. The fact is that sniffer dogs are a deep intrusion on people's civil liberties, they have an appalling success rate and their use should not be expanded anywhere in this State.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [5.55 p.m.]: This has to be one of my favourites. We are talking about the tattoo industry and about the invasion of people's privacy. The people who go to these tattoo parlours have piercings in all parts of their body; they are happy to take off all their gear and to be tattooed on all parts of their body. But somehow a springer spaniel that walks into a tattoo parlour might give Danny Dirtbag the fright of his life. I can hear him saying, "Keep that dog away from me; it might lick me to death."

Those who are aware of the way in which sniffer dogs work would know that they do not grab hold of someone's leg and hold onto that person. Sniffer dogs move incredibly quickly, even through a crowd, and just sit down in front of a person. They do not jump on a person's back and they do not sniff people who have just had a piercing or a fresh tattoo in one of those hard-to-get-to places. Sniffer dogs do their job very well. I offered The Greens firsthand experience of sniffer dogs. I said to them that I was quite happy to bring in a sniffer dog and to show them how it is done, if they want to volunteer. Sylvia Hale is in the gallery; I am sure that she would love that.

Mr David Shoebridge: Point of order: The Minister is misleading the House. He has never made us that offer. He knows that sniffer dogs would not get past his office.

The Hon. MICHAEL GALLACHER: I am willing to do a deal now. I am happy to bring in the sniffer dogs if The Greens are happy to have them. Perhaps we could take them out to the park because we would need an open area in case David wants to run. This is just another excuse for The Greens to denigrate the fine work being done by K-9s in the NSW Police Force and, indeed, K-9s around the world—the angels—which do an absolutely brilliant job. Members could have seen the way in which sniffer dogs work if they had attended the NSW Police Force Expo. Fifty or 60 children were more than happy to volunteer to stand in the middle of the park at Darling Harbour, one of the kids having a scented object in her pocket. The dog ran through the 50 or 60 kids, tail wagging, totally oblivious of the kids, and ran straight up to the child who had volunteered to carry the scented object.

Mr David Shoebridge: And then three police turned up, shook her down, stripped her off and took out all of—

The Hon. MICHAEL GALLACHER: I acknowledge the interjection of Mr David Shoebridge.

Mr David Shoebridge: They laughed all the way. They had a great day.

The Hon. MICHAEL GALLACHER: There Mr David Shoebridge goes, once again ridiculing the work of the police. When we apply a bit of pressure to expose the sensitivities of The Greens one faction of The Greens shows its hatred. The Hon. Jan Barham, who is just walking into the Chamber, loves sniffer dogs. She was happy to have them up at Byron Bay. I have offered her more sniffer dogs if she wants me to talk to the commissioner about sending more there. This regulatory scheme is necessary because tattoo parlours are so closely associated with organised criminals, in particular, outlaw motorcycle gangs.

On numerous occasions these gangs have been found to be heavily involved in the manufacture and distribution of illegal drugs and to be in possession of, trade in and use illegal firearms. There is no denying it, and there is no better way of using these dogs. Sniffer dogs are not German shepherds, called general duties dogs, up on their back legs protecting the officer; in the main these dogs are springer spaniels. The dogs enjoy their work and people just want to pat them. The Hon. Amanda Fazio would love them.

This bill is aimed at ending the link between the tattoo industry and organised crime and, as a result, reducing the level of crime and violence associated with tattoo parlours. Permitting the use of drug and firearm dogs in tattoo parlours gives police the power to target those areas where they know illegal activity is likely to be occurring. We do not want tattoo parlours to be de facto bikie clubhouses or fronts for illegal drug and firearms distribution. We also do not want a requirement that a warrant be granted prior to entering premises with these dogs. That will severely restrict the objective of the bill to give police the necessary tools to address criminal involvement in this industry and to protect public safety.

I know The Greens like to say that the majority of people in the community are fearful of sniffer dogs but that is completely false. I challenge them to walk a police sniffer dog down any street, whether it be a labrador or a springer spaniel, and try to count the number of people who want to pat the dog. Everyone wants to pat the dog. But The Greens are trying to create the impression that the dogs are unreliable when they are not. The Greens talk about false positives and try to sow seeds of doubt in relation to sniffer dogs. Just because people do not have something in their back pockets at the time they are stopped by the dog does not mean they did not have something in their pockets before and the scent is still on them.

Unlike The Greens, the dogs are very sensitive, astute and well trained. The Greens hate it because the dogs are very effective. That is why policing organisations around the world use them and will continue to use them. That also is why communities around the world want sniffer dogs on public transport. If there is a means by which somebody carrying a ballistic weapon or some form of weapon can be identified before he or she causes damage to the public I more than welcome those dogs on public transport. It is just a shame that the Greens are not honest and state that they do not like the dogs, full stop.

The Hon. SOPHIE COTSIS [6.02 p.m.]: The Opposition does not support The Greens amendment.

Mr DAVID SHOEBRIDGE [6.02 p.m.]: I would be fascinated to hear about the number of firearms that have been identified by dogs on New South Wales public transport. I invite the Minister to inform the

House about the cache of firearms that have been so discovered. The Minister should elucidate his claim and tell the House how many have been discovered. In the absence of a response I can assume that the answer is naught. The argument that dogs are lovely, that they have nice waggly tails and that we all love labradors—

The Hon. Amanda Fazio: They do now that we have stopped tail docking.

Mr DAVID SHOEBRIDGE: They are very pleasant and, as the Hon. Amanda Fazio said, thank goodness we have stopped tail docking and they can wag their lovely tails. It is not the operation of the dogs that is of concern; it is what happens once a dog gets it wrong and we know that they get it wrong 80 per cent of the time. Once they get it wrong an intrusive search then occurs. The search is not conducted by a lovely waggly tailed dog; it is conducted by police officers wearing uniforms. The searches often are very intimidating for people on public streets, at train stations or with their friends as they are walking along. Such police searches are deeply intimidating and a gross invasion of civil liberties, and they are wrong 80 per cent of the time.

Reverend the Hon. FRED NILE [6.03 p.m.]: The Christian Democratic Party opposes The Greens amendments. As I said by way of interjection, it is obvious that the dogs are accurate. They do not make mistakes. People have drugs in their possession but when they see a sniffer dog coming towards them they get rid of those drugs by dumping them. That is why the drugs are not there to be found.

Mr DAVID SHOEBRIDGE [6.04 p.m.]: Reverend the Hon. Fred Nile has told the Committee about his approach when he is confronted by sniffer dogs. I have an example of an individual who came to see me about the humiliation that he experienced—

Reverend the Hon. Fred Nile: Point of order: I take objection to the suggestion that I have drugs and that I dump them when I see a sniffer dog. I ask Mr David Shoebridge to withdraw that remark. It is not necessary to make that kind of comment. Mr David Shoebridge usually has better taste than that.

Mr DAVID SHOEBRIDGE: I withdraw my remark. Let me give Reverend the Hon. Fred Nile an example of a gentleman who came to my office to talk about his experience with sniffer dogs at Redfern. This man ran a small dog-walking business. He would walk about 12 dogs a day and he would regularly catch the train to meet his clients to pick up their dogs to walk. I believe it was somewhere around Stanmore and he did that on about three or four days a week. He was coming back past Redfern police station where he regularly saw sniffer dogs and a sniffer dog stopped in front of him. He was then moved by police officers towards a wall, splayed up against it and searched. The police found nothing on him. They apparently showed his wallet to the sniffer dog and the dog was uninterested. They then found the Schmackos in his top left-hand pocket and showed them to the dog. That was what the dog had identified. This man had been searched and humiliated in public because the dog had found some dog treats in his pocket. I stand by the figure of the 80 per cent false positives.

Question—That The Greens amendments Nos 8 and 10 [C2012-082A] be agreed to—put and resolved in the negative.

The Greens amendments Nos 8 and 10 [C2012-082A] negatived.

Clause 31 agreed to.

Clauses 32 to 42 agreed to.

Schedule 1 agreed to.

Schedule 2 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

Motion by 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.

TABLING OF PAPERS

The Hon. Michael Gallacher tabled the following paper:

Independent Pricing and Regulatory Tribunal Act 1992—Report of the Independent Pricing and Regulatory Tribunal entitled, "Ethanol Supply and Demand in NSW: Other Industries—Final Report", dated March 2012.

Ordered to be printed on motion by the Hon. Michael Gallacher.

BIOFUELS AMENDMENT BILL 2012

Second Reading

Debate resumed from an earlier hour.

Dr JOHN KAYE [6.10 p.m.]: I note that the Government has tabled the Independent Pricing and Regulatory Tribunal report, and I will refer to that report shortly.

The Hon. Mick Veitch: They have just done that.

Dr JOHN KAYE: It has just been done.

The Hon. Walt Secord: Have you already read it?

Dr JOHN KAYE: I read it because it was published on the website of the Independent Pricing and Regulatory Tribunal at approximately 2.00 p.m. today.

The Hon. Matthew Mason-Cox: And it was tabled in the Legislative Assembly.

Dr JOHN KAYE: Yes. I thank the Government for tabling that report. I note that the Government sat on the report for more than two months and took all that time to table it. That probably says more, firstly, about how embarrassing that report is for the Government—because of the quite strong comments the report makes about the upward pressure on prices caused by the mandate and the ban on regular unleaded petrol, which this legislation will seek to remove this evening—and, secondly, about the substantial tension within the Coalition between on the one hand The Nationals, who are falling over backwards to help their friends engaged in farming, particularly those in Manildra who have been substantial political campaign donors, and the Liberals on the other hand.

The Hon. Dr Peter Phelps: The Greens have never been friends of farmers, and never will be.

Dr JOHN KAYE: I cited the donation amounts in the earlier part of my speech.

The Hon. Dr Peter Phelps: I would not mention donations today.

The Hon. Rick Colless: I hear that someone has donated to The Greens—Wotif.

Mr David Shoebridge: Point of order: I find it next to impossible to hear what Dr John Kaye is contributing because of the unseemly interjections being made by Government members.

The Hon. Dr Peter Phelps: To the point of order: I was simply trying to assist Dr John Kaye to prevent him from embarrassing himself, on this day of all days, when it has been revealed that the Leader of The Greens has ghostwritten an article criticising her own party.

Dr JOHN KAYE: To the point of order: Madam Deputy-President, as you would be well aware, I need no assistance. If I did, I certainly would not need assistance from a low-life gutter scum like him.

The Hon. Duncan Gay: Apologise.

Dr JOHN KAYE: I apologise and I retract.

The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner): Order! I thank Dr John Kaye for his retraction.

Dr JOHN KAYE: As I was saying earlier, over the past 10 years, Manildra donated the sum of $2 million. The Liberal Party was the recipient of $644,000, The Nationals received $420,000 and the Australian Labor Party received $979,000. That was eclipsed only by the Australian Hotels Association donations. The donations purchased a very nice policy for them, but they also purchased for themselves the battle from hell within the Coalition. We had indications of that when the Government Whip effectively argued against ethanol mandates of 6 per cent, and then The Nationals said how important ethanol is. Obviously there is a huge tension within the Coalition. Coalition members really do not know where they are going. That lack of understanding and lack of clarity in relation to ethanol policy is reflected not only in the report of the Independent Pricing and Regulatory Tribunal but also in the massive policy confusion of the Government.

The report of the Independent Pricing and Regulatory Tribunal very clearly slams the ethanol policy introduced by Labor and continued by the Coalition Government. The 6 per cent mandate clearly is a myth because, as the Independent Pricing and Regulatory Tribunal states, the Government will never get to 6 per cent. The Government can ban unleaded petrol, or not: it does not matter because we will not get to 6 per cent. The reality is that there is only one supplier in New South Wales, and there is not a sufficient market that will take up even that supplier's ethanol. Prices are being driven upwards because these policies, which have been in place since 2007, have created and nourished a monopoly supplier. They have made that monopoly supplier richer than Croesus, but at the same time they have taken money out of the pockets of motorists.

What I find most remarkable about all this is the Labor Party's continued addiction to this policy. Does Labor think it will win over wheat farmers on the basis of this policy? I can tell Labor now that there is not a wheat farmer in New South Wales who will vote for Labor ever again. It is not going to happen. What Labor should concentrate on is what is happening to the 700,000 New South Wales motorists who are being forced to buy premium grade petrol because their cars cannot take ethanol-based petrol. There are 700,000 motorists who are being forced to pay 15¢ a litre more for their petrol, even though the environmental benefits of ethanol are not justified by the additional cost. They are not justified by the investment cost or by the extra amount that consumers have to pay. It is not just The Greens who say this. It is being said by the Independent Pricing and Regulatory Tribunal, the Industry Commission, the Australian Competition and Consumer Commission [ACCC] and Martin Ferguson, as much as one can understand what he says. They have sounded the alarm on the New South Wales biofuels policy.

I find it amazing that the key proponent of the biofuels policy was none other than Tony Kelly. He suddenly discovered an attachment to reducing greenhouse gas emissions, having at the same time signed two planning permissions for coal-fired power stations that between them would produce 22.5 million tonnes of carbon dioxide each year. He suddenly discovered that he would do something about greenhouse gas emissions, provided it would boost the profits of his mates at Manildra and provided it would make motorists poorer. It is bad policy to make motorists pay more without justifying any environmental benefits. If environmental benefits were shown to be cost-effectively won by this policy, then absolutely let us do it. But in the first place they are not shown and, in the second place, all we are doing is creating an ethanol monopoly. As the Hon. Paul Green stated, the ethanol monopoly has been very much complemented—I liked his word "complemented"—by the Labor Party, The Nationals and the Liberal Party.

The report of the Independent Pricing and Regulatory Tribunal stated very clearly that this policy is in trouble. It is a policy that is going nowhere. This policy cannot be fulfilled. We have written legislation to get 6 per cent of petrol sold by volume to be ethanol, but the Independent Pricing and Regulatory Tribunal has said that we cannot get above 5.8 per cent. The legislation is a fiction. As the Government Whip said, in one of those rare moments when I find anything he says to be nothing other than absolute rubbish, we cannot defy the science or the reality. We can write all the legislation we wish, but the reality is that we cannot defy the hardcore fact that we cannot achieve 6 per cent. In the effort that is made to achieve 6 per cent, all we are doing is forcing motorists to pay more.

Because the Government has cosied up to the monopoly supplier, whom it has made very wealthy, it is not creating a robust market in biofuels; it is creating a monopoly supplier who will bleed the market dry. The Independent Pricing and Regulatory Tribunal said this clearly in its report. No wonder the Coalition sat on this report for as long as it could. It said that a monopoly supplier creates the risk of increasing prices for ethanol at the petrol pump so we get a diminishing difference between ethanol-blended fuels and premium fuels, driving people to premium fuels who do not need to be there—folk who cannot afford the additional 15¢ a litre, folk who do not have public transport options and folk who can ill afford Manildra and the Coalition putting their hands in their back pockets and ripping this money off them. They will eventually turn—and perhaps this is the real agenda—against anything environmental because they see this as a substantial rip-off.

The Hon. Paul Green talked about jobs. I challenged him. I asked how many jobs there were. He said there were 300. There are 300—in Manildra's processing plant—but how many of those are in bioethanol? To the best of my knowledge, it is about 90 jobs in the bioethanol plant at Manildra. Let us have 90 jobs, but do we really want to have a policy that takes a billion dollars out of the economy to create 90 jobs? If we put that money into wind farms or into public transport, we would create 10 times that number of jobs. This is a very inefficient creator of jobs. It is nice for the people of the Shoalhaven—they get 90 more jobs—but let us get 900 more jobs. Let us get 9,000 more jobs by putting that money where it will be effective. If the Government wants to have any economic credentials, rather than pork-barrelling into the pockets of a major donor, why does it not put that money into things that really work for the environment, for the economy and for job creation, even in the Shoalhaven? There are real benefits to be had from environmental policies, but this is a dodgy environmental policy, not driven by the environment, by the economy or by jobs, but driven by a desire to enrich one of the Government's mates.

