

LEGISLATIVE COUNCIL

Wednesday 21 November 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 items Nos 901 and 951 outside the Order of Precedence objected to as being taken as formal business.

WOMEN'S LEGAL SERVICES THIRTIETH ANNIVERSARY

Motion by the Hon. Amanda Fazio, on behalf of the Hon. SOPHIE COTSIS, agreed to:

1. That this House notes that:
 - (a) Women's Legal Services NSW held its thirtieth anniversary gala dinner on Wednesday 26 September 2012,
 - (b) Women's Legal Services NSW is a community legal service that provides women with free legal advice, as well as information, education and resources,
 - (c) Women's Legal Services NSW concentrates on issues that primarily affect women, including domestic violence, sexual assault, family law and discrimination, and
 - (d) through the services and education Women's Legal Services NSW provides, it is focused on allowing all women in New South Wales access to justice.
2. That this House congratulates Women's Legal Services NSW on its thirtieth anniversary and commends the work it does in advancing the status of women in New South Wales.

TRIBUTE TO HILARY CLINTON

Motion by the Hon. Amanda Fazio, on behalf of the Hon. SOPHIE COTSIS, agreed to:

That this House:

- (a) congratulates United States Secretary of State, Hillary Clinton, for her successful term as the US President's chief Foreign Affairs adviser,
- (b) commends Secretary Clinton on her four-year tenure which saw the Secretary visit 112 countries and change the face of United States foreign policy,
- (c) acknowledges Secretary Clinton's major achievements as US Secretary of State, including:
 - (i) advocacy and dedication to the promotion of human rights,
 - (ii) introducing the Global Hunger and Food Security policy, aimed at increasing sustainability, reducing the number of children suffering from under-nutrition and raising the average income in rural areas,
 - (iii) promoting International Cyber Diplomacy by seeking a cyberspace that empowers individuals, strengthens communities, builds better governments and strengthens national and international security,
 - (iv) introducing the Global Health Initiative to ensure more unified investments in global health, and
- (d) recognises and congratulates the US Secretary of State on her commitment to human rights throughout her career including:
 - (i) as an intern at Treuhaft, Walker and Burnstein law firm working on child custody cases,

- (ii) leading bipartisan efforts to improve adoption and foster care systems, reduce teen pregnancy and provide health care to children through the Children's Health Insurance as the First Lady,
- (iii) her continued efforts to promote women's rights, children's rights and access to health as a Senator.

ABORIGINAL WOMEN'S SEXUAL ASSAULT NETWORK

Motion by the Hon. Amanda Fazio, on behalf of Hon. SOPHIE COTSIS, agreed to:

1. That this House notes:
 - (a) that the Aboriginal Women's Sexual Assault Network, also known as "Hey Sis, we've got your back", held its launch in the Jubilee Room at Parliament House on Thursday 20 September 2012,
 - (b) that the Aboriginal Women's Sexual Assault Network is the result of a partnership between the Mudgin-Gal Aboriginal Corporation and the NSW Rape Crisis Centre, which aims to support Aboriginal women and reduce sexual violence in their communities,
 - (c) that the rate of sexual assault in Aboriginal communities is approximately three times higher than in non-Aboriginal communities in Australia, and
 - (d) that there is a need for culturally aware and appropriate services to support victims of sexual violence as well as the communities working to reduce sexual violence.
2. That this House recognises the extraordinary contributions of Yatungka Gordon, Dixie Link-Gordon, Karen Willis and their colleagues at the Mudgin-Gal Aboriginal women's health services and support services for their work with people who have experienced sexual violence.
3. That this House congratulates the network on its launch and wishes it success in its endeavours.

DEEPAVALI MELA

Motion by the Hon. AMANDA FAZIO agreed to:

1. That this House notes that:
 - (a) the Inaugural Deepavali Mela 2012 was held by Sanatan Satsang Sabha of NSW Inc. on 27 and 28 October 2012 at Bigge Park, Liverpool,
 - (b) Sanatan Satsang Sabha is a Hindu community organisation comprised of Indians from Fiji who promote Indian culture and raise funds to assist underprivileged people in Fiji,
 - (c) the festival included a charity pageant, food and variety stalls, live music on Saturday 27 October, cultural and Bollywood performances and children's fun and activities,
 - (d) the Sanatan Satsang Sabha organisation raised money for underprivileged students in Fiji and Australia, and also plans to build a hall in Sydney, and
 - (e) the event was such a success that it is hoped to become an annual event for the Hindu community in Liverpool.
2. That this House congratulates the President, Mrs Sharmila Prakash, and the Committee of Sanatan Satsang Sabha for inaugurating such a successful cultural event.

TRIBUTE TO DR SURENDRANATH RANANAVARE

Motion by the Hon. AMANDA FAZIO agreed to:

1. That this House notes and celebrates the life and many achievements of Dr Surendranath Ranनावare otherwise known as Dr Suresh, a longstanding resident of Mullumbimby for 36 years, who dedicated his life and services to the community and sadly passed away on Sunday 22 July 2012 aged 71.
2. That this House notes that:
 - (a) Dr Suresh graduated from the University of Bombay in India in 1967 and came to Mullumbimby in June 1976 practising as a solo medical practitioner, where he continued to practice from his Burringbar Street Practice until his death,
 - (b) so dedicated to his profession, Dr Suresh did not take leave for the first 25 years of his working life except to attend lectures, seminars, postgraduate courses and workshops,
 - (c) over the years, Dr Suresh developed a solid and friendly practice and built a good relationship with his patients and the wider community and, so strong was this bond with his patients, some travelled lengthy distances to see him and his practice continued to grow into the thousands,

- (d) Dr Suresh believed in integrative medicine and held qualifications in spinal manipulation, laser therapy acupuncture, hypnotherapy, nutritional and Ayurvedic medicine,
- (e) Dr Suresh was Mullumbimby Hospital's longest serving Visiting Medical Officer [VMO],
- (f) while working as a Visiting Medical Officer Dr Suresh guided other young Visiting Medical Officers who encountered difficulties, taught young registrars and nurses showing them integrative medicine approaches such as suturing body lacerations in frightened children, reducing joint dislocations, doing urethral dilatation and difficult confinements under hypnosis, using laser acupuncture in paraphimosis or delivering babies under acupuncture analgesia without drugs in order to prevent side effects to the mother or newborn babies, procedures not performed in mainstream hospitals,
- (g) one of Dr Suresh's many achievements was helping to raise over \$10,000 to buy hospital equipment in 2003,
- (h) Dr Suresh also helped raise thousands of dollars to support local air and sea rescue services and more than a million dollars to build and furnish an old people's bed hostel, run by St Vincent de Paul Society and the Catholic Health Service, while an active member of the Chincogam Fiesta Committee and, since opening in January 1984 the number of beds has increased from 43 substantially,
- (i) Dr Suresh was also noted for his work in Indigenous Reconciliation in which he spent countless hours and energy and his own money in research to protect the sacred sites of the Bundjalung Aboriginal people with the help of local historian Mr Frank Mills and the late Judge Dr Bob Bellear,
- (j) Dr Suresh instigated the naming of Parkland at Ocean Shores in honour of Judge Dr Robert Bellear, QC, a former local resident and the first and only Indigenous judge in more than 215 years of Australian European history,
- (k) in order to prevent snakebite casualties within the region and hence save thousands of taxpayer dollars, Dr Suresh was responsible for lobbying business groups and charities, members of parliament and the media to fund Mr George Ellis, known as "George the Snake man", to relocate snakes to a more appropriate environment,
- (l) Dr Suresh was one of the founding members and financed the first and only Hare Krishna, or International Society of Krishna Conscience, primary school in Australia, which is recognised by the Department of Education and Communities,
- (m) Dr Suresh collected \$35,000 for Mullumbimby Swimming Pool, which produced outstanding Olympian and Commonwealth Gold Medallist butterfly swimmer Petria Thomas,
- (n) Dr Suresh was a member of the Australian Labor Party for many decades and held the positions of President and Senior Vice President of the Mullumbimby Branch,
- (o) a highlight of Dr Suresh's life was when he was chosen as a torch bearer for the 2000 Olympics, the first Indian in the world to carry the torch,
- (p) Dr Suresh's ties with India remained strong over the years and he financially supported the Institution for the Disadvantaged Poor in India and the Open Free Food Centres for thousands of people, including the Orange Clan of Holy Men on the way to the Pilgrimage of Amaramath in the Himalayas, and
- (q) Dr Suresh was described as a true gentleman, kind, intelligent, humble and loved by his patients and he will be greatly missed.