This legislation removes the ban on regular unleaded petrol. That is all it does. Who cares? If the Government enforces the 6 per cent mandate, as its mate Mr Dick Honan has been telling it to do, and who, through the Hon. Paul Green, told Parliament he would accept this legislation—how magnanimous of the monopolist—but he will only do so if the mandate is enforced, what will happen next? Are we going to crack down on the people who are providing petrol, on the small businesses that are trucking the petrol around? I note that the Deputy Leader of the Government has presented his credentials in this Chamber as a former truck driver, so he would have some sympathy for those small providers of petrol who are hocked to the eyeballs and for whom this policy spells death, bankruptcy and the loss of their business.

The Hon. Duncan Gay: That is crap.

Dr JOHN KAYE: What was that word?

The Hon. Duncan Gay: They run diesel trucks, you idiot.

Dr JOHN KAYE: It is not about that. I take that interjection because it shows the member has not understood the argument. It is not about what they put in their own trucks; it is about what they truck around, and they need to invest in a new supply chain. The Deputy Leader of the Government fails to understand that they will have to buy new trucks. They cannot put ethanol-blended fuel into the same trucks they moved regular unleaded or premium grade petrol around in.

The Hon. Duncan Gay: They put diesel into them. You have been driving a Prius for too long.

Dr JOHN KAYE: I do not own a Prius. This means that many of those suppliers will be forced to go further into debt and many of them will lose their businesses as a result of needing to invest in new trucks.

The Hon. Duncan Gay: They won't.

Dr JOHN KAYE: You say they won't. The industry tells me they will. Somehow, I believe the industry over a Nationals member of Parliament on this issue, on which The Nationals have no credibility. If the Government responds as it always has, to the beck and call of Dick Honan, the Manildra monopolist, it will enforce the 6 per cent mandate. First, that will mean no regular unleaded petrol will be available, so those who have vehicles that can take only regular unleaded petrol, which cannot cope with ethanol, will have to buy premium grade petrol at a cost of between 10¢ and 15¢ a litre more. Secondly, the profits of Manildra will go up. Thirdly, the price of regular grade petrol will be more expensive, as was identified in the Independent Pricing and Regulatory Tribunal report.

The Coalition knew this because it has sat on the report for 2½ months. It has had time to digest the report and it knows the reality. The Government says I am wrong. The Deputy Leader of the Government should close his mouth for a moment, open his mind and read the report, and understand what he is doing to motorists. This might work for his narrow constituency, but every Liberal member of this Chamber, particularly those who have friends in western Sydney, should know full well what the Coalition is doing. It is punishing the motorists of western Sydney in order to enrich its monopolist mate in Manildra.

The Independent Pricing and Regulatory Tribunal report, combined with the documents released under freedom of information, show that the Coalition was warned by its own Treasury that this policy was creating a monopoly, that this policy was driving up petrol prices. No wonder whenever this issue comes up in Cabinet, Chris Hartcher rips out whatever hair he has left. No wonder Mike Baird is angry with The Nationals. No wonder those few Liberals who have any basic understanding of economics are furious with The Nationals. They should be furious with The Nationals. This is pork-barrelling of the worst kind, and those persons who are concerned about the finances of the State and the impact this will have on individuals know full well what this means. The Independent Pricing and Regulatory Tribunal report will add fuel to the fire that rages in Cabinet.

What came out today was disgraceful. It was a half-hearted exemptions policy. The only response this Government can give to the second report in a week that has condemned it utterly on its ethanol policy is to come up with a new exemptions policy. It is a waffly document that is almost impossible to understand, but it says it is going to do this on a case-by-case basis. It says it will pork-barrel its mates and destroy those who are not its friends. This is not policy, this is not economics; this is simply ripping off consumers and our society to enrich its monopolist mate. It does not work and it will be exposed. The only way forward from here is to step back to a 4 per cent mandate, as the Coalition should have done when it came to office, and work out a way to introduce biofuels so it has a competitive supply market and a supply chain that does not bankrupt small operators, an outcome that works for motorists and the environment.

The Hon. MICK VEITCH [6.27 p.m.]: It is important for the Labor Opposition to make a point about the Independent Pricing and Regulatory Tribunal report. When the Hon. Steve Whan led for us in this debate he indicated that we had not been able to digest that report. Subsequently that report has been tabled in both Chambers and we have had a chance to read it. It is important to put on the record that reading that report has not changed the position that the Hon. Steve Whan put at the commencement of debate in this place. Our position remains the same.

The Hon. JOHN AJAKA (Parliamentary Secretary) [6.28 p.m.], in reply: I thank all honourable members for their contributions to this debate. The purpose of the Biofuels Amendment Bill 2012 is to remove the requirement, which was to have begun on 1 July 2012, for primary wholesalers selling regular unleaded petrol in New South Wales to ensure that it is E10—that is, the elimination of unleaded petrol. As a result of the Government making these amendments, primary wholesalers will be able to continue to supply regular grade unleaded petrol that does not contain ethanol to service stations in New South Wales. Consumers will be able to continue to obtain regular unleaded petrol, providing a safe, economical fuel for older vehicles, boats and small engines that are not compatible with E10.

The bill illuminates the requirement for a complex and potentially inequitable routine of E10 exemptions for small businesses and marinas. It also negates the number of potential inequities that would have been created in the petrol market. The bill does not remove the requirement for volume sellers to ensure that ethanol makes up not less than 6 per cent of the total volume of petrol they sell in New South Wales or for delivery in New South Wales. Nor does this bill require the blending of ethanol with premium fuels. The 6 per cent volumetric mandate will continue to support the development of the local ethanol industry.

A 2009 report by the University of Queensland found that the majority of E10 incompatibility in the Australian fleet is not being driven by pre-1986 vehicles but, rather, by post-1990 makes and models that are listed by the Federal Chamber of Automotive Industries [FCAI] as E10 incompatible. On 7 February this year Roads and Maritime Services confirmed that there are 517,000 passenger vehicles, 94,000 four-wheel drive vehicles, 70,000 light commercial vehicles, 19,000 buses and heavy vehicles, and 90,000 motorcycles in New South Wales that are not E10 compatible. In addition, approximately 100,000 trailer boats also are not E10 compatible. The real issue, which Labor never came clean about, is that close to one million New South Wales consumers were going to face higher costs for premium unleaded petrol if regular unleaded was eliminated from the marketplace. 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. 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.

[*The Deputy-President (The Hon. Jennifer Gardiner) left the chair at 6.33 p.m. The House resumed at 8.00 p.m.*]

HEALTH LEGISLATION 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. Michael Gallacher.

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.

JUDICIAL OFFICERS AMENDMENT BILL 2012

Second Reading

The Hon. DUNCAN GAY (Minister for Roads and Ports) [8.01 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.

This bill will amend the Judicial Officers Act 1986 to enable the Attorney General to be provided with certain information about the existence, nature, progress and outcome of complaints before the Judicial Commission.

The Act currently prohibits a member or officer of the Judicial Commission from disclosing any information in relation to a complaint before the commission, except in some limited circumstances. The Attorney General is generally unable to obtain any information about the existence of a complaint about a judicial officer before the commission.

The amendment aims to ensure that certain, limited information can be provided to the Attorney General. It will also ensure the Attorney is aware of any complaints serious enough to have been referred to the Conduct Division of the Commission.

The Judicial Commission of New South Wales

The Judicial Officers Act 1986 establishes the Judicial Commission of New South Wales, and confers on it functions relating to sentencing consistency, judicial education and various other matters.

The Act also provides for the examination of complaints against judges and other judicial officers and provides procedures for suspension, removal and retirement in certain circumstances.

The Act enables the commission to receive a complaint about a judicial officer by a member of the public, or the referral of a matter by the Attorney General, which is then treated like a complaint. The Act sets out the procedure that must be followed by the commission upon receipt of a complaint.

The Act requires the commission to conduct a preliminary examination of complaints, which may be summarily dismissed, referred to the head of jurisdiction, or for more serious matters referred to the Conduct Division.

If the commission refers a matter to the Conduct Division for investigation, the Conduct Division can decide that a complaint is wholly or partly substantiated and that the matter could justify parliamentary consideration of the removal of the judicial officer from office.

The commission must then present a report to the Governor setting out the division's findings of fact and opinion, and also provide a copy of the report to the Attorney General, who must then lay it before both Houses of Parliament.

Prohibition on disclosure of information

Section 37 of the Act prohibits a member or officer of the commission or Conduct Division, or a member of a committee of the commission, from disclosing any information in relation to a complaint except in some limited circumstances including:

- with the consent of the person from whom the information was obtained;
- in connection with the administration or execution of the Act;
- for the purposes of legal proceedings arising out of the Act;
- or for another lawful excuse.

The Act provides that when the Attorney General refers a matter relating to a judicial officer to the commission under section 16, the Commission must report to the Attorney General whether the matter has been summarily dismissed, referred to the Conduct Division, or referred to the relevant head of jurisdiction.

However, the commission is under no obligation to, and is in fact prevented from, providing the Attorney General with any information about the outcome of complaints about a judicial officer by a member of the public, except in those limited circumstances.

The Bill

The proposed amendment will enable the Attorney General to seek and be provided with basic information from the commission about whether a judicial officer is the subject of any complaint, and about the progress or resolution of that complaint.

The amendment will enable the commission to disclose to the Attorney General

- whether a complaint has been made about a judicial officer;
- when the complaint was made and when the alleged matter occurred;
- the subject matter of the complaint;
- the stage of the procedure for dealing with complaints that the complaint has reached;
- the manner in which the complaint was disposed of—that is, whether it has been summarily dismissed, referred to the Conduct Division, referred to the relevant head of jurisdiction or dismissed by the Conduct Division; and
- other information that the commission considers relevant.

If the complaint or referral has not been referred to the Conduct Division for examination, the commission will have discretion not to disclose information about the complaint or referral to the Attorney General, if it considers that it is not in the public interest to do so.

If the complaint or referral has been referred to the Conduct Division, the commission will be required to disclose this to the Attorney General. It will also be required to notify the Attorney General when the complaint is disposed of, and the manner in which it was disposed of.

The commission will not be required to provide the Attorney with details of the examination or investigation of a complaint by the commission.

Media reports about complaints

The inability of the Attorney General to obtain information about complaints before the commission causes concern when the existence of a complaint about a judicial officer is already in the public domain.

Complainants can inform the media that they have made a complaint about a judicial officer and provide information about the substance of the complaint. Particular incidents involving judicial officers may be reported in the media by court reporters.

As the Attorney General is unable to obtain any information from the commission, the Attorney General cannot advise if a complaint is being considered, or has been determined, by the commission. The Attorney General cannot provide any clarification if there is a misrepresentation.

Under the Act, the commission itself also cannot respond to such media reports and cannot confirm whether a matter or complaint was received and whether it was resolved. This lack of transparency can undermine public confidence in the judicial system.

Independence of the Judicial Commission

Judicial independence and the separation of legislative, executive and judicial power are important parts of the justice system and the rule of law. It is important that the Judicial Commission, in its role of receiving and considering complaints about judicial officers, is completely independent.

It was for this reason that it was established as a statutory corporation with its own independent staff. The commission conducts its preliminary examinations and inquiries in private, as far as is practicable, and as mentioned, has limited reporting requirements.

Parliamentary involvement only occurs when the Conduct Division forms the opinion that a matter could justify parliamentary consideration of the removal from office of a judicial officer and presents a report to the Governor of its findings.

This amendment is intended to enable the Attorney General to have access to information in order to advise if a complaint is being considered by the commission or has been determined by the commission, particularly when a report of a complaint about a judicial officer is already in the public domain.

The proposed amendment does not impinge on the independence of the commission and the commission's ability to deal with complaints according to the Act will not be limited or affected in any way.

The proposed amendment preserves the independence of the judiciary and the commission, while allowing the Attorney General access to basic information about the existence of complaints to the commission, their progress and outcomes.

I commend the bill to the House.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [8.02 p.m.]: I lead for the Opposition on the Judicial Officers Amendment Bill 2012. The Opposition opposes the bill. It is wrong in principle and it will be bad in practice, with undesirable outcomes. The object of the bill is expressed to be to amend the Judicial Officers Act to require the commission to provide the Minister, not the Attorney General, administering the Act from time to time certain information relating to complaints made about judicial officers to the commission. New section 37A sets out the information that the commission must provide to the Minister if he requests it, including whether a complaint about a judicial officer has been made, when it was made and when the conduct, or matter complained of, is alleged to have occurred. It includes the subject matter of the complaint, the stage that the complaint has reached and the procedure for dealing with the complaint. If a matter has been finalised, it includes the manner in which it was disposed of.

If the complaint has not been referred to the Conduct Division the commission is not required to provide information about a particular judicial officer if it is not in the public interest unless a complaint about a judicial officer has been or is referred to the Conduct Division. New clause 37A (4) provides for the commission to provide such other additional information that it considers is relevant. On page 4, schedule 6 of the bill proposes the insertion of part 7, which makes it clear that the operation of this bill will be retrospective—that is, it is applicable to complaints and referrals to the Conduct Division that have occurred before this Act commences.

The structure of this bill is particularly alarming. The Judicial Commission is, of necessity, an independent body. It was designed clearly on a bipartisan basis to be so. Independent, in the view of the Opposition, must mean explicitly and completely independent of the Executive arm of government. The determination of complaints against judicial officers must be done entirely independently of the Executive or the Legislature; except when the commission has reached a decision that conduct could form the basis of a removal, that is when a matter properly moves to the Legislature for determination, but only at that point.

The determination of complaints against police and public officials—when inquired into by the Ombudsman, the Police Integrity Commission or the Independent Commission Against Corruption—are handled in a manner completely independent of the Government or Legislature, and so should complaints against judicial officers. Such a proposition is so obvious and basic it should not require restating. The importance of such independence is more obvious for judicial officers than for other kinds of public officials to which I have referred. A judicial officer can be removed from office only by a vote of both Houses of this Parliament. That stems from the Act of Settlement over three centuries ago and arose from the struggle between the monarch and the legislature in the English civil war and the contested issue of executive control of the judiciary. It is essential to our constitutional structure and settlement.

That history and the extremely limited way in which judicial officers are able to be removed emphasises the importance of the independence of the judiciary and thus the independence of investigations against members of the judiciary. That is why the provisions of this bill are so extraordinary. Conferring upon the Minister—not the Attorney General, but the Minister—who may have administration of the Act from time to time the power to demand information from the Judicial Commission is entirely inconsistent with the independence of that body. That body cannot be allowed in any way to be accountable to the Executive and certainly not in the terms described in this bill. The bill is wrong in principle.

Just how wrong it is can be seen by comparison and in contrast with the legislative schemes of other investigative bodies. The legislation governing the Independent Commission Against Corruption, the Police Integrity Commission and the Office of the Ombudsman is instructive. None of those schemes has provisions comparable to the one proposed in this bill. No Minister has the power to demand information about complaints before the Independent Commission Against Corruption, the Police Integrity Commission or the Ombudsman, and for good reason. Let us pause to consider for one moment what the reaction of those bodies would be if a Minister of the Crown said, "Give us information about a live investigation that has not been completed but that you are embarking upon." Such a request or demand would rightly be seen as unwarranted interference in the work and independence of that body—and properly so.

Conferring the power upon the Minister as described in the bill—not even restricted to the Attorney General, the first Crown law officer of this State, but any Minister who has conferred upon him or her the administration of this Act—is unprecedented and extraordinary. One can only imagine what the reaction of those bodies would be if similar legislation were proposed to provide this kind of intrusion into their considerations. The reactions would be explosive, and rightly so.

Each of those other bodies—the Police Integrity Commission, the Independent Commission Against Corruption and the Ombudsman—is interesting in another respect: each of the complaint handling or investigative bodies has parliamentary oversight committees. The Judicial Commission does not. Why? The answer is more than reasons of history, more than the fact that the commission was established before parliamentary oversight bodies were commenced, as the same can be said about the Ombudsman, which later had an oversight body added. The clear reason there is no parliamentary oversight committee is the absolute primacy of the principle of the independence of the judiciary and thus the necessary independence of complaint handling procedures into judicial officers, which are the responsibility only of the Judicial Commission up until the time a Conduct Division has formed the view that alleged conduct may properly form the basis of consideration by this Parliament of removal action. It is of concern that precisely that principle is being seriously infringed by this bill.

I refer to the agreement in principle speech of the Attorney General in the other place. It is apparent that in practice this bill, if enacted into law, would result in curious and undesirable outcomes. What is missing from the bill is any indication of what it is the Attorney General or the Minister can do with the information obtained. One asks rhetorically: Why on earth would the Attorney General or Minister want such information? On one view, looking at the speech of the Attorney in the other place, one could draw the conclusion that the Attorney may be about to become the spokesperson for the Judicial Commission. The Attorney said in his speech:

> Particular incidents involving judicial officers may be reported in the media by court reporters. As the Attorney General is unable to obtain any information from the commission, the Attorney General cannot advise if a complaint is being considered or has been determined by the commission. The Attorney General cannot provide any clarification if there is a misrepresentation.

Very simply, it is not the job of the Attorney General, or indeed any Minister, to become spokesperson for the Judicial Commission; or to provide any kind of running commentary on a matter that is before the Judicial Commission; or to prove a running commentary on what may be in the press, whether correct or even egregiously incorrect. Ultimately, the consideration of matters before the Judicial Commission is properly conducted in private—unless or until the Conduct Division forms the view that the conduct alleged could properly form the basis of a consideration by this Parliament of the potential removal of a judicial officer. It is only at that point that a matter, allegations, information become public that the matter transfers to this Parliament. And from that point on all deliberations are, of course, in public and transparent.

But the reason they are not made public prior to that point is simply because most complaints to the Judicial Commission are disposed of as being without merit, or are dealt with in some other, more appropriate fashion. To potentially have information at those earlier stages provided to a Minister, and presumably for the Minister, according to at least the Attorney's speech in the other place, to potentially then disclose that

information to the wider public, could be very damaging for individual judicial officers against whom complaints are made. Given that the vast majority of such complaints are dismissed or handled in other appropriate ways, it would be unfair and damaging to those judicial officers, who are not able to respond. And it would be damaging ultimately to the administration of justice, and would be conducive to undermining public confidence, particularly when some allegations may well be lurid. While those lurid matters may be written up in full and prominently, the fact that they are ultimately dismissed as being of no weight would not get similar coverage, causing great damage to those persons most unfairly.

The Hon. Trevor Khan: I just hope the Attorney General applies better reasoning than you did in that matter.

The Hon. ADAM SEARLE: I note that the Attorney indicated in his speech in reply in the other place that the genesis of this bill was the Maloney matter that came before this Chamber last year. But again, they do say hard cases make bad law; and I am not sure why the Attorney feels the need to arm himself or another Minister with information, again presumably to be disclosed to the public, at a time when the matter is still being considered by the Conduct Division. It would seem to be unprincipled and unfair if such information is to be revealed publicly at that stage. And if it is not to be revealed publicly at that stage, why does a Minister or the Attorney require that information? Such questions have not been answered despite their being raised in the other place.

Again, I do not think it is appropriate for the Attorney or a Minister to start to become the media officer for the Judicial Commission. I am not sure that is actually the intention. Certainly, it is the case that in recent times Attorneys General have not felt the need to speak on behalf of, or in defence of generally, the judiciary; and if the current occupant of that office is proposing to retake such a role, this is not the appropriate vehicle for it. There may be a case for greater media commentary about complaints, although I think that is an area in which we on this side of the House would be instinctively cautious. I would also point out that the Independent Commission Against Corruption has a firmly established practice—which I think is correct—of usually refusing to confirm or deny actions that it may take on complaints.

While it is true that there are sometimes public hearings by the Independent Commission Against Corruption, the overwhelming bulk of its work is done behind closed doors. In relation to the Judicial Commission itself, the end result of its proceedings is, of course, as I have indicated earlier, a profoundly public exercise, and one which we went through not once but twice last year—a referral to this House, and potentially to the other House if such a removal action is agreed upon by this House. Section 24 of the Judicial Commission legislation allows the commission to hold hearings in public if it so chooses. I note also that section 11 (1) already provides for the commission to give advice to the Minister on such matters as it sees fit. So where the commission sees fit, or finds it necessary, it is able to provide information to the Attorney, but not in circumstances where the Attorney, a member of the Executive, can demand the information from the Judicial Commission.

If there is a case for greater public commentary about complaints against judicial officers in quite limited circumstances, this is not the appropriate mechanism. Although I am very cautious about advocating that there should be, I can understand that there might be criticism that there needs to be public commentary, but that it should be the Attorney General that makes that commentary. I do not think that is right. I note that since the bill was raised the shadow Attorney in the other place received from a member of the Bar a note which stated:

> It seems quite a dangerous development. It clearly will allow for a political witch-hunt to be organised against judicial officers. It seems to me to water down the independence of the Judicial Commission.

That is a concern with which we on this side of the House concur. Finally, I would like to say that if the Government felt that legislation of this nature was required, one assumes that it would be undertaken after consultation with the Judicial Commission itself, and with the heads of jurisdiction who form the Judicial Commission. I have not seen anything in the Attorney's speech in the other place, and I have not seen or heard anything in this place that indicates that any such consultation has been undertaken by the Government with the Judicial Commission, which to my mind would be a prerequisite before we would consider supporting this legislation.

I note that the Law Society has indicated its view that the bill is too widely drafted, and that the bill should be circumscribed to allow the Attorney to obtain information only in very limited and specific circumstances, such as, when Parliament is addressing a complaint the Attorney should be able to ask the Judicial Commission if other complaints exist. I note that there is an amendment standing in the name of The

Greens which may have its genesis in that observation by the Law Society or a similar concern. We do not support the legislation before this House, certainly not in its current form, and certainly not without any appropriate consultations with the Judicial Commission or the judiciary.

Mr DAVID SHOEBRIDGE [8.17 p.m.]: On behalf of The Greens I express our extreme reservations about the Judicial Officers Amendment Bill 2012. Indeed, our concerns in many ways echo the concerns of the Deputy Leader of the Opposition, the Hon. Adam Searle, that is, that the bill as currently drafted erodes the independence and the structures that support the independence of the Judicial Commission. One of the foundations of an independent judiciary is removal of the Executive from oversight of the judiciary. In fact, the Constitution of New South Wales provides for at least that limited separation of powers. We may muddy the Executive and the Legislature, but we do separate the judiciary from the Executive.

This bill proposes to place with an officer of the Executive, in the form of the Attorney General, the ability to conduct a running media commentary, it appears, on the operations of the Judicial Commission, which is very much a body established from the judiciary to have day-to-day oversight of the judiciary. It is a judicial body established using heads of jurisdiction to oversight the judiciary. There are very few legitimate arguments that we can see that would allow the Attorney General to become involved in that process at an early stage. The bill itself is of relatively short compass. Its object is to insert a new section 37A into the Judicial Officers Act, which provides:

> (1) The [Judicial] Commission must, at the request of the Minister, provide the Minister with information that discloses the following in relation to a particular judicial officer:
>
> (a) whether a complaint has been made, when a complaint was made and when the matter about which a complaint was made is alleged to have occurred,
>
> (b) the subject matter of the complaint,
>
> (c) the stage of the procedure for dealing with a complaint
>
> (d) for a complaint that has been disposed of, the manner in which the complaint was disposed of.

A great many complaints made to the Judicial Commission are disposed of in a summary fashion because they are found by the commission to have no merit. Why would the Attorney General want to obtain a dossier of all the complaints made against a particular judicial officer when the complaints have been disposed of by the Judicial Commission?

The Hon. Adam Searle: A hit list.

Mr DAVID SHOEBRIDGE: I acknowledge the interjection of the Hon. Adam Searle. If it is not for the purpose of obtaining a hit list or a dossier that would allow a political attack on a member of the judiciary, for what other legitimate purpose is the Attorney General gathering and obtaining this information? That has not been answered by the Attorney General in any substantial manner. The safeguard we are meant to take comfort from is new subsection (2) of section 37A, which provides:

> (2) However, the Commission is not required to provide information about a complaint against a particular judicial officer if the Commission considers it is not in the public interest to provide the information, unless the complaint has been referred to the Conduct Division.

How the Judicial Commission is meant to judge the public interest in disclosing material to the Attorney General is, at best, understated by the Attorney General when introducing this bill. The fact that the commission has no discretion and must supply the information if the complaint has been referred to the Conduct Division adds real concern and shows there is no capacity, even if it were the wish of the Judicial Commission, not to provide the key information to the Attorney General. New subsection (3) provides:

> (3) The Commission must notify the Minister when a complaint about a judicial officer is referred to the Conduct Division and when and the manner in which such a complaint is disposed of (whether or not the Minister has requested the information about the complaint).

It is automatic. As soon as the Judicial Commission determines that a matter warrants reference to the Conduct Division, regardless of the outcome after the determination and, one would imagine, a fair hearing before the Conduct Division, the Attorney General will automatically be notified about which judicial officers are facing scrutiny by the Conduct Division. Why does the Attorney General want that provision? The sole justification for that provision given by the Attorney General is that he wants that information so that he can engage in media

dialogue about the complaints. The Attorney General said there have been circumstances of rumours of issues concerning judicial officers and when asked about them he has been unable to respond. The Attorney General wants the information so that he can engage in a media dialogue about matters before the Conduct Division. That is trespassing on the separation of powers and is entirely inappropriate. New subsection (4) provides:

> (4) The Commission may, when providing the Minister with information about a complaint against a judicial officer under this section, also provide other information that the Commission considers relevant.

That is common sense if this amendment is agreed to. The Greens very much recognise the difficult position in which the Attorney General was placed when the House was considering the issue of Magistrate Maloney. Rumours and discussions about other complaints involving the magistrate were running in the media and in correspondence sent to members of this House when we were considering the issue, and we fully recognise that that was an unsatisfactory state of affairs. It was probably one of those occasions when the House shed its partisan ways and we all came together. We felt uncomfortable on one level or another about the process we were engaged in when dealing with the careers of Magistrate Betts and Magistrate Maloney, particularly Brian Maloney.

The media commentary about other complaints before the Judicial Commission—the nature and substance of the complaints; whether the complaints were of a sufficient nature to go before the Conduct Division—was, to say the least, untidy. The position that put the Attorney General in—having to find a way to obtain the information, discovering there were statutory prohibitions on what he could or could not do and making requests to the Judicial Commission which eventually became part of a broader political debate about the processes that were being followed by the House—was untidy. Indeed, The Greens can see the rationale for allowing the Attorney General to request information from the Judicial Commission where a report has been made to the Governor under section 29, which would automatically mean a matter is before this House.

Where a complaint regarding a judicial officer is already before this House and therefore, by nature, will be part of a broader political discussion—as occurred with Magistrate Maloney—The Greens do see an argument for the operation of a provision such as section 37A. There is an argument for the operation of a provision such as section 37A in limited circumstances, such as, to potentially inform debate in this House as to whether or not we deal with or adjourn a matter until a further matter has been dealt with by the Conduct Division; or to enable the House to deal with a representation made by a judicial officer when further references are before the Conduct Division of the Judicial Commission and the House has no other capacity to obtain information about those references. I may differ with the Hon. Adam Searle in that regard, but I recognise the difficulty the Attorney General, the Government and this House had in those limited circumstances.

The Hon. Adam Searle: In fact, it caused the matter to be adjourned.

Mr DAVID SHOEBRIDGE: Indeed, it caused the matter to be adjourned. But beyond those narrow circumstances there is no rational justification for the Attorney General to obtain this information. I hope the Government seriously considers the amendment proposed by The Greens—which I forwarded to the Attorney General's office some days ago—because if the intent of the Government is to address the difficulties that arose in the case of Magistrate Maloney and in doing so limit the application of this bill to those circumstances, then many of the misgivings that have otherwise been spoken about in this House will be minimised.

When we talk about the independence of the judiciary, the oversight of the judiciary, the role of the commission and the necessity to make sure that the commission is non-partisan and free from involvement in the day-to-day political debates, I hope that the Government seriously considers The Greens amendment. With the amendment this becomes a good bill; without it the bill sits dangerously on the statute books allowing the Attorney General of the day to politicise complaints made about judicial officers. We must ensure that we have a complaints process that is not partisan and not part of politics in New South Wales.

The Hon. TREVOR KHAN [8.28 p.m.]: I support the Judicial Officers Amendment Bill 2012. The object of the bill is to amend the Judicial Officers Act 1986 to require the Judicial Commission to provide the Attorney General with certain information about complaints made to the commission about judicial officers. I start by acknowledging the contribution made by Mr David Shoebridge in that regard. He places the matter in context, and I thank him for the concessions that he makes in relation to the very difficult circumstances that arose, particularly in relation to what we can describe as the Maloney matter. In a sense, the Hon. Adam Searle creates a picture of fear and mayhem around this bill, but we saw in the Maloney matter the very great difficulty

we had. I disagree with Mr David Shoebridge in one regard: the Maloney matter presented not a difficulty for the Government but the consideration of the Maloney matter presented a difficulty for this House and the members of this House.

Mr David Shoebridge says that he said that, and I will concede that perhaps I placed a different emphasis on what he said. But as we attempted to work our way through that matter, all members of this House identified a large number of difficulties. The greatest difficulty regarded the lack of information on certain matters. Specifically—and let us be clear about this—Magistrate Maloney, in his address to this House, made certain representations when there was material in the public domain which suggested that some of his statements could be interpreted as not being correct. Different members of this House came to different conclusions as to whether what he said was plainly incorrect or subject to misinterpretation. I came to the view that he misrepresented the position entirely.

Members of this House could have the position clarified only by obtaining information from the Judicial Commission. The Judicial Commission was the only effective source because the matter centred on an issue of whether there were any further complaints. That was plainly an issue. In that context, allegations were made against the Attorney General by various parties, perhaps associated with Magistrate Maloney—

The Hon. John Ajaka: Not in this Chamber.

The Hon. TREVOR KHAN: No, not in this Chamber, the member is quite right. Outside the Chamber attacks were made on the Attorney General for seeking, in essence, to assist members of this House, who were troubled as they went about their bound duty to consider whether Magistrate Maloney was fit to be a judicial officer. We all undertook our deliberations seriously. I must say there have been rare occasions in the limited time I have been in this place where I have seen people apply their minds so diligently to a question and agonise so seriously over it. Indeed, some people were very troubled about their decision. The Attorney General made a considered and deliberate attempt to assist this House and the criticism that was made of him outside this place was decidedly inappropriate and misconceived. However, it demonstrated that there was a problem in terms of obtaining information from the Judicial Commission. In speeches in this House members pointed out the problems that existed and the need for the matter to be reviewed.

That is the genesis of this bill. It is a legitimate genesis and the bill comes before the House with a legitimate purpose. Contributions that suggest some nefarious intent misrepresent the serious circumstance that members of this House found themselves in as they deliberated. The removal of any judicial officer is a most serious step to take. That was demonstrated by the way in which all members performed their duties in coming to their decision. The Attorney General should be congratulated on his efforts in trying to assist us. With those brief preliminary comments—

Mr David Shoebridge: Were they preliminary?