**SAN ANTONIO DA PADOVA PROTETTORE DI POGGIOREALE TRAPANI SYDNEY LTD
FORTY-SECOND BALL**

Motion by the Hon. AMANDA FAZIO agreed to:

1. That this House notes that:

- (a) the forty-second Annual Ball of the San Antonio da Padova Protettore di Poggioreale Trapani—Sydney Ltd was held on Friday 9 November 2012 at the Conca D'Oro Lounge at Riverwood, and
- (b) the following guests were in attendance:
 - (i) the Italian Consul General, Mr Sergio Martes, and Mrs Maria Martes,
 - (ii) the Hon. Victor Dominello, MP, representing the Premier of New South Wales,
 - (iii) the Hon. Amanda Fazio, MLC,
 - (iv) Mayor Ivan Petch of the City of Ryde,
 - (v) Councillor Tony Fasanella and Mrs Fasanella of the City of Canada Bay.

2. That this House notes:
 - (a) the hard work and dedication to the provision of quality aged care by the Board of Directors of San Antonio da Padova and congratulates the following for organising the dinner:
 - (i) Peter Maniscalco, President,
 - (ii) Ross Cutelli, Vice President,
 - (iii) Tony Scaltrito, Secretary,
 - (iv) Gino Paladino, Treasurer,
 - (v) Guiseppe Tusa, Assistant Treasurer,
 - (vi) Frank Aloisio, Director,
 - (vii) Tony Battiato, Director,
 - (viii) Teresa Todaro Restifa, Director,
 - (ix) Rose Williams, Director, and
 - (b) the contribution of the sponsors of the Annual Ball, being Navarra Venues, A O'Hare Funeral Directors, Berlina Bodyworks, ART BC Jewellers, Artisticstone Maniscalco, Stillone and Associates and Ferndale gardens.
3. That this House:
 - (a) notes that the San Antonio da Padova Protettore di Poggioreale Sydney Nursing Home Limited is available to the elderly and infirmed in the community regardless of origin, faith or circumstance, and
 - (b) commends the association for its plans to expand its nursing home at Ryde from 40 beds to 104 beds.

MUKTI-GUPTESHWAR MANDIR SOCIETY FESTIVAL

Motion by the Hon. AMANDA FAZIO agreed to:

1. That this House notes that a three-day festival was held by the Mukti-Gupteshwar Mandir Society at the Mukti-Gupteshwar Hindu Temple at Minto from 19 to 21 October 2012 to officially launch the Holy Book *Mukti-Gupteshwar Shiv Dharm Maha-Shastra*.
2. That this House notes that:
 - (a) the ancient and holy text has been translated for the first time from Sanskrit to Hindi to allow the *Maha-Shastra* to be more widely read,
 - (b) the *Maha-Shastra* is compiled from a very ancient manuscript written in Bhojpatra and the entire book contains 7996 Shlokas or hymns and contains seven sections, and
 - (c) present at the launch were:
 - (i) Mr Arun Kumar Goel, Consul General of India in Sydney,
 - (ii) Mr Deepak K. Khadka, Honorary Consul Consulate General of Nepal,
 - (iii) the Hon. Amanda Fazio, MLC,
 - (iv) Mr Bryan Doyle, MP, member for Campbelltown, and
 - (v) Councillor Raj Datta, Strathfield Council.
3. That this House commends Mr Prem Misra and the members of the Managing Committee of the Mukti-Gupteshwar Mandir and the scholars who translated this holy text for their work in making the *Mukti-Gupteshwar Shiv Dharm Maha-Shastra* more widely available.

TRIBUTE TO KELVIN CROMBIE

Motion by Reverend the Hon. FRED NILE agreed to:

1. That this House notes that:
 - (a) had the German-led forces won at El Alamein in 1942, there is a strong likelihood that the Nazi regime would have brought the Holocaust into the Middle East and attempted to murder some 600,000 Jewish people living in Egypt and the land of Israel, or British Mandated Palestine at the time,

- (b) there was an official German plan to attach a specialised murder squad to Rommel's Panzer Army Africa,
 - (c) following the victory by the allies, led by Field Marshal Viscount Montgomery, the Jewish Government in Israel, before May 1948, presented Field Marshal Montgomery with an official gift of gratitude for his role in saving the Jewish community in Palestine from the impending conquest by the German-led forces commanded by General Rommel, and that gift was a Bible, and
 - (d) the words on the inscription, attached to the Bible which is the Tenach, or Old Testament, and encased on the cover in silver and mother of pearl are: "Field Marshal Viscount Montgomery, GCB, DSO, the gallant leader of the victorious forces by whose hand God has placed salvation in Zion in the days of El Alamein presented in token of the everlasting gratitude of Palestine Jewry by the Vaad Leumi, General Council of the Jewish Community in Palestine".
2. That this House:
- (a) congratulates Kelvin Crombie for discovering the location of Field Marshal Viscount Montgomery's *Bible* in England, bringing it to Jerusalem, and for being custodian of this *Bible* on a long-term loan during this period of the seventieth anniversary of the Battle of El Alamein,
 - (b) extends its thanks and congratulations to Kelvin Crombie, an Australian historian and author, who has spent much time researching and documenting the above information in his soon to be launched book, *El Alamein—Halting a Possible Holocaust in the Middle East*,
 - (c) acknowledges the work and dedication of Mr Crombie in documenting the vital facts concerning the relationship between various battles in the Eastern Mediterranean between 1940 and 1942 and the welfare of the Jewish people, and
 - (d) extends its congratulations to Kelvin Crombie on his book's initial launch in the House of Lords in London on 7 November 2012, and on the Australian launch in Sydney in the New South Wales Parliament House Theatre on 26 November 2012.

AUSTRALIAN MEDICAL ASSOCIATION (NSW) CHARITABLE FOUNDATION GALA DINNER

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes that:
- (a) the Australian Medical Association of New South Wales [AMA NSW] Charitable Foundation held its annual black tie gala dinner on Friday 12 October 2012, and
 - (b) the Australian Medical Association of New South Wales Charitable Foundation was established in 1995 with the aim of generating funding to invest in projects that promote good health and wellbeing among Australians.
2. That this House acknowledges that:
- (a) the 2012 charity gala dinner marked the seventeenth anniversary of the inception of the Australian Medical Association of New South Wales Charitable Foundation in 1995,
 - (b) in the 17 years the Australian Medical Association of New South Wales Charitable Foundation has been in operation, the foundation has raised over one million dollars for charities that aid some of the most disadvantaged members of the community,
 - (c) Associate Professor John Gullotta, AM, has been the chair of the Australian Medical Association of New South Wales Charitable Foundation since 2006,
 - (d) the Australian Medical Association of New South Wales Charitable Foundation actively engages with government, business and community groups to fund projects that directly meet the needs of those in the community, especially those in rural and regional New South Wales,
 - (e) the Australian Medical Association of New South Wales Charitable Foundation donated a Toyota Tarago to the community-based charity CanAssist,
 - (f) CanAssist offers financial support, accommodation and travel assistance to those suffering from cancer who need to travel long distances to receive treatment,
 - (g) CanAssist has over 50 branches operating across rural and regional New South Wales, staffed by approximately 2,400 volunteers, and
 - (h) the donation of a Toyota Tarago by the Australian Medical Association of New South Wales Charitable Foundation has allowed CanAssist to invest greater funding into supporting cancer patients, by saving the organisation approximately \$60,000 in taxi and transport fares with the addition of this vehicle to their services.