The Hon. TREVOR KHAN: They are brief and preliminary comments. On another occasion I made reference to the Gettysburg Address only taking two minutes. Those being some of the most powerful words spoken, perhaps I have overstayed my welcome a little. Nevertheless, I will make some further comments. Essentially, the question posed by the Hon. Adam Searle and Mr David Shoebridge could be expressed as whether this amendment impinges on judicial independence and the independence of the Judicial Commission. As can be seen, the bill aims to achieve a balance between preserving the independence of the Judicial Commission and ensuring that the Attorney General has access to information about complaints before the commission when necessary, particularly when a complaint is serious enough to be referred to the Conduct Division.

Judicial independence is an important part of the justice system and the rule of law. It is important that the Judicial Commission is completely independent in its role of receiving and considering complaints about judicial officers. There can be no doubt about it. The proposed amendment does not impinge on this independence, and the commission's ability to deal with complaints under the Act will be unaffected. The commission will continue to conduct its preliminary examinations and inquiries in private as far as practicable. The commission will not be required to provide the Attorney General with details of the examination or investigation of a complaint. Parliamentary involvement will occur only if the Conduct Division forms the opinion that a matter could justify parliamentary consideration of the removal from office of a judicial officer and presents a report of its findings of fact and opinion to the Governor. The proposed amendment preserves the

independence of the commission while allowing the Attorney General access to basic information about the existence of complaints to the commission, their progress and their outcome. In all the circumstances, it is appropriate for me to simply reiterate that I support the bill.

The Hon. SCOT MacDONALD [8.35 p.m.]: Not being of a legal background and having been in this place only a short time, I found these matters quite challenging when they arose last year. I feel our task was made harder by the uncertainty of the information that came before us. Some of the information seemed to be in the public domain and accessible, and some of the information was in the hands of the Judicial Commission and was not shared. Also, some of the information came at a late stage. As I say, I found the task quite difficult. As the previous speaker said, those difficulties were the genesis of this piece of legislation. I do not think the legislation is overreaching or a threat to the separation of powers or the Judicial Commission.

This bill requires nothing more than the Judicial Commission having to lay before the two Houses certain information, and that information is outlined. That is to be commended if it makes easier our task of considering the information in a timely and complete fashion. I hope such matters do not appear before the House very often. As I say, I found the task very difficult. In relation to the way I voted, I would like to think I treated both matters on their merits. The bill is commendable. The information will be fair, evenly distributed, complete and timely. I commend the bill to the House.

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

BUSINESS OF THE HOUSE

Postponement of Business

Government Business item No. 3 postponed on motion by the Hon. John Ajaka.

INDUSTRIAL RELATIONS AMENDMENT (DISPUTE ORDERS) BILL 2012

Second Reading

Debate resumed from 6 March 2012.

The Hon. SOPHIE COTSIS [8.39 p.m.]: I lead for the Opposition in debate on the Industrial Relations Amendment (Dispute Orders) Bill 2012. The Opposition will oppose the bill. This bill is typical of the O'Farrell Government's legislation in its war on workers. We have seen this war on workers being waged for the past 15 months. Every time we come to this place another piece of legislation is aimed at the workers. It is typical of the O'Farrell Government's attack on working people in this State. The bill attacks employee rights, it contains no vision and there is no economic agenda and no job creation. Mind you, this is a Government that said it would create 100,000 jobs but so far close to 33,000 jobs have been lost. The bill contains nothing that will help build infrastructure but it does contain high prices.

The bill was not canvassed before the election and as I have been saying for the entire time the Coalition has been in government, it did not take an industrial relations policy to the people. Coalition members said to the 75 per cent of people that voted for them—the nurses, teachers, firefighters and police—that everything was okay. "We will protect you; we will look after you", they said. Now in government they have changed their tune. The bill is about ideology and politics and grabbing headlines for five minutes. It has nothing to do with improving the standard of living; it has nothing to do with creating jobs; it has nothing to do with flexible workplace arrangements; it has nothing to do with sitting down with employers and employees and adopting a consultative approach to the issues that confront our great State of New South Wales. It does not provide solutions to real problems. It does nothing to improve New South Wales schools, hospitals or public transport.

[*Interruption*]

I acknowledge the interjection by the Hon. Matthew Mason-Cox. Every worker in this State has a democratic right to express his or her view but what this Government is doing is like death by a thousand cuts. It is introducing legislation that is a race to the bottom because it is continuing to take away workers' rights. The

bill does nothing to address one of the biggest issues we confront in this State, which is workplace flexibility and work-life balance. It does nothing to address skills shortages or the shortages I have seen in our regions when I have visited the North Coast and the mid North Coast.

The bill will amend the Industrial Relations Act 1996 to achieve four stated objectives: to increase the maximum monetary penalties that may be imposed for a contravention of a dispute order; to enable costs to be awarded in proceedings for a contravention of a dispute order; to enable appeals to be made to the Court of Appeal on a question of law of public importance against penalties imposed, or other actions taken, by the Industrial Relations Commission in Court Session for contraventions of dispute orders; and to provide for the making of any necessary regulations containing consequential savings and transitional provisions. Specifically, the bill will increase the maximum monetary penalty that may be imposed for a breach of a dispute order for a first offence from $10,000 to $110,000 for the first day of an offence and from $5,000 to $55,000 for each subsequent day the offence continues. This is a Government that does not support the 400,000 public servants who should have the democratic right to protest—

The Hon. John Ajaka: Nonsense.

The Hon. SOPHIE COTSIS: I acknowledge the interjections of members opposite, particularly the Hon. Dr Peter Phelps who in another speech said he does not believe that unions should exist, or something to that effect. That is not right because it is important that low-paid workers in the public sector and those workers who do not have the money to access corporate lawyers to represent them in a workplace issue should have the right to belong to an association.

The Hon. Dr Peter Phelps: Absolutely. I agree with that.

The Hon. SOPHIE COTSIS: I agree. The new maximum penalty for a subsequent breach will be $220,000 for the first day of an offence and $110,000 for each subsequent day the offence continues. The current amounts are $20,000 and $10,000 respectively. That is a thirteenfold increase. It is outrageous that the Government is imposing this massive penalty on members—

The Hon. Dr Peter Phelps: There won't be a penalty if they obey the orders of the IRC.

The Hon. SOPHIE COTSIS: They have no choice because this Government is clamping down. These increases are significant and one has to ask why the Government feels such heavy fines are necessary in order to avoid industrial disputes.

The Hon. Dr Peter Phelps: Because they deliberately disobey the orders of the IRC.

The Hon. SOPHIE COTSIS: No, they do not. Does the Hon. Peter Phelps think people want to go on strike? Does he talk to people? Does he sit down and listen to what they have to say? I talk to a lot of coalface workers and, believe me, that is the last resort.

The Hon. Trevor Khan: Point of order—

The Hon. SOPHIE COTSIS: Oh, here we go.

The Hon. Trevor Khan: Whilst the member might say, "Here we go", I think that is fair in the sense that she continued. The member continues to fall into the trap of debating directly with members opposite her.

The Hon. SOPHIE COTSIS: I will do it through the chair.

The Hon. Walt Secord: You are baiting her.

The Hon. Trevor Khan: Far be it from me to concede that point. Perhaps the member could direct her comments through the chair.

DEPUTY-PRESIDENT (The Hon. Sarah Mitchell): Order! I uphold the point of order. However, I remind Government members that interjections are disorderly at all times.

The Hon. Helen Westwood: Point of order: It is impossible to hear the contribution of the Hon. Sophie Cotsis because of the disorderly interjections of those opposite. I ask that they be called to order.

The Hon. Trevor Khan: To the point of order: I agree.

DEPUTY-PRESIDENT (The Hon. Sarah Mitchell): Order! I uphold the point of order. I again remind members that interjections are disorderly at all times.

The Hon. SOPHIE COTSIS: The Minister for Finance and Services stated when he introduced the bill:

> These amendments have become necessary because some industrial organisations have chosen to ignore orders of the Industrial Relations Commission and have pressed ahead with industrial action in the face of direct orders from the Industrial Relations Commission to not do so.

The Minister did not cite any specific organisations or industrial action that has taken place in contravention of orders from the commission which would be deterred in future by the bill, nor did he acknowledge the relatively low rates of industrial disputation that have occurred under the existing legislation. The Industrial Relations Act 1996 came into force in February 1997. When one examines data provided by the Australian Bureau of Statistics on the number of working days lost to industrial disputes in New South Wales one can see that the average from 1997 to the present is 10.9 working days lost for every 1,000 workers per quarter. This compares rather favourably with the average number of days lost before the introduction of the Industrial Relations Act 199: 55.5 working days lost for every 1,000 workers per quarter.

Of course, that average is taken from a period going back to 1985 and industrial disputation in all States was far higher in the 1980s and early 1990s. But it is still a statistical fact that industrial disputes were more frequent when the Coalition was last in office—from 1988 to 1995—than during Labor's time in office from 1995 to 2011. So the evidence base for this bill is weak, if it is not altogether non-existent. This bill is about politics and ideology, not real solutions to real problems. This bill is about attacking workers' rights because that is what Coalition governments do.

It has not even been five years since the 2007 Federal election but it seems the Coalition has forgotten the lessons of WorkChoices. These are important lessons and I think they bear repeating. A Coalition Government introduces sweeping changes to industrial relations laws. The laws cut rights and entitlements that workers had previously been able to take for granted. There is no mandate for the new laws and they were not canvassed at the preceding election. I think the reason the Coalition attacks working people is that it does not really understand them. They have not been able to sit down and consult the industrial organisations about the future needs of the people of this State.

As I have stated previously, no worker wants to strike. Workers want to get the job. They want their dispute resolved. They want to be able to go to work safely. They want to be able to do their job in a professional manner. That is why this bill is so unnecessary. Industrial action is only ever taken as a matter of absolute last resort to ensure that all procedures have been followed and that all steps have been taken to the point at which the workers on the ground have had enough. We saw evidence of that last year. In the past 15 months workers have felt strongly enough about an issue that they are prepared to take action, even when they have been ordered not to do so.

To be clear: Labor supports the Industrial Relations Commission and Labor supports the Industrial Relations Act and its mechanisms for cost-effective and efficient dispute resolution. We support the independent umpire and we believe that its rulings should be respected. We understand that there are times when workers have to stand up and take action when they have no alternative way of expressing their views. I reiterate that we respect industrial orders and the Industrial Relations Commission, but this Government is making it harder and harder for these people. One of the reasons people take action is that workers might be faced with a chronically unsafe workplace or an employer is not paying them their correct entitlements or they are asked to do the same job as another for less pay. In those circumstances workers have taken every step according to the law, but it comes to the point where they have no choice other than to take action.

For many people their job is all that they have. For many their job is a profession. They have studied and worked in their fields for years. Their job is a lifetime in a suit that they want to stick with. For others their job provides a means by which to live and pay their bills and raise their families. They cannot afford to lose their job or see their pay or conditions go backwards. They are fighting for every cent and each condition to

ensure that they are able to take home a good income for the family and to ensure that they have decent conditions at work. For nurses, teachers, police officers and other public sector workers who would be affected by this bill both those categories are applicable. The thousands of public sector workers in our State had answered the call to serve others in our schools and our hospitals and in fighting crime on our streets. Their pay is hardly lavish and it is negotiated. The unique nature of their skills and the nature of the sector mean that it is no easy thing for them to find other work if the New South Wales Government, as it is currently, cuts jobs. The Government will axe more jobs in the forthcoming budget.

When the pay and conditions of public sector workers is threatened one can understand why they take action. Last year 40,000 workers and their families marched on Parliament in opposition to the Government's harsh industrial relations laws. We also saw 5,000 police officers march on Parliament in opposition to cuts to their death and disability benefits. They had no other option. The Government has taken away their rights. Until last year we had a truly independent umpire in the form of the Industrial Relations Commission that could arbitrate disputes over wages and conditions. However, the O'Farrell Government neutered the commission's powers through the Industrial Relations Amendment (Public Sector Conditions of Employment) Act 2011. Now nurses, teachers, police officers and firefighters and other public sector workers are subject to a fixed cap on their wages. If they try to take action—and action is fundamentally about democratic participation—the workers and their industrial organisations will be subject to excessive fines. That is a disturbing curtailment of people's right to participate in our democracy.

We have already seen the O'Farrell Government pass laws to interfere with the rights of workers who participate in politics and elections. The Election Funding, Expenditure and Disclosures Amendment Bill 2011 deliberately sets out to impede the ability of hardworking people to organise and form associations that will represent their interests in the political sphere. If workers try to take industrial action they will be subject to extraordinary fines. This is heavy-handed stuff from a Government that is petty and that is trying to silence any criticism or opposition to its agenda of cutting jobs, wages and conditions. The Government is introducing this bill now so that when it starts to close schools, privatise hospitals, sack bus and train drivers and other public sector workers, no-one will be able to do anything to stop it. Labor opposes this bill, which is a shabby and shameless attack on the hardworking people of New South Wales.

The Hon. WALT SECORD [8.54 p.m.]: I join in debate on the Industrial Relations Amendment (Dispute Orders Bill) 2012 to make a contribution and to express my opposition to the bill. This is yet another chapter in the O'Farrell Government's ongoing saga to wind back workers' rights in New South Wales piece by piece. Rather than introducing a single industrial relations bill, the O'Farrell Government is going for a death by a thousand cuts approach. That is because the O'Farrell Government knows that its approach is unpalatable to the community. It also shows its tremendous cowardice. While I never agreed with former Prime Minister John Howard's WorkChoices and fought them, Mr Howard at least took his proposals to the community as a total package. He was prepared to be judged by the community. Ultimately, the package was soundly rejected but he showed the courage of his convictions—unlike Premier Barry O'Farrell.

The Industrial Relations Amendment (Dispute Orders Bill) 2012 takes direct aim at the 600,000-member trade union movement in New South Wales. It is a tactic of sheer financial intimidation. Chapter 3, part 2 of the Industrial Relations Act 1996 provides the Industrial Relations Commission with the power to issue dispute orders. Through these orders the Industrial Relations Commission may order a person or organisation to cease or refrain from taking industrial action. The Industrial Relations Amendment (Dispute Orders) Bill 2012 amends section 139 of the Industrial Relations Act 1996, which deals with the contravention of dispute orders. Section 139 (4) sets out the maximum penalties for breaching a dispute order. It is here that this Government's ideological bent is fully exposed. On 6 March in the second reading speech of the Minister for Finance and Services he said the bill would "dramatically increase the penalties for organisations that took action in contravention of an order by the IRC." We cannot accuse the Minister of hyperbole.

This bill proposes an excessive and unprecedented increase in penalties. Under the bill, for a first offence the O'Farrell Government will increase the maximum penalty from $10,000 on the first day to $110,000. On each subsequent day it will increase the penalty from $5,000 a day to $55,000 a day. For a second or greater offence the penalties will increase from $20,000 for the first day to $220,000, and from $10,000 for each subsequent day to $110,000. We all know that there has been nothing since March 2011 to prompt this extraordinary change in policy direction by the O'Farrell Government. The only industrial action we have seen has been moderate. In fact, it was very tempered in the face of an all-out assault on the rights of essential service workers.

In October 2011 the Fire Brigades Employees Union undertook very limited work bans on paperwork and administrative duties after constant battles with Fire and Rescue NSW. Under this bill the firefighters' paperwork strike would have seen them crippled with fines. The day of action organised by the New South Wales Teachers Federation last September would have attracted a massive fine. I note that the Government's own Legislation Review Committee has expressed concerns about these penalties. It pondered in its report No. 12/55 whether these penalties trespassed on personal rights and liberties. In the deliberations, the committee's members decided that the penalties could be deemed "excessive punishment". That is a government-chaired committee. When a conservative government's own review determines punishments to be excessive then the plot is laid bare.

This bill is about breaking the backs of unions through excessive fines and legal fees. This is simply a partisan and ideologically driven weapon that is aimed at destroying the industrial protections of our State. It has nothing to do with public policy; it is a naked political tactic. The winners from the O'Farrell Government's policies will be the wealthiest and the strongest in New South Wales, and the losers will be working people—teachers, nurses, ambos, firefighters and police officers.

We have seen this tactic in places such as North America and the United Kingdom, where excessive fines and excessive lawsuits have proven to be effective techniques for giant corporations to silence critics. These tactics intimidate groups and individuals into silence for fear of running up massive fines or legal bills. To be sure, the O'Farrell Government knows that the best way to strip away workers' rights is to attack them with crippling costs. The O'Farrell Government is embracing this tactic with its 11-fold increase in fines for trade unions. Unions NSW Secretary, Mr Mark Lennon, described the bill accurately when he said:

> It has everything to do with trying to belt the representatives of working people into submission.

In response the O'Farrell Government has claimed that the bill brings New South Wales fines into line with fines imposed in Queensland. This is untrue. The O'Farrell Government has failed to mention that the Queensland Industrial Relations Act expressly includes a right to strike, whereas the New South Wales Industrial Relations Act does not. It is not a comparable situation, but that is typical of this Government's slippery and duplicitous approach to the electorate. The conservative Government's record on workers' rights is contrary to numerous explicit guarantees given by Premier Barry O'Farrell prior to the election. The Liberals and The Nationals promised our State's workers—nurses, police, teachers, firefighters and the entire trade union movement—that they had "nothing to fear" from a conservative Government. Those workers have found that the O'Farrell Government misled them. They have had their rights and entitlements reduced. Next Easter, Good Friday, Christmas Day, Boxing Day and Anzac Day they will be working extra shifts rather than spending time with their families, or honouring Australians who served our nation.

Before the election Premier O'Farrell said that talk of cuts to wages and conditions was simply part of a fear campaign. We see otherwise. Those fears were founded. One just has to look at the bill before this House today. Before the election Barry O'Farrell gave assurances that the Coalition would maintain the former Government's workplace protections. After the election we saw otherwise. Today we see otherwise. Put simply, the Government has broken its promises and it has breached its trust with the community. The Government does not have a mandate to strip wages and conditions, or create laws to bankrupt or disable the trade union movement. It did not take this policy to the families of New South Wales before the last election. Those families are now gravely concerned about the actions of the O'Farrell Government. They are wondering who will be the next target in this cowardly death of 1,000 industrial cuts.

Last year 400,000 State Government employees—nurses, teachers, police, and ambulance officers—discovered that their rights and conditions had been slashed. Without any warning to the community, and therefore without even a semblance of a mandate, the O'Farrell Government announced radical industrial relations laws by way of a press release. Next it introduced laws to slash death and disability benefits for police officers—the men and women who put their lives on the line every day for our safety. This prompted the largest rally of uniformed police officers this State has ever seen. They came from Grafton, the Tweed, Tamworth, Gunnedah, Dubbo, Broken Hill, Western Sydney, the South Coast, the Central Coast, Orange and Deniliquin. Just last session the O'Farrell Government targeted the 55,000 local government workers and their rights and entitlements.

Today we see the latest salvo in this ideological attack on the workers that keep our State running. Who, or what, can possibly be next? What is still in the bottom drawer? The anger about and opposition to these laws have not subsided; in fact, they have grown. The O'Farrell Government's decision to increase penalties

involving dispute orders will only add to that anger—and rightly so. History shows us, repeatedly, that the rights and protections we have established are hard fought for and easily lost. Without warning and without consultation the O'Farrell Government seeks to take away more rights of workers, and all at the stroke of a pen. Most seriously, it is seeking to strip away more than a century of industrial relations law and reduce it to only one law: He who has the deepest pockets wins. I oppose the Industrial Relations Amendment (Dispute Orders) Bill 2012.

The Hon. JOHN AJAKA (Parliamentary Secretary) [9.04 p.m.]: I support the Industrial Relations Amendment (Dispute Orders) Bill 2012. Under the Industrial Relations Act 1996 the Industrial Relations Commission is tasked with the resolution of industrial disputes promptly and fairly. The resolution of these disputes can be through conciliation or, if necessary, by arbitration. In arbitrating a dispute the commission may make a recommendation or give a direction to the parties to the industrial dispute. It may also make or vary an award and in some cases make a dispute order. It is the issue of dispute orders, and crucially their contravention, that this bill seeks to address. These dispute orders can take a number of different forms and apply to both employers and employees in different circumstances.

The commission can make a dispute order for an employer to reinstate employees who were dismissed in the course of the industrial dispute. It can also make a dispute order for a person to cease a secondary boycott imposed in connection with the industrial dispute. In addition, the Industrial Relations Commission may order a person to cease or refrain from taking industrial action. In relation to a contravention of a dispute order the commission has a number of options under section 139 of the Industrial Relations Act. These options range from dismissing the matter to imposing a penalty for a breach of the order. The record shows that most parties respond appropriately to a dispute order made by the commission. However, in some cases parties contravene these orders in pursuit of their own interests.

While the number of contraventions of dispute orders has been relatively small, these contraventions have had a widespread impact on large numbers of people in our community. It is apparent that the penalties currently available have proven to be a weak deterrent to parties that disregard the orders made by the commission. Under the Industrial Relations Act the maximum penalty that may be imposed on an industrial organisation or employer is $10,000 for the first day the contravention occurs and an additional $5,000 for each subsequent day on which the contravention continues. If a penalty has been imposed previously on the industrial organisation or employer for a contravention of an earlier dispute order a penalty not exceeding $20,000 in total for the first day the contravention occurs and an additional $10,000 for each subsequent day on which the contravention continues may be imposed.

Recent cases involving the Teachers Federation demonstrate that the penalties that have been imposed have done little to deter this union from further contraventions. Nor does the level of penalty reflect the level of disruption caused by the industrial action. On 1 September 2009 the Industrial Relations Commission issued dispute orders directing the Teachers Federation and its members not to take industrial action in relation to a dispute about teaching hours in TAFE. The Teachers Federation complied with this order at first. However, following the commission's arbitrated decision the union called on its members to take industrial action. Thus, in defiance of the order not to take industrial action, on or about 10 November 2009 approximately 2,360 TAFE teachers took stop work action, which inconvenienced many TAFE students and their families. The Industrial Court found that the union had contravened the commission's dispute order and imposed a penalty of $7,000 on the Teachers Federation.

On 4 February 2010 the Industrial Relations Commission made a further dispute order requiring that TAFE teachers not take industrial action as recommended by the Teachers Federation. In breach of this order, approximately 4,000 TAFE teachers took part in a 24-hour strike on 11 February 2010, again causing massive inconvenience. The Industrial Court found that the actions of the Teachers Federation was a deliberate flouting of a dispute order and fined the union $4,000 for the breach. In addition to these judgements are more recent cases from last year that are the subject of current court proceedings. One such case involves an application for a contravention of dispute orders in the Industrial Court regarding a stoppage by the Teachers Federation on 8 September 2011. Another case relates to contravention of dispute orders issued against the Teachers Federation for a two-hour stop-work meeting on 15 December 2011 by a reported 45,000 teachers.

I make no comment on matters currently before the court. However, industrial action of the kind taken by the Teachers Federation on these occasions clearly has repercussions beyond the employees directly involved—most obviously on students and their parents. Industrial action is a major disruption to families because parents in paid employment have to take time off work to care for their children when they do not

attend school. When parents are away from work employers are affected, as are their customers and fellow workers. These instances show that penalties available to the court are not in line with the impact of breaches of dispute orders, nor are they a deterrent.

It is imperative to increase the amount of the penalties to provide a greater incentive to all parties to adhere to dispute orders. Increasing the penalties will create greater certainty and engender a greater sense of responsibility in all parties to a dispute. The bill will create an environment in which parties are encouraged to abide by dispute orders. The bill will ensure that our industrial relations system can provide a framework for fair and just conduct so that we can promote an efficient and productive economy in our State. I note the comments of those opposite, but there is no penalty if one does not contravene an order. Orders are made to bind both employers and employees. I commend the bill to the House.

Mr DAVID SHOEBRIDGE [9.10 p.m.]: On behalf of The Greens I speak to the Government's Industrial Relations Amendment (Dispute Orders) Bill 2012. We looked at the bill for a hidden agenda, as most government bills coming through this place have such an agenda. We searched carefully for a hidden agenda because we thought that if the Government was introducing another industrial relations bill it must have a hidden agenda. But there was no hidden agenda. It was clear on the face of it that the Government wants to bankrupt unions: that is what it is all about. It is clear from the terms of the bill that the intent of this Government is to bankrupt unions. The bill is awful and it should be opposed by anyone of goodwill in this Chamber.

The Hon. Dr Peter Phelps: You can sit down now, thank you.

Mr DAVID SHOEBRIDGE: I hear the invitation from the Government Whip, but I will continue. The bill does not double fines, it does not triple fines, it does not multiply fines by five: it increases fines 11-fold. If a union has a dispute that goes on for two weeks in the interests of its members because it can see no other way of getting some industrial justice and if that action is in defiance of a dispute order the union will face a fine of $1.65 million under this Government's bill. That is a bankrupted union and that is the intention of the Government, to bankrupt unions, to shut down the voice of working people. The Hon. Walt Secord made the point that the Government's action is like a drip-feed of attacks on working people that the Government intends to continue over its four-year term, because it will not be honest upfront about its industrial agenda.

It wants to pass a bill to enable financially crippling fines to be imposed on industrial organisations, bank that little change and then continue to erode the rights and conditions of working people and industrial organisations in New South Wales for the balance of its term. It will then dare organised labour to take the Government on at the risk of being bankrupted in the face of these 11-fold increases in fines—$1.65 million of members' money taken by the Government if a union has the temerity to stand up for its members' rights in contravention of an order of the Industrial Relations Commission because the union believes there is no other way it can get some industrial fairness for its members.

As I said earlier, the bill does not contain a hidden agenda; it is a barefaced agenda from the Government. It wants not only to impose massively increased penalties, an 11-fold increase, but also to have anyone found in contravention of a dispute order to pay the costs of being prosecuted. It wants to send in the highest-paid Queen's Counsel it can get, a team of government lawyers, to puff up the penalty—effectively, to doubly penalise unions in what has traditionally been a no-cost jurisdiction, the Industrial Relations Commission. The Government wants anyone found to be in contravention of a dispute order to pay not only the penalty but also the inflated legal costs of the lawyers the Government will throw at prosecutions.

The Hon. Dr Peter Phelps: Excellent. It will stop vexatious claims.

Mr DAVID SHOEBRIDGE: I hear the interjection from the Government Whip, who said it is excellent and it will stop vexatious claims. What it will do is stop organised labour from contesting this Government's anti-worker agenda. That is clearly its intent. I can only assume the Government would like to cripple and bankrupt a couple of high-profile unions and cower the rest of them into compliance. The Government has put an ugly little piece of legislation before the House. I hope it is rejected by the House in its entirety. If there were some kind of consumer price index linkage to the penalties that could be imposed—linking it to penalty units, or some similar rational reform—perhaps that could be supported. But this 11-fold increase in fines together with the capacity to impose cost orders on unions is not a hidden agenda. As I said, earlier, the legislation is an ugly, open, ideological attack on the rights of people to gather together in the form

of unions to act collectively for their rights to protect their working conditions. No wonder the Government wants to attack them, because we know now, as the Hon. Walt Secord said, this is act 2 of what will be a 10-act attack on working people in New South Wales.

The Hon. PETER PRIMROSE [9.16 p.m.]: The object of the Industrial Relations Amendment (Dispute Orders) Bill 2012 is to amend the Industrial Relations Act 1996 to increase the maximum monetary penalties that may be imposed for a contravention of a dispute order by employers or employees, and to enable costs to be awarded for the proceedings that relate to such contraventions. The bill also proposes to enable appeals to be made to the Court of Appeal on a question of law against penalties imposed or other actions taken by the Industrial Relations Commission in Court Session for the contravention of dispute orders. During his second reading speech the Minister advised that strengthening the provisions of the Industrial Relations Act 1996 to allow for greater penalties would have a greater deterrent effect, thereby dissuading industrial action.

Item [2] of schedule 1 to the bill increases the maximum monetary penalty that may be imposed for a breach of a dispute order for a first offence to $110,000 for the first day of an offence and $55,000 for each subsequent day the offence continues. The current amounts are $10,000 and $5,000 respectively. The new maximum penalty for a subsequent breach will be $220,000 for the first day of an offence and $110,000 for each subsequent day the offence continues. The current amounts are $20,000 and $10,000 respectively. Schedule 1 [3] removes the prohibition on the awarding of costs in proceedings of the Industrial Relations Commission in Court Session for a contravention of a dispute order. Schedule 1 [5] confers on a party to proceedings for a contravention of a dispute order a right to appeal, with leave, to the Court of Appeal on a question of law or of public importance relating to a penalty imposed or other action taken by the Industrial Relations Commission.

Dispute orders can be made against parties to industrial disputes, members, officers and employees of industrial organisations, and persons engaged in secondary boycotts in connection with industrial disputes. The right to appeal to the Court of Appeal will operate only after any rights of appeal to the Full Bench of the Industrial Relations Commission in Court Session have been exhausted. On an appeal the Court of Appeal may remit the matter to the full bench of the commission for determination in accordance with the decision of the Court of Appeal. Items [1] and [4] of schedule 1 make consequential amendments. Schedule 1 [2] to the bill provides that an industrial organisation or employer could be liable for a $110,000 maximum penalty for the first day of a contravention of a dispute order that prohibits industrial action, and $55,000 for each subsequent day. The current penalties will be increased eleven-fold. As previous speakers have eloquently stated, this is not a dishonest bill. I would never accuse it of being dishonest. Its sole aim is to bankrupt unions.

The bill is another attack by the O'Farrell Government on workers' rights. It can be seen as an attempt to prevent an outbreak of the form of industrial action that the Victorian Baillieu Coalition Government experienced when nurses engaged in industrial action despite court orders not to and a repeat of action taken by New South Wales teachers and police officers in 2011 when they took or threatened to take action despite Industrial Relations Commission warnings.

This is good, old-fashioned, Soviet-style legislation. Soviet regimes targeted people they did not like. When I was considering the implications of this legislation the word "kulak" came to mind. There are people in this place who proudly proclaim to be Liberals, but they say that there are some organisations in our society—legitimate, organised labour groups—that have no right to exist. What have they decided to do to ensure that they do not exist? They have decided to organise and use the power of the State to bankrupt those organisations. I can well imagine that there would be some members on the other side of this House who would choose to transport them, to move them somewhere else in this country.

We are talking about those members who claim to be Liberals and who constantly admonish us about the perils of Soviet-style systems. The word "kulak" keeps coming to mind. According to members opposite, these industrial organisations must be crushed. Of course, other groups can organise. We can have employer organisations, but workers should never be able to organise themselves and to express their views. They should be punished and transported; they should not be allowed to express themselves collectively. Any member who dares to refer to Soviet-style action in debate in future should remember this legislation and the kulaks. I suggest that they also remember that ultimately the Soviet Union was overthrown.

Mark Lennon, the Secretary of Unions NSW, has made a number of significant comments about this bill. In particular he has noted that the Government says that the changes are necessary because unions are not showing the Industrial Relations Commission respect when they breach orders not to take industrial action. Using the word "respect" is a bit rich coming from this Government given that it has imposed on the Industrial

Relations Commission the Government's own wages policy, removed the commission's right to conduct genuine arbitration, stripped it of its ability to deal with the Police Death and Disability Scheme and asked it to adjourn more than 22 WorkCover prosecutions without giving a reason.

The union movement has always respected the Industrial Relations Commission. That is why we have campaigned so hard in recent years to retain it. This Government does not want a genuinely independent tribunal that balances the competing rights of employers and employees. It simply wants to turn the Industrial Relations Commission into a tool to implement and enforce its workforce policies. This legislation will increase fines eleven-fold, which is simply the latest demonstration of this Government's attitude to the Industrial Relations Commission. Unions and the Opposition have too much respect for the Industrial Relations Commission to allow this to happen without a fight.