3. That this House:
 - (a) congratulates the Australian Medical Association of New South Wales Charitable Foundation for its ongoing and inspiring efforts in supporting the needs of those who are most vulnerable in our communities, and
 - (b) commends the tireless and generous work of the volunteers and donors who have helped alongside the Australian Medical Association of New South Wales Charitable Foundation in aiding those in our community who are in need of health and medical assistance.

NIMMIE-CAIRA SYSTEM ENHANCED ENVIRONMENTAL WATER DELIVERY PROJECT

Production of Documents: Tabling of Report of Independent Legal Arbiter

Motion by the Hon. Jeremy Buckingham agreed to:

1. That the report of the Independent Legal Arbiter, the Hon. Terence Cole, QC, dated 20 November 2012, on the disputed claim of privilege on papers relating to the Nimmie-Caira System Enhanced Environmental Water Delivery Project be laid on the table by the Clerk.
2. That, on tabling, the report is authorised to be published.

DYNAMIC ALTERNATIVE LEARNING ENVIRONMENT PROGRAM

Motion by the Hon. GREG DONNELLY agreed to:

1. That this House notes that:
 - (a) the Dynamic Alternative Learning Environment [DALE] Young Mothers' Program was launched in August 2000 in the Newcastle suburb of Waratah,
 - (b) the program is dedicated to supporting pregnant teenagers and teenage mothers to continue their education,
 - (c) it is administered by the St Philip's Christian Education Foundation, and
 - (d) it is recognised by the New South Wales Board of Studies.
2. That this House notes that:
 - (a) the success of the Young Mothers' Program has resulted in its expansion not just in Newcastle but to the Central Coast,
 - (b) the Young Parents' Program Wyong Region is continuing its work to enhance and expand alternate education programs for young people who have had or are expecting a child,
 - (c) in addition to helping young people gain their High School Certificate, the program offers workshops on parenting, lifestyle skills and nutritional cooking, and
 - (d) the program also offers onsite childcare in a crèche, free of charge.
3. That this House acknowledges and thanks Central Coast Partnership Brokers, *youthconnections.com.au*, Wadalba Community School, St Philip's Christian School Gosford, the Dynamic Alternative Learning Environment Young Mothers' Program and the Commonwealth Government for the funding and support given to the Young Parents Program Wyong Region.

HMAS SYDNEY

Motion by the Hon. CHARLIE LYNN agreed to:

1. That this House notes the loss of HMAS *Sydney* on 19 November, 71 years ago.
2. That this House notes that:
 - (a) the Australian light cruiser HMAS *Sydney* and her gallant crew were lost shortly after sunset on 19 November 1941 off the Western Australian coast,
 - (b) the ultimate fate of HMAS *Sydney* remained a mystery until 2008, and it is now known that the shattered hull of HMAS *Sydney* lies on the bed of the Indian Ocean in 2,500 metres of water 240 kilometres off Shark Bay,
 - (c) HMAS *Sydney* had a complement of 645 men, including five Royal Australian Air Force personnel to fly and maintain a Walrus flying boat,
 - (d) on Armistice Day 1941, HMAS *Sydney* steamed out of Fremantle to pick up a convoy that had come from the eastern States,

- (e) HMAS *Sydney* escorted the convoy to Singapore without incident and was returning to Fremantle when, in the late afternoon of 19 November 1941, *Sydney* encountered what appeared to be a Dutch freighter,
 - (f) with the light fading and an unidentified but sizeable ship in a vitally important Australian shipping lane, it was essential that *Sydney* confirm the identity of the foreign vessel so instead of standing off and waiting for the mystery ship to respond to the coded messages HMAS *Sydney* was sending, she closed to within 1,600 metres,
 - (g) suddenly the freighter dropped its pretence of being a non-combatant and revealed itself as the Nazi auxiliary cruiser HSK *Kormoran*,
 - (h) HMAS *Sydney* was set on fire and struck by several torpedoes,
 - (i) the ship was doomed but at no stage did the crew leave their action stations and, despite the surprise, with communications down and with most officers dead or dying, *Sydney's* gun crews fought on through choking smoke as fires consumed their ship, and
 - (j) today, on a hill outside Geraldton on the Western Australian coast, there is a monument to the loss of HMAS *Sydney*, in which a bronze mother and child stare out to sea in the direction of the naval battle and above them, the monument includes 645 seabirds, one for the soul of each of the Australian and British sailors and airmen who went down to the sea in that ship.
3. That this House notes that HMAS *Sydney* was lost with all 645 aboard, Lest We Forget.
 4. That this House acknowledges and commends the organising committee and Mr Brian Yeo, Secretary of the HMAS *Sydney* Association, for a successful commemoration service held on Monday 19 November 2012 at the Cenotaph, Martin Place.

VIETNAM VETERANS REMEMBRANCE DAY

Motion by the Hon. DAVID CLARKE agreed to:

1. That this House notes that:
 - (a) on Sunday 11 November 2012, Vietnam Veterans Remembrance Day was commemorated at the Vietnam War Comradeship Memorial at Cabravale Park, Cabramatta, at which 10 bronze plaques were unveiled engraved with the names of the 521 Australian servicemen who lost their lives in that conflict,
 - (b) Remembrance Day 2012 marked the fiftieth anniversary of the beginning of Australia's involvement in the Vietnam War,
 - (c) the Vietnam Veterans Remembrance Day Commemoration was organised jointly by:
 - (i) the Vietnam Community in Australia (NSW Chapter),
 - (ii) the Army of the Republic of Vietnam Veterans Association in New South Wales,
 - (iii) the Vietnam Veterans Association of Australia, representing Australian ex-service veterans who served in Vietnam, and
 - (d) guests who attended included:
 - (i) Her Excellency Professor Marie Bashir, AC, CVO, Governor of New South Wales,
 - (ii) Mr Andrew Rohan, MP, member for Smithfield, representing the Hon. Barry O'Farrell, MP, Premier of New South Wales,
 - (iii) Mr David McCann, National Vice-President of the Vietnam Veterans Association of Australia,
 - (iv) Mr Tri Vo, Federal President of the Vietnamese Community in Australia,
 - (v) Mr Thanh Nguyen, President of the Vietnamese Community in Australia (NSW Chapter),
 - (vi) Mr Chris Hayes MP, Federal member for Fowler,
 - (vii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice,
 - (viii) Mrs Tanya Mihailuk, MP, member for Bankstown, and shadow Minister for Fair Trading, Healthy Lifestyles, and Volunteering and Youth,
 - (ix) Mr Nick Lalich, MP, member for Cabramatta,
 - (x) Mr Guy Zangari, MP, member for Fairfield, and shadow Minister for Citizenship and Communities,
 - (xi) Mr Frank Carbone, Mayor, City of Fairfield,
 - (xii) representatives and members of several sub-branches of the Returned Services League and Vietnamese War Veterans.

2. That this House commends the Vietnamese Community in Australia (NSW Chapter), the Army of the Republic of Vietnam Veterans Association in New South Wales and the Vietnam Veterans Association of Australia for jointly organising this Fiftieth Anniversary Vietnam Veterans Remembrance Day Commemoration.
3. That this House pays its respects to:
 - (a) the memory of those Republic of Vietnam and Australian Service personnel who died in the Vietnam War and are immortalised in the Vietnam Comradeship Memorial at Cabravale Park, Cabramatta, and
 - (b) the relatives of those Republic of Vietnam and Australian service personnel who gave their lives in the Vietnam War.

LA PEROUSE MUSEUM CANN FAMILY EXHIBITION

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes:
 - (a) the inclusion of a permanent exhibition at the La Perouse Museum in honour and recognition of the Cann family, and
 - (b) that the Cann family have conducted a weekly reptile show in the La Perouse area since the early twentieth century until 2010, and have played a major role in the conservation of the local environment and development of anti-venom treatments for snake bites.
2. That this House acknowledges that:
 - (a) the Cann family had been running the snake show in the La Perouse area since the early twentieth century,
 - (b) many of the handlers involved in the show were pioneers in the field of herpetology, discovering many new species of amphibians and reptiles,
 - (c) those involved in the snake show were pioneers of anti-venom treatments and medicines for snake bites, and
 - (d) Mr John Cann has made many outstanding achievements during his career, including:
 - (i) the discovery of between 10 and 12 new species of turtle,
 - (ii) the publication of five books on snakes and turtles, and
 - (iii) his travels across Australia and internationally to lecture on snakes and reptiles.
3. That this House:
 - (a) congratulates and commends John Cann and the Cann family for their outstanding contributions to herpetology and anti-venom treatments in Australia, and
 - (b) commends the La Perouse Museum for taking the initiative to recognise and honour the work and achievements of the Cann family in the area over the past 90 years.

CABRAMATTA FIRE STATION

Motion by the Hon. CHARLIE LYNN agreed:

That this House welcomes the recent opening of the \$3.5 million Cabramatta Fire Station, ensuring better response times for south-western Sydney residents.

MANGALOREAN CATHOLIC ASSOCIATION OF SYDNEY

Motion by the Hon. DAVID CLARKE agreed to:

1. That this House notes that:
 - (a) on Sunday 16 September 2012, the Mangalorean Catholic Association of Sydney held a Mass at Blacktown followed by a celebratory luncheon, attended by several hundred members of the Mangalorean Catholic Community to commemorate:
 - (i) the founding of the Mangalorean Catholic Association of Sydney five years ago,
 - (ii) the post Centenary Silver Jubilee of the Mangalorean Diocese of the Catholic Church in India, 125 years ago,
 - (iii) the visit to Australia of the Most Reverend Aloysius Paul D'Souza, Bishop of the Catholic Diocese of Mangalore, India,

- (iv) the visit to Australia of the Hon. Oscar Fernandes, MP, Senator of the Rajya Sabha or upper House of the Parliament of India, General Secretary of the Congress Party in India and formerly India's Minister of State for Labour and Employment,
- (v) the visit to Australia of the Hon. Charles Dias, MP, member of the Lok Sabha, or lower House of the Parliament of India, and
- (b) those who attended as guests included:
 - (i) the Hon. Gladys Berejiklian, MP, Minister for Transport,
 - (ii) Dr Geoffrey Lee, MP, member for Parramatta, representing the Hon. Barry O'Farrell, MP, Premier of New South Wales,
 - (iii) the Hon. Marie Ficarra, MLC, Parliamentary Secretary to the Hon. Barry O'Farrell, MP, Premier of New South Wales,
 - (iv) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice,
 - (v) Mr Kevin Conolly, MP, member for Riverstone,
 - (vi) Mr Matthew Kean, MP, member for Hornsby,
 - (vii) Mr David Elliott, MP, member for Baulkham Hills,
 - (viii) Mr Yadu Singh, President of the Indian-Australia Association of NSW,
 - (ix) Reverend Father Prakash Coutinha, Priest of the Catholic Parish of Northcott Melbourne,
 - (x) representatives of various Indian-Australian community organisations.
- 2. That this House:
 - (a) congratulates the Mangalorean Catholic Association of Sydney on the occasion of its founding five years ago, and
 - (b) commends:
 - (i) the Mangalorean Catholic Association of Sydney and its founder and President, Mr Stanley D'Cruz, for five years of charitable and community service to the people and state of New South Wales,
 - (ii) the several thousand members of the Mangalorean Catholic Community in Sydney and New South Wales for its good citizenship and positive contribution to New South Wales.

TRIBUTE TO DON THOMAS

Motion by the Hon. MARIE FICARRA agreed to:

- 1. That this House notes:
 - (a) the passing of American physician Don Thomas who died of heart failure at age 92 on 20 October 2012, and
 - (b) that Don Thomas excelled in the medical field, developing bone marrow transplants as a treatment for leukaemia sufferers.
- 2. That this House acknowledges that:
 - (a) Edward Donnell "Don" Thomas was born in Mart Texas on 15 March 1920,
 - (b) Don Thomas commenced his studied in medicine at the University of Texas at Austin, studying chemistry and chemical engineering, graduating with a Bachelors degree in 1941 and a masters degree 1943,
 - (c) in 1943, following the completion of his masters degree at the University of Texas at Austin, Don Thomas attended Harvard Medical School where he gained a Doctor of Medicine in 1946,
 - (d) in 1955, Don Thomas was appointed the role of physician in chief at the Mary Imogene Bassett Hospital in Cooperstown, New York,
 - (e) during his time at Mary Imogene Bassett Hospital, Don Thomas began to study the effect of bone marrow cells on rodents,
 - (f) following the positive results his experiments had on rodents, Don Thomas moved his model of study to testing on dogs,

- (g) following the success of his experiments, Don Thomas moved his lab to the United States Public Health Service in Seattle in 1963 to continue his work,
 - (h) in 1969, Don Thomas's work led to the first successful bone marrow transplant between siblings who were not identical twins,
 - (i) in 1977, Don Thomas's work led to the first successful bone marrow transplant, where the donor and recipient were not related,
 - (j) Don Thomas was a well revered and decorated physician, with his work in cell development and organ transplant recognised by receiving the following awards:
 - (i) the National Medal of Science in 1990,
 - (ii) shared recipient of the Nobel Prize in Physiology or Medicine in 1990,
 - (k) Don Thomas was one of 21 Nobel Laureates to sign the Human Manifesto in 2003, and
 - (l) Don Thomas is survived by his wife, Dorothy "Dottie" Martin, and their three children, Don Jr, Jeffrey and Elaine.
3. That this House:
- (a) commends Don Thomas's extensive career and tireless efforts in bone marrow research, and
 - (b) acknowledges the thousands of lives saved each year through his development of bone marrow transplants.