The Hon. HELEN WESTWOOD [9.24 p.m.]: I oppose the Industrial Relations Amendment (Dispute Orders) Bill 2012. I do so because I want to defend the working people of this State and their human rights, and particularly the universally accepted right to strike. It would appear that that is not a right under this Government. This country's obligation to respect and acknowledge the right to strike is enshrined in the International Covenant on Economic, Social and Cultural Rights, the Constitution of the International Labour Organization and Convention No. 87, which was ratified by Australia in 1975. This fundamental human right is now under attack from the O'Farrell Government. The International Labour Organization Committee of Experts on the Application of Conventions and Recommendations made a key statement on the right strike in 1983 when it said:

> The right to strike is one of the essential means available to workers and their organizations for the promotion and protection of their economic and social interests. These interests not only have to do with obtaining better working conditions and pursuing collective demands of an occupational nature but also seeking solutions to economic and social policy questions and to labour problems of any kind which are of direct concern to the workers.

Human rights are not a recent concept. Discussions of rights and freedoms can be traced through societies for thousands of years to the ancient civilisations of Babylon, China and India. Human rights are central to Buddhist, Christian, Confucian, Hindu, Islamic and Jewish teachings and were also central to the thinking of philosophers in the Middle Ages, the Renaissance and the Enlightenment. Prior to the Second World War the general attitude was that human rights were a matter for nations to work out internally. However, the atrocities committed in the Second World War justifiably made human rights a universal concern. Today international law is based on universally accepted human rights principles. It was not until 1948 that a formal document was drawn up to define universal human rights.

I am beginning to lose count of the number of attacks that this Liberal-Nationals Government has launched on the rights of workers and their unions in the past 12 months. I am yet to see one coherent piece of progressive legislation that benefits our State. Instead, this Government is pursuing its union-busting agenda with the viciousness of a zealot. It is intent on dismantling the harmonious industrial scene that the Labor Government handed over. It is destroying it piece by piece. In just 12 months we have seen thousands upon thousands of public sector workers, miners and farmers turning out en masse protesting about what this Government is doing to them. The O'Farrell Government is now clearly exposing its lack of policy given its WorkChoices-style attack on workers and their unions. It is not even original.

If this Government had bothered to appoint a Minister to deal with industrial relations it would know how unpopular these constant attacks on workers have become. So many amendments have been made to the Industrial Relations Act 1996 that it is almost unrecognisable. The original Act provided an unparalleled framework for the conduct of industrial relations in this State. It has served us very well and it was intrinsically fair and just. I acknowledge that it was drafted by the Hon. Jeff Shaw, who did an outstanding job, which included extensive consultation with employers and unions. Its drafting was not based solely on political considerations; it was built on the very important principle of wide consultation—a concept that is alien to this Government. The O'Farrell Government is taking this State backwards with these draconian amendments to our industrial relations legislation. From the time of its enactment in 1996, the New South Wales Industrial Relations Act was overwhelmingly well received by all industrial parties. Justice Boland stated:

> ... it delivered fair and reasonable wages and employment conditions through the award system, it provided an efficient and effective system of conciliation and arbitration for resolving industrial disputes...

That was not available at that time in the Federal arena thanks to the anti-worker Government that brought us WorkChoices. It appears again that this Government is systematically attacking the Act this time by imposing

outrageous penalties for breaching an order of the Industrial Relations Commission. This bill is an overt attack on the union movement. Currently, section 139 (4) sets out the maximum penalties for breaching a dispute order. I will not repeat them as other members have spoken about the unjustifiably harsh penalties contained in this bill. But it is worth noting, as other members have, that those penalties are 11 times the current penalties. Unions NSW Secretary, Mark Lennon, said that this bill is an attempt to "belt the representatives of working people into submission". He said:

> They want to attack the rights of working people, and they think the best way to do that is through the representatives of working people, which is the union movement in this state.

Let us be very clear about the intent of this bill. The bill's sole intent is to crush the unions and their members. I warn the O'Farrell Government that the workers of this country do not take well to anyone attacking their working rights or conditions—just ask John Howard. That should be a well-heeded warning. In 1985 Macfarlane argued:

> If one is dealing with a highly repressive autocratic regime, it is not difficult, in terms of democratic theory, to justify the use of the strike weapon to secure the overthrow of the Government or major changes in the Constitution.

Under this bill the only remedy workers have is further legal action, no doubt at great expense. Workers may appeal any penalties to a Full Bench of the Commission in Court Session in the first instance, and then to the New South Wales Court of Appeal, but those appeals are limited to matters that involve a question of law of general importance. Usually this course of legal action exceeds what anyone can afford. As other members have stated, the aim of this bill is to bankrupt trade unions. I have news for this Liberal Government: beating workers into submission through amending laws will not work. It did not work in Victoria in 1969 by jailing Clarrie O'Shea and it will not work in New South Wales in 2012. O'Shea's jailing triggered the largest postwar national strike when one million workers stopped work over six days and demanded, "Free Clarrie and repeal the penal powers". According to Shae McCrystal in her book *The Right to Strike in Australia*, which was published in 2010:

> The events of 1968 and 1969 had effectively neutralized the bans clause as a mechanism to control strike action ... The wholesale rejection of fines by the union movement and the public outcry against the jailing of unionists had undermined their [the Government's] credibility.

According to Creighton and Stewart:

> [The] O'Shea affair showed that, excessive and insensitive use of enforcement procedures—especially procedures which do not accord adequate respect for workers and unions to take industrial action to protect and promote their interests—may well be counterproductive both in terms of those who seek to use them and in terms of protecting the integrity of the system of which they are part.

I completely agree with the argument put forward by Clyde Cameron, the then Minister for Labour in the Whitlam Government, when he said:

> Eisenhower was correct in pointing out that the hallmark of the Police State is the loss of the right to strike. A worker's right to strike is surely a basic human right. The right to withdraw labour is the one thing that distinguishes a free worker from the slave. This is a fundamental freedom.

This bill is solely aimed at the union movement and its members. It applies over-the-top punitive penalties that are draconian at best. I can see through the O'Farrell logic. Government members obviously are still running scared from the sight of 40,000 workers gathering in The Domain to march on this place in protest. They are still reeling from the sight of thousands of the State's police in full uniform again marching on this place to overthrow the ripping away of their death and disability pensions. This bill is the kneejerk response to teachers from schools and TAFE, nurses, community workers, hospital workers, firefighters, public servants, ambos and police marching on Parliament House.

I too would be afraid, very afraid, if I were the Government. It will be interesting to see whether the same penalties will apply to employers in lockout situations. I note the recent lockout in Victoria at the end of April when about 80 factory workers were locked out after the landlord changed the locks in a dispute over rent payment. The lockout forced Ford to close its Australian car-making operations and stand down about 1,800 workers at its Broadmeadows and Geelong plants for a week. If that situation were to occur in New South Wales workers would get no respite from this anti-worker Government. The bill should not be supported.

The Hon. Dr PETER PHELPS [9.35 p.m.]: We have heard a lot of emotion, rhetoric and hyperbole from those opposite, but let us move away from emotion and irrationalism to the facts of this matter. Why is the Industrial Relations Amendment (Dispute Orders) Bill 2012 necessary? This bill is introduced to stamp out bad behaviour by some industrial parties—most notably the Teachers Federation in New South Wales. In recent times orders of the New South Wales Industrial Relations Commission to stop or not engage in industrial action have been wilfully and deliberately disobeyed. That kind of behaviour will not be tolerated by the New South Wales Government. This bill increases the available deterrents to flouting commission orders by significantly increasing the maximum fines for such behaviour. The Hon. Sophie Cotsis said, "Oh, well, look there is no need for this bill because there are not many industrial disputes and there are not many violations of the order. So really it is an overreaction."

The Hon. Sophie Cotsis: It is.

The Hon. Dr PETER PHELPS: Well, not many murders are committed in New South Wales but we still have harsh penalties for it. We have harsh penalties to prevent unsavoury events from occurring. Because something happens infrequently does not justify the comment that harsh penalties are not needed. If something warrants a severe penalty then a severe penalty should be imposed. The Hon. Sophie Cotsis also said, "Oh, well, people have no option." An option is available.

The Hon. Scot MacDonald: Point of order: I cannot hear the Hon. Dr Peter Phelps.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! Members will respect the Chair. I cannot hear the debate. I need to be able to hear what is being said. Members will not shout across the Chamber.

The Hon. Dr PETER PHELPS: The infrequency of a violation does not militate in favour of reduced penalties for that violation. The Hon. Sophie Cotsis said there is no other option. There is an option: obey the law. The option is to obey a decision of a properly constituted court of this State. The simple way to evade this fine is to obey the law—the sort of thing that ordinary men and women in New South Wales have to do every day. The way to avoid a fine is to avoid breaking the law. The way to avoid a contempt of court is to stop being contemptuous of it. The Hon. David Shoebridge said that this bill in some way affects the rights of people to gather together. It does nothing of the sort. It stops, or attempts to stop, the ability of people gathering together illegally in violation of an order.

Dr John Kaye: Ah, Queensland—Joh Bjelke-Petersen is raised again.

The Hon. Dr PETER PHELPS: The Greens never have any concern for the law; it is simply a tool for them. If The Greens agree with the law, then it is wonderful. If they disagree with it, it all becomes civil disobedience. The Greens have a very picayunish interest here. They are pernickety. They say, "If the law agrees with us, that's fine and you have to obey it. But if the law doesn't agree with us, then we don't hold ourselves to be within the bounds of the law. We can transcend that because we have a higher duty to humanity." That argument does not wash with anyone. This bill does not stop industrial action; it seeks to stop illegal industrial action.

The bill does not stop industrial action. It does not stop the normal intercourse between industrial organisations and employers. The bill seeks to stop organisations and employers from engaging in deliberate breaches and violations of the rulings of a court of law. Members opposite, if they like, can say, "We believe in the rule of the jungle; we do not believe in the rule of law. We do not believe in the court system." I would encourage them to do so if they believe that. But if they do believe in the rule of law they should be supporting a measure which seeks to enshrine the rule of law and the consequences which flow from decisions of properly constituted courts in this State. As I said, the Left loves courts when they win their cases. When they win it is always: Respect the independent umpire, respect the decision of the court. But, if they lose, it becomes civil disobedience, Jean-Jacques Rousseau, "Let us get to the streets because we have a right to"—

The Hon. Catherine Cusack: Break the law.

The Hon. Dr PETER PHELPS: That is right, because "The law does not apply to us" is exactly their attitude. That is why this bill is necessary. Who will benefit from this bill? The principal beneficiaries of this bill will be the people of New South Wales, the people who will no longer be inconvenienced by illegal and prohibited industrial action. For example, compliance with orders of the commission will mean that the New South Wales Teachers Federation will not be able to force parents into the difficult situation of having to deal

with a temporary closure of their children's school in the event of a stoppage. Importantly, this bill will ensure that orders of the commission, as the impartial umpire of the industrial relations system, are accorded the respect they deserve.

Are the penalties this bill will impose fair? This bill, quite deliberately and intentionally, increases the maximum fines available for contravention of dispute orders—not for the peaceful lawful gathering of workers, not for the peaceful lawful activities of unions, but for the deliberate contravention of dispute orders made by the New South Wales Industrial Relations Commission. That is because the Government takes the wilful and deliberate breaching of such orders very seriously. Unfortunately, the present penalties available for contraventions have not stopped the Teachers Federation from ignoring commission orders. The size of the proposed penalties is therefore intended to create an effective deterrent against breaches of orders, as well as being commensurate with the seriousness of the offending action, which we have to realise is a contempt of the Industrial Relations Commission. It is basically giving it the finger. It is unions giving these properly constituted legal bodies the finger and saying, "We do not care what you think, we do not care what you have decided. You have heard all the facts and all the arguments, and we have lost, but we are still going ahead with our action." That is contemptuousness of the highest order.

When people started talking about how terrible this new penalty amount is I looked back at the original 1996 Act. Just to prove that the reference books in this Chamber are not purely for decorative purposes, I noticed that section 139 (4) (a) of the original 1996 Act provides for a penalty of $10,000 for the first day the contravention occurs and an additional $5,000 for each subsequent day on which the contravention continues. In other words, there has been no change to the size of those penalties since this Act was introduced—no change whatsoever.

The Hon. Catherine Cusack: Who introduced it?

The Hon. Dr PETER PHELPS: It was introduced, of course, by a Labor Government. It soft-soaped the amount of penalties that unions would face because it knew its mates in the union movement could afford to pay $10,000 a day and then $5,000 a day. Since that time there has not been one amendment to the Act. The penalties were soft in 1996 and they are super-soft today. These are marshmallow penalties—$10,000 for the first day and $5,000 every day after that. There are some union officials who spend more than that amount on hookers! Tell me a union fighting fund does not have enough to keep going in violation of a proper court order for day after day after day with penalties of $10,000 for the first day and $5,000 every day after that.

Penalties of the size being introduced are not unknown in Australian industrial relations jurisdictions. For example, the Queensland Industrial Relations Act of 1999—I say again 1999, when Peter Beattie was the Labor Premier of Queensland and Labor controlled the Legislative Assembly in Queensland—provided for fines of $100,000 for breaches of similar orders. Let me say it again. In 1996 the penalty was $10,000 in New South Wales: here for us today, $110,000. But in 1999 Queensland Labor was happy to go with $100,000.

Can decisions about penalties be reviewed? Decisions of a single member of the commission can be reviewed by a Full Bench of the commission. Decisions under the provisions in the bill are no exception and can be referred to a Full Bench of the commission sitting as the Industrial Court by any party to the contravention proceedings. If a party remains aggrieved after appealing to the Full Bench that party can appeal to the New South Wales Court of Appeal. However, the appeal must be on a question of law of public importance. The Court of Appeal may then remit the matter to the Full Bench of the commission for determination in accordance with any decision of the court. Far from being an extreme measure, this is a measure of immense reasonableness. This measure seeks to give the Industrial Relations Commission of New South Wales the respect it deserves. This is a measure which will bring into this State reasonable penalties for gross, inappropriate violations of a ruling of a commission or a court, and I wholeheartedly endorse this bill.

Dr JOHN KAYE [9.46 p.m.]: I look at my watch and I see the date. The date is 31 August 1890. What I just heard in this Chamber was none other than Colonel Thomas Caradoc Rose Price, known to his friends as Tom Price, who famously gave the order in the maritime strike of August 1890, "Fire low and lay the bastards out." That is what this legislation is. It is about firing low and laying the bastards out. This is class warfare. Let us make no mistake: this is about destroying the capacity of working people to organise. It lurks deep in the hearts of every Liberal and every National, the desire to destroy collective action wherever it occurs, particularly where it occurs amongst working people.

The sheer success of the trade union movement in winning decent wages and conditions for working people offends Coalition members. It offends them because it violates their very model of how people should behave. They believe in collective selfishness. Individual selfishness is what it is about. It is all about individualism. Anything done collectively is inherently inferior in the minds of the Coalition. The Liberal-Nationals inherently hate the success of unions, so when they see something successful, when they see something that actually works, what do they have to do? They have to destroy it. We saw it with Peter Reith. We saw it with John Grey Gorton. We saw it with John Winston Howard. We see it with Tony Abbott, and now we see it with the O'Farrell Government.

We see vandalism against the organisations of working people—a desire to destroy them—because the success of the trade union movement offends the Coalition's very model of how things work. It should not work; trade unions should fall apart. The idea that people do things for each other should not work. That is fundamental. We heard the Government Whip quoting the works of Thomas Friedman. Thomas Friedman said that it cannot work. You cannot get anything good out of working together, you have to kick and gouge, and make sure that you stomp on your neighbour. That is what this Government's ideology is about, so trade unions simply do not work.