VIETNAMESE COMMUNITY IN AUSTRALIA FUNDRAISING DINNER

Motion by the Hon. DAVID CLARKE agreed to:

1. That this House notes that:
- (a) on Sunday 11 November 2012, a fundraising dinner was held in Canley Heights, attended by 800 members of the Vietnamese-Australian Community, to raise funds for Australian Vietnam War Veterans and their families,
 - (b) the fundraising dinner was organised by the Vietnamese Community in Australia (NSW Chapter) and was the culmination of a four week campaign which raised nearly \$90,000 to be used by the Vietnam Veterans Association of Australia to assist:
 - (i) the families of Australian Service personnel who died in Vietnam,
 - (ii) invalided Australian Vietnam war veterans, and
 - (c) those who attended this function included:
 - (i) Mr Andrew Rohan, MP, member for Smithfield, representing the Hon. Barry O'Farrell, MP, Premier of New South Wales,
 - (ii) Mr Chris Hayes, MP, Federal member for Fowler,
 - (iii) Mr Nick Lalich, MP, member for Cabramatta,
 - (iv) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice,
 - (v) representatives and members of the Vietnam Veterans Association of Australia and their families,
 - (vi) ex-service veterans of the Armed Forces of the Republic of Vietnam and members of the Vietnamese-Australian community.
2. That this House acknowledges and commends:
- (a) the Vietnamese Community in Australia (NSW Chapter) for organising a fund raising program, including this dinner, in support of Australian Vietnam War Veterans and their families, and
 - (b) the generous support given to this fund-raising campaign by the Vietnamese-Australian community.

ST MICHAEL'S CHURCH AND CHURCH CENTRE OF THE ANTIOCHIAN ORTHODOX CHURCH CONSECRATION

Motion by the Hon. DAVID CLARKE agreed to:

1. That this House notes that:
- (a) on Sunday 11 November 2012, the new St Michael's Church and Church Centre of the Antiochian Orthodox Church was consecrated and officially opened in Kirrawee by His Eminence, Metropolitan Archbishop Paul Saliba, Primate of the Antiochian Orthodox Church in Australia, New Zealand and the Philippines,

- (b) assisting in the consecration was Reverend Father Fadi Nemme, priest of the Parish of Saint Michael Church, which covers the area of:
 - (i) Sutherland,
 - (ii) Kirrawee,
 - (iii) Cronulla,
 - (iv) Sylvania, and
 - (c) official guests at the consecration included:
 - (i) the Hon. Victor Dominello, MP, State Minister for Citizenship, Communities and Aboriginal Affairs, representing the Hon. Barry O'Farrell, MP, Premier of New South Wales and the Hon. Tony Abbott, MP, Leader of the Federal Opposition,
 - (ii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice,
 - (iii) His Excellency George Bittar, Consul-General of Lebanon,
 - (iv) Mr Maher Dabbagh, Honorary Consul of Syria,
 - (v) Dr Stepan Kerkyasharian, Chairman of the NSW Community Relations Commission,
 - (vi) Councillor Tom Croucher, Councillor of Sutherland Shire Council, representing the Mayor of Sutherland Shire Council,
 - (vii) Councillor Kevin Schreiber, Councillor of Sutherland Shire Council,
 - (viii) Councillor Fadwa Kebbe, Councillor of Canterbury Council,
 - (ix) Dr Emad Ghannoum, President, Australian Syrian Christian Association,
 - (xi) Mr Ahmad Salim, representing Annaha Arabic newspaper.
2. That this House:
- (a) congratulates Reverend Father Fadi Nemme and the entire Parish community of St Michael Antiochian Orthodox Church on the occasion of the consecration and opening of St Michael's Church and Church Centre, Kirrawee, and
 - (b) commends the entire Antiochian Orthodox Church Community on its positive and ongoing contribution to the State of New South Wales.

AUSTRALIA-KOREA FOUNDATION TWENTIETH ANNIVERSARY

Motion by the Hon. DAVID CLARKE agreed to:

- 1. That this House notes that:
 - (a) on 31 October 2012, the Australia-Korea Foundation celebrated its twentieth anniversary at a function held at the Korean Cultural Office of the Republic of Korea in Sydney,
 - (b) the function was co-hosted by Mr David Palmer, Chairman of the Australia-Korea Foundation, and Dr Dong-ok Lee, Chief Officer of the Korean Cultural Office of the Republic of Korea in Sydney, and was officially opened by Mr Jin Soo Kim, Consul-General of the Republic of Korea, and Mr Peter Rowe, First Assistant Secretary, North Asia Division of the Australian Department of Foreign Affairs and Trade, and
 - (c) the Australia-Korea Foundation was established in 1992 for the purpose of broadening the relationship between Australia and the Republic of Korea, especially in the areas of commerce and industry, science and technology, education, media, sport, tourism and the arts.
- 2. That this House commends the work of the Australia-Korea Foundation and expresses its support for closer relations between Australia and the Republic of Korea.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 1045 outside the Order of Precedence objected to as being taken as formal business.

POLICE INTEGRITY COMMISSION**Report**

The President tabled, pursuant to the Police Integrity Commission Act 1996, the report entitled "Operation Winjana", dated October 2012, received and authorised to be made public this day.

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

PETITIONS**Education Funding**

Petition calling on the Government to stop cuts to education, TAFE and school funding, received from the **Hon. Steve Whan**.

NIMMIE-CAIRA SYSTEM ENHANCED ENVIRONMENTAL WATER DELIVERY PROJECT**Production of Documents: Tabling of Report of Independent Legal Arbitrator**

The Clerk tabled, pursuant to the resolution of the House this day, the report of the independent legal arbitrator dated 20 November 2012, on the disputed claim of privilege on papers relating to the Nimmie-Caira system enhanced environmental water delivery project.

SESSIONAL ORDERS**Cut-off Date for Government Bills**

The Hon. MICK VEITCH [11.25 a.m.]: I move:

That, during the present session and notwithstanding anything contained in the standing or sessional orders, and unless otherwise ordered, the following procedures apply to the passage of Government bills:

1. Where a bill is introduced by a Minister, or is received from the Legislative Assembly after Thursday 30 May 2013, debate on the motion for the second reading is to be adjourned at the conclusion of the speech of the Minister moving the motion, and the resumption of the debate is to be made an order of the day for the first sitting day after the winter recess.
2. However, if after the first reading, a Minister declares a bill to be an urgent bill and copies have been circulated to members, the question "That the bill be considered an urgent bill" is to be decided without amendment or debate, except a statement not exceeding 10 minutes each by a Minister and the Leader of the Opposition, or a member nominated by the Leader of the Opposition, and one cross-bench member. If that question is agreed to, the second reading debate and subsequent stages may proceed forthwith or at any time during any sitting of the House.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [11.25 a.m.]: The Government supports the motion.

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

Motion agreed to.

PRIVILEGES COMMITTEE**Report: Citizen's Right of Reply (Mrs Julie Passas) (No. 3)**

The Hon. TREVOR KHAN [11.26 a.m.]: I move:

That the House adopt the report.

The Hon. AMANDA FAZIO [11.26 a.m.]: I support the right of citizens to have a right of reply as specified under Standing Order 203, but when the committee is considering these matters it is specifically prohibited from considering the truth of the statements made by the citizen in his or her response or in the statements made by the member to which the citizen's response pertains. It is inappropriate for a citizen who has

a right of reply to state in the community that he or she has been proven to be truthful and the member in question has been proven to be a liar. People making those sorts of statements without the benefit of parliamentary privilege might well find themselves the subject of legal action.

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

Motion agreed to.

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

Appendix 1

**Reply to comments by the Hon
Amanda Fazio MLC in the Legislative Council on 27 March 2012**

It is with disappointment, sadness and hurt that I am once again writing to request a right of reply in respect of untrue comments made about me by the Hon Amanda Fazio MLC on 27 March 2012.

I note that I submitted a previous right of reply by letter dated 5 December 2011. It was subsequently published.

I respond to the relevant comments by Ms Fazio as follows:

'Tonight I will give what I hope will be the last instalment of the saga of the appalling behaviour of Julie Passas. My contribution tonight will focus on her behaviour at the Ashfield pre-poll voting centre for the seat of Strathfield. I first encountered Julie Passas at the pre-poll centre when I attended with my daughter to vote. We were welcomed with a tirade of abuse and filth from Passas and her offsider, an intellectually challenged young man by the name of Thomas Carrie. The unfortunate factor was that similar tirades of abuse were directed towards other pre-poll voters who did not take a Liberal Party how-to-vote card. Later I was approached by the Strathfield Australian Labor Party's campaign office to hand out how-to-vote cards at the Ashfield pre-poll centre because other campaign volunteers were unable to withstand continual abuse and threats from Julie Passas.'

1. The comment about my alleged 'appalling behaviour' is untrue and emotive.
2. I agree that I met Ms Fazio at the pre-poll voting centre but it is untrue that she was met 'with a tirade of abuse and filth.'
3. It is likewise not true that 'tirades of abuse were directed towards other pre-poll voters'.
4. It is also not true that 'other campaign volunteers' were subjected to 'continual abuse and threats'.
5. When Ms Fazio arrived at the pre-poll voting centre, I asked her why she was telling lies about me in Parliament. This occurred in March 2011, after my first citizen's right of reply had been published.
6. The fact of the matter is that I was the subject of abuse and threats, not Ms Fazio.

'I was shocked to find that Passas was employed as the cleaner by the managers of the building where the pre-poll was located, which meant she had keys to the offices and businesses in the building. I raised my concerns about the security of the pre-poll centre with the returning officer and was reassured when he informed me that he had all the locks changed to keep Mrs Passas out of the pre-poll centre. However, she used her keys to access the parking garage for campaigning purposes and also to keep all of her campaign materials in the fire stairways. That included boxes of leaflets, how-to-vote cards and a number of corflute signs plus A-frame signs and other signs mounted on heavy wooden frames. Of course, anyone who claims to be concerned about fire hazards – as Passas is on the record as being – should never break fire safety regulations in that manner. It was also doubly of concern that on the upper floors of the building were a coaching college and another educational institute. Just think of the problems of evacuating the building after hours when the fire stairways are full of Passas' campaign materials.'

7. I agree that I was a cleaner at the building where the pre-poll was located.

I am not, however, engaged as a cleaner by the manager of the building.

My engagement as a cleaner is by the individual occupants of the offices within the building, that is, by the individual owners of offices and occupants of the offices.

8. I have no knowledge as to whether or not locks were changed, although I have been informed by Mr Neeley, the Returning Officer at the time, that he has not told Ms Fazio that the locks were changed to keep me out.

The pre-poll office was located on the second (ie top) floor of the building. It was not one of the offices that I was responsible for cleaning. I had no access thereto and no purpose in going into that office, even if it had been possible.

I did clean another office on that floor but I had no keys to the pre-poll office.

Further, on the four occasions that I attended for cleaning of the other office whilst the pre-poll office was located on that floor, the pre-poll office was occupied and used by pre-poll personnel.

9. There was no change of locks 'to keep (me) out of the pre-poll centre'.

10. I did not use my keys to access the parking garage for campaigning purposes.

In this regard:

- a. The parking garage operates on a swipe card system.
- b. The garage was, however, not locked and anyone could have access thereto.
- c. I accessed the garage for entry and egress for cleaning activities.
- d. I did not use the garage for 'campaigning purposes', nor do I understand what is being alleged in this regard.

11. Material was kept not on the stairs but under the stairs.

The quantity of material involved was small in bulk and there was absolutely no obstruction.

In no way were the stairs 'full of Passas' campaign materials'. This is a deliberate exaggeration and distortion.

'What I encountered for the days when I was working at the Ashfield pre-poll centre was probably some of the worst behaviour I have ever seen at any polling place. Even other Liberal Party volunteers were ashamed of the behaviour of Julie Passas, but they were too scared to do anything about it for fear of being attacked by Passas. Passas made racist comments, such as shouting at a woman from the Indian subcontinent that she "stank and should go back where she came from", and "people like you aren't wanted in Australia". Passas also yelled right in the face of people she assumed could not speak English and in some sort of pigeon language told them, "floor 2, floor 2, you go vote – vote this way" and thrust Liberal Party material at them. Some people even retreated into neighbouring shops to get away from Passas but she followed them, bellowing racist comments until she was asked by the owners to get away from their businesses. A number of people complained about her dreadful and racist behaviour but the other Liberal workers could not restrain her from carrying on in such a disgraceful way.'

12. I deny the allegations of 'worst behaviour'.

13. I deny that other booth workers were 'ashamed' at my behaviour or that they were too scared to do anything because of fear of attack by myself.

Such statements are unsubstantiated, unidentified, uncorroborated and, most importantly, untrue.

14. I am unaware as to whether Ms Fazio is alleging that she personally witnessed such behaviour or that she is alleging what other, anonymous people are supposed to have said.

15. The comments about alleged racist abuse on my part are lies. Nothing of the sort ever happened.

Again, those comments are unsubstantiated and apparently anonymous hearsay.

16. I did not ever yell at people, irrespective of their grasp of the English language.

17. I note at this point that I am of Greek background and that I grew up with racist abuse and vilification. I am personally acquainted with the effects of racist abuse and I would be the last person to carry on in such manner.

I pointed out in my previous citizen's right of reply that I am heavily involved in ethnic community affairs and my family all come from ethnic backgrounds.

I am also a sponsor of ethnic, overseas students, I have such students stay at my home and I am the legal guardian for three years of another such student.

18. I was not aggressive to people, they did not try to escape to shops to get away from me and I did not treat anyone in any manner other than as helpful and respectful.

19. I was never asked by shop owners to move away from their shops.

20. Although Ms Fazio refers to 'a number of people' complaining, nothing is substantiated, persons are not identified and again it is all untrue.

'Passas chased people into the lift of the building, harangued them about how they should vote and made scandalous comments about the sitting member. She was told repeatedly by the returning officer that she was not to do this but refused to follow his directions. Eventually, after the police were called a number of times to resolve disputes caused by Passas, a yellow line was placed in the foyer of the building and no campaign workers were allowed to cross the yellow line. Of course, all campaign workers apart from Passas abided by this ruling from the returning officer and the police.'

21. I did not chase people into the lift, harangue them or make scandalous comments about the sitting member.

I did however ask her some questions when she attended at the booth, asking her to identify the school in the inner west at which she had taught, as alleged in her campaign material. I asked in a respectful manner.

Ms Fazio, however, rushed up and videoed the interaction on her phone, keeping her phone a short distance from my face (no more than 15 cm) the whole time.

22. I was not spoken to individually by the Returning Officer.

He spoke to all the booth workers collectively and, more importantly, he was responding to the behaviour of the Labor booth workers who were behaving in the manner alleged against me by Ms Fazio.

23. The police were called by me, not because of me, and were called because of harassment and intimidation directed at me.

24. I was not present when the yellow line was marked, the campaign director having shifted me elsewhere because of the constant nastiness and harassment towards me by the Labor booth workers. He replaced me with male booth workers.

'On the day before the State election I was quite relieved to arrive at the pre-poll centre and find that it was a Passas-free zone. The day went quite smoothly and the relations between the campaign workers from all sides were civilised and cordial. Senior local police called in to check that everything was going satisfactorily and they were informed by all present that everything was satisfactory because Passas was not there. Unfortunately, this did not last because Passas and her offsider turned up and things just kicked off from there. No sooner had she arrived than she chased someone across the yellow line and into the lift. I told her to stop, as it was in breach of the rulings given by the returning officer. I was then subjected to a tirade of threats and abuse from Passas. I informed two undercover police who were in an unmarked car at the corner that they should contact the Ashfield police station to get some uniformed officers to come straight away as trouble was developing.'

25. The comment that 'everything was going satisfactorily ... because (I) was not there' is also unsubstantiated, untrue, anonymous hearsay.