The Hon. Dr Peter Phelps: You are fighting a class war.

Dr JOHN KAYE: I am not fighting the class war; the Coalition is fighting the class war. The Parliamentary Secretary and the bill before the House—

The Hon. Dr Peter Phelps: We are upholding the law.

Dr JOHN KAYE: —are about destroying the law. It is not about upholding the law. For every Coalition member in the House the bill is about career building: having a union scalp on your belt is how you advance through the ranks.

The Hon. Amanda Fazio: It didn't do Peter Costello much good in the long run.

Dr JOHN KAYE: I will take that interjection. Peter Costello is a singular case. Even though he had Dollar Sweets in his back pocket he never got the top job. That is more a comment on how incompetent Peter Costello was than on the usual career path in the Coalition. The career path of the Coalition is: Go out and wreck a union and you are a good old boy with the Coalition and they will promote you. It is a good career move to be seen to be tough on unions. The Parliamentary Secretary and the Minister—

The Hon. Catherine Cusack: Point of order: Government members have sat and listened to the tirade of abuse with considerable patience. I would ask the Chair to draw the member's comments back to the leave of the bill. What the member has said to this point has no relevance to the legislation before the House.

Dr JOHN KAYE: To the point of order: The leave of the bill concerns contravention of dispute orders and costs of proceedings relating to dispute orders. It is within the leave of this discussion for me to explore why the Government is doing this and what the real motivations are behind it. This is a standard mode of debate in this Chamber. The Coalition used it when it was in Opposition and it is something The Greens have used. It is a standard part of debate. The member is simply trying to silence me because I am embarrassing her.

The Hon. Lynda Voltz: To the point of order: It would be difficult to know what the member was saying with the constant interjections from the Government Whip. Dr John Kaye is within the long title of the bill and should be allowed to proceed forthwith—unless the member would like to get up with more frivolous points of order.

The Hon. Catherine Cusack: Further to the point of order: I am simply requesting that at some point the member return to the leave of the bill.

Mr David Shoebridge: To the point of order: This proves the motivations of the Coalition. When the honourable member in his contribution deals with the policy, motivations and historical basis for this kind of ideological attack the Coalition does not like having it put in context. This is a Government not wanting its current attack on workers' rights and conditions put in an historical context. Putting this kind of generational attack in context is essential.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! There is no point of order. I remind the member with the call that talking of Dollar Sweets in somebody's back pocket is not within the leave of the bill.

Dr JOHN KAYE: I appreciate your ruling Mr Deputy-President and will abide by it. The other reason why we are seeing this legislation before the Chamber is simply this: It is clearly in the review documents that this Government does not want to have unions expressing what happens in their workplace. I heard the Coalition referring to nurses talking about the 1:4 nurse-to-patient ratio and teachers objecting to the Local Schools, Local Decisions policy.

The Hon. Catherine Cusack: It has nothing to do with the bill.

Dr JOHN KAYE: I acknowledge that interjection. It was precisely the issue raised by the Hon. John Ajaka when he spoke to the bill. The member spoke of this bill stopping unions contravening orders and specifically mentioned Local Schools, Local Decisions. The member mentioned the case of Technical and Further Education teachers when their working conditions were devastated by the Industrial Relations Commission and they defied work orders. It is within the leave of the bill, unless the Hon. John Ajaka was outside the leave of the bill, to talk about these matters.

The Hon. Matthew Mason-Cox: You should have raised a point of order then.

Dr JOHN KAYE: I did not because I believed it was within the leave of the bill. I disagreed with what the member said but, unlike the Government, I respected the member's right to address the bill in his own way. The fundamental issue is the right of working people to withdraw their labour—the right to strike. I note that the Government Whip mentioned Queensland. He talked about the $100,000 fines in Queensland. What he did not mention, and the Hon. Sophie Cotsis did—the Government Whip was shouting too much to hear what that member said—is that in Queensland there is a fundamental right to strike. The law here in New South Wales does not allow it. It was the Hon. Walt Secord. I often confuse the two members. It was the Hon. Walt Secord who identified that in Queensland the $100,000 fine came in the context of a fundamental right to strike.

The second issue is that the $100,000 fine is one single fine. Under the proposed legislation before the Chamber two weeks of activity in defiance of a dispute order would attract a $1.65 million fine. In Queensland the fine is $100,000; in New South Wales the fine is $1.65 million. The fine is 16 times higher in New South Wales than in Queensland. Let us be clear: the law in Queensland is tough, the proposed law in New South Wales is punitive. The proposed law in New South Wales is simply there to punish and destroy unions. It is not about law and order; it is about the Coalition getting its own way and creating imbalance in the playing field by taking away from workers the right to strike.

There is a fundamental right to withdraw your labour. That right occurs when the employer does something unconscionable. In the case of the TAFE teachers two years ago, when they saw that they were expected to work for longer hours and at the same time receive less pay for that work they recognised what that would do to their students: it would remove the capacity to prepare lessons and work with students outside of lessons. The Technical and Further Education teachers realised it was a matter of conscience and they had to remove their labour. There was no choice. It was a matter of conscience. What the Coalition wants to do is legislate on conscience. What does that say about a Liberal Party that seeks to use the law to override the right of conscience, the right of people to withdraw their labour when they see something unconscionable happening?

Likewise, with the Local Schools, Local Decisions policy that this Government is enforcing on schools: Teachers should have the right to withdraw their labour. I am proud of the public sector teachers in this State who voted overwhelmingly for further industrial action and to say no to Local Schools, Local Decisions. They know what that means to their students but also to future generations of students in New South Wales. They know what that means. They are prepared to stand up. It is the Coalition that is trying to take away their conscience. It is not just teachers who are prepared to stand up; it is also nurses in this State. Public sector nurses are prepared to stand up and say, "We will withdraw our labour unless we get the conditions—clean hospitals in New South Wales."

The Hon. Sophie Cotsis: And aged care nurses.

Dr JOHN KAYE: We will get to that in a minute. One of the conditions is clean hospitals to protect patients from the spread of infection. This Government has cut corners on hospital cleaning. Of course, this Government would not want nurses to take industrial action because this Government would not want to see its

failings being highlighted by the industrial action of nurses. There is no question that this Government not only dislikes unions but dislikes the public sector. It is working its way through every mechanism it can find to reduce the capacity of teachers and nurses to organise and express their consciences through their capacity to withdraw their labour. This legislation does not belong in 2012; it belongs back in 1890; it belongs back with the Tom Prices and the union busters of the 1890s. This legislation should be defeated.

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

Item of business set down as an order of the day for a future day.

ADJOURNMENT

The Hon. DUNCAN GAY (Minister for Roads and Ports) [10.00 p.m.]: I move:

That this House do now adjourn.

VIETNAM VETERANS

The Hon. WALT SECORD [10.00 p.m.]: I report on a veterans commemoration I attended at the Ingleburn RSL sub-branch in Sydney's south-west a week ago. I also note that in about six weeks it will be the fiftieth anniversary of Australia's first official involvement in the Vietnam War. The arrival of the Australian Army Training Team Vietnam in South Vietnam in July-August 1962 officially marked the beginning of Australia's involvement in the war. By January 1973, 521 Australian soldiers had been killed and more than 3,000 injured in the conflict. Therefore, it is also appropriate that I reflect briefly on that conflict.

On 16 May at 11.00 a.m. the Ingleburn RSL sub-branch held its first annual commemoration of the Battle of Coral-Balmoral. Attending commemorations like this is one of the great privileges of being a parliamentarian. Coral-Balmoral was one of Australia's bloodiest battles of the Vietnam War. It lasted about 26 days and involved Australian, New Zealand and American forces against North Vietnamese and Vietcong forces. While a strategic success, 26 Australians lost their lives at Coral-Balmoral. Forty-four years later the Ingleburn commemoration was well attended, reflecting the significant Vietnam veterans community in the Macarthur region. In fact, Campbelltown was home to Victoria Cross recipient Warrant Officer Kevin Wheatley, who in 1965 was killed defending a mortally wounded soldier.

But, of course, Macarthur and Campbelltown are not the only New South Wales communities with families touched by the Vietnam conflict. I know that last weekend there was a major Coral-Balmoral reunion and commemoration service at Port Macquarie. This August we will see commemorations across the State in Sydney at the Cenotaph, Wollongong, Tamworth, the far North Coast and Springwood, all marking the Battle of Long Tan and Vietnam Veterans Day. Interestingly, at the same time as the Ingleburn commemoration, United States President Barack Obama was in Washington meeting Vietnam veterans and recognising their service. His remarks are worth repeating here. President Obama said the end of that war was:

> … a time when, to our shame, our veterans did not always receive the respect and the thanks they deserved—a mistake that must never be repeated.

I concur with those sentiments. I am pleased that we are now finally recognising the contribution of Vietnam veterans and their place in Australia's military history. I am pleased that the people of Macarthur and Campbelltown can commemorate and celebrate the bravest in their community. The Ingleburn commemoration was like most remembrance services I have attended; however, it was also different. After the conclusion of formal proceedings, the public address system blared "We Gotta Get Out of This Place", by The Animals. While it was actually about life in northern England, it has become an informal anthem for Australian and American Vietnam veterans.

Mingling among the immaculately uniformed officers were grey-bearded men in blue jeans and black leather jackets with "Vietnam Veteran" emblazoned on them. Their sense of pride was well earned and palpable. But clearly the physical toll of the war continues for many. A Vietnam veteran stumbled into me as he lost his footing, almost spilling his tea. It was his "first outing with his new knees" after replacement surgery and he was still getting used to them. Another man wore shiny new medals for the first time. A conscript, he had received the medals after his wife wrote to the Department of Veterans Affairs to get them. She also encouraged him to

come to the service. I knew he was glad he did—after so many years of little recognition. But the recognition is finally coming, both in our communities and in our service institutions. Vietnam veterans are now taking up leadership roles in the RSL and in the various sub-branches.

The president of the Ingleburn RSL sub-branch, Ray James, is himself a Vietnam veteran, as are other members of the executive. But, in truth, to understand the delay in recognition of Vietnam veterans we should look not to the veterans; we should look at ourselves. Like many people who grew up in the 1970s, my views on the contribution of Vietnam veterans have changed. It is undeniable that the service carried out by loyal and commanded soldiers was not properly acknowledged. Even worse, it was conveniently forgotten. Veterans faced outright anger and hostility when they returned from citizens unable to distinguish their disagreement with politicians from the gratitude they owed to those who risked all to serve their country. I do not often quote former Prime Minister John Howard, but on this issue we agree:

> They did what their country lawfully asked them to do at the time, they did it with distinction, with honour, and with bravery, and they should have been more properly honoured some 40 years ago for that.

I note that later this year marks the twenty-fifth anniversary of the famous Welcome Home parade on 3 October 1987 when 25,000 Vietnam veterans marched in Sydney. I believe it started the healing process. I for one look forward to that anniversary too. I am pleased that the loyal and unquestioning service of some 61,000 brave Australians is not only being recognised but celebrated. This is well-earned and too long delayed. I thank the House for its consideration.

COAL AND COAL SEAM GAS EXPLORATION

The Hon. JEREMY BUCKINGHAM [10.05 p.m.]: On 21 April this year I attended a public meeting at the beautiful Cawdor Public School, in south-western Sydney, called by the group Rivers SOS. The topic of the meeting was, not surprisingly, coal seam gas. Also in attendance at the meeting was the Minister for Resources and Energy, Chris Hartcher, and the Opposition Environment spokesperson, the Hon. Luke Foley. Also speaking at the meeting and discussing issues with those in attendance were Drew Hutton, president of the Lock the Gate Alliance, and Peter Martin from the Southern Highlands Action Group. The meeting heard the concerns of residents about both coal seam gas and coalmining in the area.

AGL Energy has already drilled 153 wells in the area—117 of those have been fracked. It currently has plans before the Department of Planning and Infrastructure for 72 additional wells as part of a northern expansion into the Camden Scenic Hills district. Longwall mining in the area has led to severe subsidence of the land. The nature of longwall underground mining, as opposed to board and pillar, is that the mine is deliberately collapsed after the coal is extracted. The collapse of a two-metre void hundreds of metres underground has knock-on repercussions for all land above it. Working up at 45 degrees from the void, the land collapses, tilts and buckles. At the surface larges slabs of stone can be cracked open.

Last year I took a tour of the Waratah Rivulet on the Illawarra plateau. Water flowing down the Waratah Rivulet flows into Woronora Dam, part of the water supply network for 3.5 million people living in Sydney. The Waratah Rivulet is in the special catchment area that protects our drinking water. If you or I walk into the area we may be subject to an $11,000 fine. However, coalminer Peabody and other mining companies are allowed to mine the area. Longwall mining has cracked the river bed of the Waratah Rivulet: cracks many inches wide have formed. Parts of the river bed have collapsed and other parts have been forced up at odd angles. Huge slabs of stone weighing tonnes and tonnes have been displaced and have moved down the rivulet—within Sydney's drinking water supply area. I acknowledge the thumbs-up from the Hon. Scot MacDonald on my mention of the disturbance of stone within the catchment of Sydney's drinking water supply.

Water can disappear down the cracks. Where it resurfaces, if at all, is not well known. The water runs red in parts as iron in the rock reacts creating iron oxide. Peabody Energy Australia is desperately trying to repair the river it has broken. It is pumping in epoxy glue into the cracks. It does not look like it will be very successful. As a stonemason, I cannot believe Peabody can successfully fix a river that it has smashed to pieces. Further down the rivulet, the company has drilled many holes in a row to try to control the direction of the cracking after the longwall has passed beneath. Many Australians would think cracking riverbeds that supply our drinking water is a stupid idea. They are not far wrong.

The Thirlmere Lakes used to provide residents in western Sydney with a place to picnic, kayak or waterski. Now they are largely dried up. The deep peat of the lake bed springs is like a trampoline under one's feet. Dr Philip Pells, a groundwater engineer, conducted a study to determine why the Thirlmere Lakes have

dried up. He concluded that underground coalmining has affected aquifers in the region to such an extent that the lakes have disappeared. Nearby, at Menangle Park, Robin Craig tends horses on her property. She is surrounded by coal seam gas wells, with longwall coal mining occurring underneath her property. Robin Craig attended the Rivers SOS meeting at Cawdor and told Minister Hartcher of her issues with subsidence under her house, issues with cracking in the creek down the back of her property, and concerns about the coal seam gas wells surrounding her property.

At this meeting, in front of many western Sydney residents, Minister Hartcher promised to have someone representing the New South Wales Government attend Ms Craig's property within a week. After the meeting Ms Craig provided her contact details to one of Minister Hartcher's staff. Nothing has happened. Robin Craig has not been contacted. No-one from the Government has been to look at her property. The Minister has failed to keep his commitment, which was made in front of a large gathering of residents.

Ms Craig has contacted my office and is disappointed that the Minister has not kept his word. She has emailed to my office a video of the creek on her property. The video shows the tell-tale signs of longwall mining damage: great chunks of creek bed cracked and heaved up in the air and the river running red with iron oxide. The next longwall mine will run under Ms Craig's house, and she is concerned that subsidence will ruin her home. Does Minister Hartcher's commitment to the Australian Petroleum Production and Extraction Association and coalminers carry more weight than his promise to a resident of western Sydney?

NARRABRI COAL SEAM GAS EXPLORATION

The Hon. SCOT MacDONALD [10.10 p.m.]: I had the honour of being the guest speaker at the Narrabri Chamber of Commerce last week. Narrabri is one of those can-do towns in western New South Wales. Only a few months ago nearly 90 per cent of the town was affected by floods. It is wrestling with a housing shortage due to mining expansion. It sometimes feels that it is in the shadow of nearby cities and towns. But due to strong, determined local leadership, Narrabri is harnessing the opportunities that are presenting in that region. I was asked to address the chamber with my perspective on energy security and the emerging opportunities in coal seam gas.