26. I did not chase anyone across the yellow line, as alleged.

27. On the occasion referred to by Ms Fazio, being the last night that the pre-poll was open, it closed at 8.00 pm.

There were three Liberal booth workers present at the premises.

As soon as I arrived, Ms Fazio, who was present, said to me 'I thought we had gotten the police to get rid of you.' I did not respond.

A former neighbour approached me and spoke with me. I had no brochures or material and was not working as a booth worker.

I also knew that my former neighbour was a committed Labor supporter.

She entered the building to vote and I entered to carry out my cleaning activities.

Ms Fazio told me that I was not permitted to cross the yellow line, notwithstanding that Ms Fazio and all the other booth workers were inside the line.

I pointed out that I was not working as a booth worker.

I went into the building, packed campaign material into my car in the basement, and went back to ground level to start cleaning.

'It was then that Passas' offsider confronted me screaming irrationally and standing right in my face. I raised a bundle of how-to-vote papers that I was carrying to cover my face to prevent being covered by spittle from this person who was literally foaming at the mouth. He then yelled out that I had assaulted him. The two police officers who were present dragged this man and Passas away from the polling place and warned them to keep away and not come within 30 metres of the polling place. Other Liberal Party workers who were present then apologised to me for the behaviour that I had been subjected to. I heard no more about the matter until a story appeared in the Sun-Herald on 15 May 2011 that claimed I had assaulted a Liberal Party campaign worker.'

28. What actually happened is as set out in paragraph 27 above.

29. I was not 'dragged' away, I was called to the side to speak with them.

The police suggested that I leave to avoid any other difficulty with Ms Fazio. I pointed out that I was there to clean offices and they agreed to that being done. They also agreed to my collecting campaigning material.

30. I did not reveal the story to the *Sydney Morning Herald*, or to any other newspapers, and I did not provide information to any newspaper, notwithstanding that I was contacted by newspaper reporters asking questions.

31. The police carried out an investigation.

I have read in the newspapers that Ms Fazio declined to give a statement and that there was insufficient evidence.

'Apparently Mrs Passas and her friends in certain sections of the Liberal Party had been shopping the story around to a range of media outlets. After a full police investigation, no action was taken on the matter. I thank Heath Aston from the Sydney Morning Herald for having the decency to publish the result of the police investigation, that is, there was no truth to the matters raised by Julie Passas and her friend. The Labor Party would not tolerate a campaign worker behaving as badly as

Julie Passas regularly does. The Liberal Party condones her behaviour and certain sections encourage it. I believe this reflects very poorly on the Liberal Party of New South Wales and I urge its members to take some action to stop this situation occurring in the future.'

32. It is denied that the above story has been 'shopped around' by myself and my friends.

33. My understanding is that a prosecution did not proceed because of insufficient proof.

34. There was no finding, as alleged by Ms Fazio, that 'there was no truth to the matters raised by (myself) and (my) friend', whether by the police or otherwise.

It is scurrilous that Ms Fazio continues to constantly make untrue attacks upon me, and comments about me, under parliamentary privilege.

Were such comments to be made outside Parliament I would have no hesitation in instituting legal proceedings against Ms Fazio, making her justify the allegations.

I request that my response be published.

PRIVILEGES COMMITTEE

Report: Citizen's Right of Reply (Mr Brendan Ritson)

Motion by the Hon. Trevor Khan agreed to:

That the House adopt the report.

Pursuant to standing orders the response of Mr Ritson was incorporated.

Appendix 2

Reply to comments by Revd the Hon Fred Nile MLC and the Hon John Hatzistergos MLC in the Legislative Council on 4 March 2008

I refer to the following comments by Revd the Hon. Fred Nile MLC and the Hon. John Hatzistergos MLC during Question Time on 4 March 2008:

'POLICE OFFICERS BREACH OF PRIVACY CHARGES

Reverend the Hon. FRED NILE: I ask the Attorney General, and Minister for Justice: Is it a fact that transsexual Brigitte Fell had a sexual relationship with Garrick Jacobson without informing him that he had undergone a sex change? Is it an offence under section 611 of the Crimes Act to have sexual relations with a person without their informed consent? Is it a fact that Constables Tyrone Stacey and Brendan Ritson allegedly informed Mr Jacobson of this crime and subsequently were charged with a breach of privacy? Will the Attorney General take action to have the charges against Constables Stacey and Ritson reviewed and dropped?

The Hon. JOHN HATZISTERGOS: This is a matter that I understand is before the court. I decline to comment in those circumstances.'

The comments refer to me by name and the subject matter of those comments has adversely affected me in reputation, in respect of dealings and associations with others and injured me in my former occupation as a police officer. In the absence of an accurate and up to date public record, the subject matter also has the potential to adversely affect my future dealings and associations with others.

Consistent with Reverend Nile's apparent view that the charges against me ought to have been dropped, on 30 July 2010 in the District Court His Honour Blackmore SC DCJ found there was no *prima facie* case against me and quashed my conviction.

I respectfully ask that this reply be incorporated in the parliamentary record (*Hansard*) pursuant to Standing Orders 202 and 203.

PRIVILEGES COMMITTEE

Report: Citizen's Right of Reply (Ms Heather Richards)

The Hon. TREVOR KHAN [11.28 a.m.]: I move:

That the House adopt the report.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [11.28 a.m.]: I sincerely apologise to Ms Heather

Richards for any offence I have caused her. As members know, the Chamber is a place for robust debate and sometimes in the heat of such debate words are exchanged that in hindsight are inappropriate. It was never my intention to imply any untoward association or affiliation on the part of Ms Richards. The reference clearly was not appropriate.

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

Motion agreed to.

Pursuant to standing orders the response of Ms Richards was incorporated.

Appendix 3

Reply to comments by the Hon Michael Gallacher MLC in the Legislative Council on 13 September 2012

My name is Heather Richards and I am the President of Newcastle University Students' Association Inc (NUSA), the representative body for students studying at the University of Newcastle, Australia.

On Thursday 13 September 2012, during Question Time, the Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council, the Hon. Michael Gallacher MLC, referred to me as a 'sycophant' of the Hon. Walt Secord MLC.

Extract:

The Hon. WALT SECORD: After Tuesday's Question Time I checked with the President of Newcastle University's student representative association, Ms Heather Richards, who said her organisation had not met with the Minister to discuss racist attacks on international students. With whom did the Minister meet at the University of Newcastle to discuss racist attacks on international students?

The Hon. MICHAEL GALLACHER: I will consult my diary and look to see—

The Hon. Penny Sharpe: You shouldn't have to.

The Hon. MICHAEL GALLACHER: Settle down. Just because I have not met some sycophant of Walt's does not mean—

According to the Oxford English Dictionary (online), a sycophant is 'a person who acts obsequiously towards someone important in order to gain advantage.'

I have a number of points to make in relation to this:

1. Firstly, I am not one of Mr Secord's sycophants. Prior to this allegation, I had spoken to him twice about NUSA's report. I have not spoken to him obsequiously in order to gain an advantage. The Minister has made a totally unsubstantiated claim.
2. Secondly, the Minister has made this allegation based on no evidence. The Minister does not know me, or have any knowledge about the relationship between me and Mr Secord apart from Mr Secord's statement that he had spoken to me about whether or not the Minister had spoken to me.
3. I am an elected student representative. Any allegation against me and my business conducted as an elected representative will affect my relations with other entities.

SAINT JOHN'S COLLEGE 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.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [11.31 a.m.]: According to sessional order, I declare the bill to be an urgent bill for reasons of which I am sure all members would be fully aware.

Question—That the bill be considered an urgent bill—put and resolved in the affirmative.