In the past few months much has been made of the challenges of the resources industry—strategic land use policy, codes of practice for coal seam gas, aquifer interference policies and the like. However, the chamber members made it crystal clear to me that they were anxious for their voices to be heard. They made the point that it was their businesses that serviced the resources industry and would be key partners in building a sustained future for Narrabri. Everyone in that room had the expectation that the environment would be safeguarded, but there was some frustration with groups that ignored the hopes and aspirations of the majority in the town who are equal stakeholders in the region's future.

In my talk I outlined the uncertainty of gas supplies after 2014 as contracts expire and some southern gas fields dwindle. I pointed out that New South Wales has only 6 per cent locally sourced gas. But I spent most of my address on the opportunities in the emerging coal seam gas industry. Petroleum Exploration Licence 238 covers much of the Narrabri region. While the coal seam gas reserves are still subject to exploration and analysis, the certified resource appears to be around 1520 petajoules. The possible reserves may be an additional 6000 petajoules plus. That is some 50 years of New South Wales annual domestic consumption, depending on final proven deposits.

For The Greens and the socialist alliance this is grist for their doomsday mill. Unforgivably, they portray the issue as either/or when the evidence clearly shows that there is room for the environment, landholders and the industry to work together. My message for the Narrabri chamber was that its resources gift could be the making of Narrabri as a future energy, electricity and manufacturing hub. I said that if they built on their can-do approach Narrabri could be an economic powerhouse of the north. Coal seam gas in the nearby geology is rich and comparatively cheaper to access. Economists call it a comparative advantage. Narrabri has it in bucket loads. Coal seam gas could flow from the region to domestic and export sites. The gas could be used to generate electricity for the eastern power grid. There is already a small generator utilising gas produced from test wells, but there is an estimate that a 2000 megawatt generator could be serviced by the nearby gas fields.

We discussed the trend in the United States for manufacturing to relocate close to their shale gas fields. This structural adjustment is a once-in-a-generation realignment of the American economy. I believe we are on the cusp of a similar development in regional New South Wales. To put up unreasonable barriers or to be slow to facilitate the production of coal seam gas in New South Wales will significantly handicap our State's

economy. New South Wales will struggle with affordable peak load generation, miss out on exports, forgo sorely needed royalties for capital works and services, lose industry jobs and skills, be burdened with higher energy costs and continue to be reliant on interstate gas supplies and contracts. Of great concern to me is the brake on regional development.

Resource development causes strains to country towns. The same day I was in Narrabri there was a public hearing into fly in, fly out operations. But I think we should be optimistic. We are seeing opportunities, careers and hope, which have been in short supply. Previously, regional people worked on a farm or for the local council or went off to the city. Small schools were closing, hospitals struggled to maintain their standards and sporting teams withered. I do not accept that that is the fate of regional New South Wales. As the Narrabri Chamber of Commerce is demonstrating, vision and leadership can identify opportunities and build a strong, sustainable future. It is incumbent on our Liberal-Nationals Government to do whatever we can to help them realise their potential.

WORKERS COMPENSATION SCHEME

The Hon. PETER PRIMROSE [10.14 p.m.]: Time has been allocated for only 12 injured workers to address the current parliamentary inquiry into workers compensation. Tonight I want to talk about only one worker, who will not be one of the chosen few. He should have had the opportunity to be heard in person. He is a proud supporter of the Shooters and Fishers Party. This is his statement:

> I am 46 years old.
>
> Until 2009 I worked as a general hand in a factory.
>
> My wife had a part-time job that she liked.
>
> I have always been very fit. I worked out at the gym and exercised regularly.
>
> I have always believed that a man should support himself and his family.
>
> I have never claimed any form of benefit or financial support from the Government.
>
> I did not drink and it was a standing family joke that I refused to even take Panadol.
>
> We worked hard, lived modestly and saved.
>
> I have never failed in anything that I have put my mind to. I worked hard to achieve all of my life goals: I have a wonderful wife, two wonderful sons in a trade and I was working to build us the home that we had always wanted that would provide my sons with a future. We had a good income and a good future.
>
> In 2009 I was working afternoon shift.
>
> There was an electrical fault on the conveyor belt where I was working. The belt knocked me backwards.
>
> It felt as though my back had snapped in half.
>
> Scans showed I had two bulging discs and protrusions.
>
> The company's rehabilitation company told me that I could return to work on reduced hours and then return full time.
>
> I didn't need them to tell me to go back to work. All I wanted was to get back to work.
>
> I didn't want people to think of me as a person with a back injury. I did everything I could to work and to behave normally, even when I was in pain.
>
> But no matter how hard I tried I couldn't get rid of the pain in my back and I couldn't do even the simple things that I used to be able to do.
>
> I felt like a failure—like I was letting my family down.
>
> Pain killers made me feel like a zombie and not in control.
>
> I started to drink beer at night to deal with the pain and help me to sleep.
>
> When I was at work I was "favouring" my back— trying to avoid lifting and other things that would cause me pain.
>
> One night I was repairing a conveyor belt. The belt was rubber and I slipped and twisted my knee.
>
> The pain was terrible—I couldn't move.

> An ambulance took me to hospital.
>
> My wife was extremely upset. She asked me how we could pay our bills and our mortgage if I wasn't working again.
>
> The combination of the pain and seeing my wife so distressed overwhelmed me.
>
> I felt a complete failure.
>
> I felt hopeless and alone.
>
> I couldn't see any future for myself.
>
> I took the car and drove to the south coast. I bought some beer and I took all of the pain killers that I had—and anything else that I could find—I kept drinking and I fell unconscious.
>
> After a couple of days a friend found me unconscious and soaked in my own body fluids.
>
> An ambulance took me to hospital, pumped my stomach and admitted me to a psychiatric ward.
>
> They couldn't believe that I was not dead or brain damaged. I still see a psychiatrist regularly to deal with my depression.
>
> I have been trying everything I can to get back to work. I've got my fitness levels up and I have stopped drinking.
>
> I was attending the Workers Health Centre and they were talking to the company about my return to work.
>
> After being off work for more than 6 months my workers comp reduced to about $350 each week.
>
> It was impossible for us to live.
>
> I had been earning more than $86,000 per year.
>
> Now I faced a mounting mortgage debt, expensive medications and all the other living expenses.
>
> I had never asked anyone for anything in my life, and now I have to depend upon my own children to pay my mortgage!
>
> Just before last Christmas I got a letter sacking me.
>
> I've done nothing wrong.
>
> I've always done everything that I should do to look after myself and my family.
>
> I'm in constant pain.
>
> At most I get 2 or 3 hours sleep a night.
>
> I haven't told anyone—none of my friends—not even my own boys—that I'm on workers comp.
>
> I still try to walk like I don't have a problem and like I'm not in pain.
>
> I worry constantly about how to pay the bills.
>
> I'm selling everything I own to keep our home.
>
> I feel guilty every time I look at my wife, who has to work to support me, and there is absolutely nothing I can do about it.
>
> Everything I have worked for my whole life has gone.
>
> All I want to do is to get back to work and feel like a man again.

And we are told by Minister Pearce that everyone gets a prize.

TRIBUTE TO DONALD TAYLOR RITCHIE, OAM

The Hon. PAUL GREEN [10.19 p.m.]: Tonight I pay tribute to a man who was best known by the phrase, "Is there something I can do to help you?" For almost half a century Don Ritchie saved countless people from ending their lives at Sydney's notorious cliff area known as The Gap. The official number of people he saved is around 160, but unofficially the figure is closer to 500. The phrase, "Is there something I can do to help you?" was often all that was needed to turn people around. Mr Ritchie was quoted as saying that one should not "underestimate the power of a kind word and a smile." The Australian Bureau of Statistics considers the suicide rate as well as drug-induced deaths as an indicator of social cohesion. The bureau states:

> While such deaths can occur for many reasons, and many complex factors might influence a person's decision to suicide, these preventable deaths point to individuals who may be less connected to support networks. For instance, they may be less inclined to seek help or may be less intimately connected to people who might otherwise be aware of problems or step in to assist.

The Australian Bureau of Statistics sheds further light on the tragic suicide rate as follows:

> Men suicide at a higher rate than women, and the male suicide rate is more volatile than that for females. The male suicide rate has declined gradually over the last decade and was at 16 deaths per 100,000 males in 2008. The female rate has remained at around five deaths per 100,000 females since the late 1990s, declining gradually from six per 100,000 females in 1997.
>
> Young men suicide at a higher rate than young females. In 2008, men aged 20-24 years were particularly vulnerable to suicide, with a rate of around 19 suicides per 100,000 males in 2008. This is a higher rate than for young men aged 15-19 years (around 9 suicides per 100,000 men) or for young women (3 suicides per 100,000 women aged 15-19 years and 5 per 100,000 women aged 20-24 years).
>
> Of all people, middle aged men and older men suicide at the highest rate. In 2008, men aged 40-44 years had the highest suicide rate at just over 26 deaths per 100,000 males. Men aged 85 years and over also had a suicide rate of 26 deaths per 100,000 males.

Anti-suicide campaigner Dianne Gaddin, who tragically lost her daughter at The Gap in 2005, said:

> Sometimes just a smile and a greeting is all it takes to change the mind of the would-be suicider. I do not believe people want to die, but living is just too hard. To me, Don is a guardian angel.

Ms Gaddin further described him as a brave man who exhibited an "aura of kindness". Mr Ritchie was known for bringing the people he saved back for tea or breakfast in his house on Old South Head Road, which was across the road from the southern end of The Gap Park. Tam Johnson, the acting chief executive of the National Australia Day Council, said:

> In a situation where most would turn a blind eye, Don has taken action ... with such simple actions Don has saved an extraordinary number of lives.
>
> Don's story touched the hearts of all Australians and challenged each of us to rethink what it means to be a good neighbour.

Mr Ritchie's actions led people to nickname him the "Angel of The Gap". In 2006 he was awarded the Medal of the Order of Australia, and in 2010 Woollahra Council named Mr Ritchie and his wife, Moya, Citizens of the Year. He was acknowledged not only officially but also privately by some of the people he saved with many letters of thanks over the years. In one case a woman presented Mr Ritchie and his wife with a bottle of French champagne, which was followed up with a Christmas card that read, "I will never forget your important intervention in my life. I am well". Another person gave him a painting with the phrase, "Thank you, you are truly an angel that walks among us". Sadly, on 13 May, surrounded by his family, Mr Ritchie passed away at the age of 86. His actions exemplified the virtues of the Good Samaritan: a man who truly reached out and helped his neighbour in need. Our Lord said, "Assuredly, I say to you, inasmuch as you did it to one of the least of these My brethren, you did it to Me", Matthew 25:40. We honour the memory of this great man, and commend him to the Lord.

BROKEN HILL AGFAIR

The Hon. NIALL BLAIR [10.24 p.m.]: On the first weekend in May I boarded a Rex plane bound for Broken Hill to attend the 2012 Agfair—a two-day agricultural field day and the biggest biannual event on the Broken Hill and West Darling calendar. This year's event was a huge success, with locals turning out in droves to celebrate the record rain, the booming season and the revived pastoral industry in Broken Hill. All stalls were booked out in advance of the show and I very much enjoyed seeing the large variety of services on offer, the goods available for purchase and the cutting-edge agricultural equipment on display. Key industry and government agencies with stalls included the catchment management authority; the Grains Research and Development Corporation; Fire and Rescue NSW; NSW Farmers; and the Meat and Livestock Association, from which I managed to pick up some great recipes for goat curry.

It was great to spend time chatting to many volunteers, including those from the Rural Fire Service. Husband and wife team Robyn and Chris Favelle took some time to explain the challenges of volunteering in the Far West division, which covers an area from Cobar to South Australia. They have had to cross State lines to fight large bushfires, particularly over the past few years. Broken Hill hospital had a stand celebrating its 125 years of service to the Broken Hill community and surrounding district. The hospital progressed from a marquee erected in 1887 to a modern facility of which the community is very proud. Later this year a $6.6 million mental health facility will open at Broken Hill, consisting of 10 bedrooms with ensuites, a daily living kitchen and laundry, consulting and meeting rooms, and community gardens. The facility will provide accommodation for patients who have been discharged from the acute mental health inpatient unit but who are not yet ready to go home. Funding for this project was announced by local State member John Williams and the Minister for Health, Jillian Skinner. The artists' impressions on display at the Agfair showed it to be a very impressive and welcoming facility.

Over the weekend I spent some time at The Nationals' stall, supporting the local member, John Williams, the member for Murray-Darling, alongside the Hon. Rick Colless and the Federal member for Calare, the Hon. John Cobb. It was fantastic to gauge the positive feedback received by John, who was elected in 2007 and was the first non-Labor candidate ever to win a booth in Broken Hill. His tireless efforts and popularity were confirmed in 2011, when he received a 17.6 per cent swing towards him and won every booth in Broken Hill.

The Hon. Rick Colless: Every booth in Broken Hill.

The Hon. NIALL BLAIR: I acknowledge that interjection: he won every booth in Broken Hill. John Williams has been a proud resident of Broken Hill since he was six years old and he is doing an outstanding job of representing his community in the other place. I was pleased to be able to spend time in his home town and to support him at the 2012 Agfair. I congratulate the Broken Hill community on a resoundingly successful Agfair. I mention in particular Bruce Church, OAM—the Rotarian who founded the event in 1990 with the philosophy that the rural pastoral community and the residents of the City of Broken Hill would work together to run it. As outlined by John Williams in the other place, the event is an essential fundraiser for Broken Hill's two Rotary Clubs, which do a great job providing refreshments and keeping the event running smoothly.

I acknowledge quite a few of The Nationals members who gave up their time over the weekend to man the stalls. They include John Elliott, Peter and Mary Bevan, Leanne James, Ross and Mary Wecker, and David Gallagher. I also acknowledge the work of my colleagues the Hon. Rick Colless and John Williams, particularly in meeting with Rory Treweeke, the chair of the Western Catchment Management Authority, and Clyde Thompson, the chief executive officer of the Royal Flying Doctor Service. I acknowledge the fact that the Liberal Party was also represented at the Agfair by the Federal member for Farrer, Susan Lahey, who, along with the Hon. Rick Colless and John Williams, attended the Royal Flying Doctor Service dinner on the Saturday night.

I was disappointed, however, not to see any representation from the Labor Party—not even Country Labor—during Agfair, particularly when Broken Hill used to be Labor Party heartland. It is now The Nationals' heartland following the resounding success of John Williams in that electorate. It was a great chance for me to witness firsthand how popular John is in the local area and to see the number of people who went up to him to shake his hand and thank him for all his hard work. No-one could walk away from Agfair and fail to see how much John Williams loves the Broken Hill area and how popular he is there. He is always willing to go in to bat for his constituents on any issue that they need addressed.

BROKEN HILL AGFAIR

The Hon. AMANDA FAZIO [10.29 p.m.]: I will explain the role of Country Labor in attending agricultural fairs. It has never been the case that Country Labor has exhibited at the Broken Hill Agfair but we are regular exhibitors at a number of country agricultural fairs across New South Wales, including Agquip at Gunnedah, Primex at Casino, and at Murrumbateman.

The Hon. Rick Colless: Well, you don't turn up.

The Hon. AMANDA FAZIO: For the Hon. Rick Colless to say that there were no Labor Party members in attendance at Agfair shows that he is prone to exaggeration and to making claims that he cannot uphold. The Broken Hill Agfair is simply not on the schedule of fairs and agricultural shows that we attend regularly, but Country Labor certainly is represented at the agricultural shows that its members do attend regularly.

Question—That this House do now adjourn—put and resolved in the affirmative.

Motion agreed to.

The House adjourned at 10.30 p.m. until Thursday 24 May 2012 at 9.30 a.m.