Declaration of urgency agreed to.

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

BUSINESS OF THE HOUSE**Suspension of Standing and Sessional Orders: Order of Business**

Dr JOHN KAYE [11.31 a.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 1006 outside the Order of Precedence relating to the establishment of a select committee to inquire into the provisions of the Ports Assets (Authorised Transactions) Bill 2012 be called on forthwith.

This matter is urgent because substantial injustice will be done to the Port Botany and Illawarra communities if the passage of the Ports Assets (Authorised Transactions) Bill is not delayed. Substantial opposition exists in both communities, particularly in the Illawarra, regarding the long-term leasing of the ports. The Illawarra community holds grave concern that its economic lifeline to the global economy is about to be handed over to private corporations with no interest other than in maximising profits. The community has begged to be heard, yet has not been given that opportunity. Unless this motion is passed to establish a select committee to conduct an inquiry into the proposed transfer of ports assets, the Ports Assets (Authorisation Transactions) Bill will pass through this Chamber this afternoon without any opportunity for the community to be heard.

This matter is urgent because the work of economists such as John Quiggin and Graham Larkin raises significant long-term concerns about the economic value to the State of ports privatisation. If the bill is pushed through and the transaction goes ahead as envisaged this State stands to lose billions of dollars over the next 99 years—money we can ill afford to lose and which should be directed to a public purpose, not to private profit. Opposition to this legislation is not just from the community, the union movement or academics; it comes also from the business community. The business community, particularly in the Illawarra, has not been heard on the ports transaction matter. This motion is urgent because the important voices of the Illawarra business chambers must be heard. They are deeply concerned that their businesses will be damaged and investment opportunities in the Illawarra will be undermined if this legislation proceeds. If this motion is not debated this Chamber will not have had the opportunity to hear the cogent and passionate voices for keeping Port Kembla and Botany in public hands.

This motion is urgent because this matter is of significant public concern and interest. This Parliament has not had the opportunity to hear those concerns. No opportunity has been provided for this Parliament to gain an understanding of the depths of concern about jobs, long-term investment opportunities or the ports. This matter is urgent because of the significant risk that the legislation as drafted will cause a single owner of Port Kembla and Botany to emerge. The grave concerns in the Illawarra are that the provisions of the bill will enable Port Kembla to be turned into a second-tier port—a port that does not have the focus or investment to maintain a healthy economy in the Illawarra. This matter is urgent because members of Parliament should have the opportunity to hear from those communities and expert advice regarding community, trade union and business concerns. We should have the opportunity also to hear from Wollongong council, which raised serious concerns regarding this proposal.

This matter is urgent because if we do not pass this motion the legislation is likely to go ahead on effectively the last sitting day of this Chamber without being comprehensively tested against the views of experts and the local community of the Illawarra and Port Botany. This is a substantial transaction and a major change to the ownership of ports. It is a major change also to how ports are operated. A select committee must be established to inquire into the provisions proposed by the bill and thereby delay the passing of this legislation. If not, the Ports Assets (Authorised Transactions) Bill will go through this Chamber and cause significant damage to the economy of the Illawarra and to the long-term economic benefits to the people of New South Wales from the ports. This matter is urgent. I commend the motion to the House.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [11.36 a.m.]: The Government does not believe this motion deserves urgency. Frankly, this is a desperate attempt for relevancy from The Greens. The matter is not urgent because it is just a desperate attempt to slow down or stop legislation. Of key importance to New South Wales is new infrastructure and preserving our triple-A status. Once again The Greens attempt to destroy the economy of this State. They have no ideas on how to improve the State. The matter is not urgent because all The Greens want to do is to run spoilers. This legislation has been in the House since 18 October and now on the cusp of debating it The Greens want to play spoiler once again. They want to play themselves back into the game through some desperate plea for relevance that has escaped them in the community.

This legislation is to help the State. This legislation has been the subject of community consultation. Meetings were held with Wollongong City Council and the Wollongong community. The Treasurer and I spoke

to Ports Corporation employees. These things have happened and will continue to happen. This open legislation has been sitting in this Parliament. Once again The Greens, as the grand spoilers of this State and country, at five to midnight want to stop anything happening. They want us to live like some North Korean dictatorship and do not want assets in this State reused to benefit the people. We were left a legacy, we were left a mess, by the previous Government. The bill is part of the plan to improve this State.

The Hon. Amanda Fazio: Point of order: My point of order is relevance. At this stage of the debate the Minister should be speaking only to the matter of urgency, not about history. I ask that the Minister be directed to stick to the matter of urgency, which would probably save the House three or four minutes.

The PRESIDENT: Order! I have been listening carefully to the Minister's remarks and they have been in order. I remind all members that at this stage of the debate they may only discuss whether standing and sessional orders should be suspended and whether the matter is more urgent than other business on the *Notice Paper*.

The Hon. DUNCAN GAY: In conclusion, this matter is not urgent; it is a desperate political plea for relevance.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [11.39 a.m.]: The Opposition supports The Greens motion. The matter is urgent. The Government is proposing to effectively privatise one of the most valuable assets owned by the State without releasing any information about the deal. The Government has said it did a pre-scoping study but refuses to release it. There are important considerations around this potential transaction that need proper scrutiny by the people of New South Wales and their representatives in this Parliament. The Government is hiding because it does not want this bill or this transaction to receive the scrutiny that, in the public interest, it must receive. This motion is urgent.

Mr DAVID SHOEBRIDGE [11.40 a.m.]: In response to this question of urgency all we heard from the Minister for Roads and Ports was abuse without addressing the genuinely urgent issue, which is that the people of the Illawarra want to be heard today about the sale of a prime economic asset in the heart of the Illawarra. It is a publicly-owned asset that should be retained under public control for this and future generations in order to deliver future industries and jobs for the Illawarra. It is potentially being sold later this year after a bill, supported by the Shooters and Fishers Party, is passed through Parliament. The support of the Shooters and Fishers Party was gained by allowing duck shooting.

The Hon. Scot MacDonald: Get your ducks in a row.

Mr DAVID SHOEBRIDGE: I note the interjection. There has been a grubby deal with the Shooters and Fishers Party.

The Hon. Dr Peter Phelps: The tail wags the dog.

Mr DAVID SHOEBRIDGE: I note the interjection by the Government Whip about the tail wagging the dog but the analogy for the Government should be the bullet is driving the gun. This Government is pandering to the far right-wing shooters to introduce duck hunting in order to flog off the ports in Botany.

The Hon. Dr Peter Phelps: Point of order: The matter under discussion at the moment is the urgency of the debate, not any other matter. It is not a substantive matter or potential legislation but the urgency of this issue. Mr President, I ask you to remind the member what the debate is about at the current time.

Dr John Kaye: To the point of order: The matter of duck shooting is part of the urgency because it is that duck shooting agreement that has been struck with the Shooters and Fishers Party—

The PRESIDENT: Order! The member is debating the point, and he knows it. He will resume his seat. The only matter under discussion now is whether standing and sessional orders should be suspended to debate a particular item of private member's business. I uphold the point of order.

Mr DAVID SHOEBRIDGE: This matter is urgent because what the Government should be doing and what the community is asking for is a thorough inquiry into the merits of the privatisation of the port in the Illawarra. The Government has not spent time talking to the community—it knows the community would be dead-set against the privatisation—but has spent time talking to the Shooters and Fishers Party about duck

hunting in order to gain their support to flog off these assets. The urgency flows from the need to consider the merits of the sale and the long-term economic future of the Illawarra and Wollongong through retention of the asset in public hands.

Retention of the asset will secure current jobs and ensure industries can securely provide kids with a job in the future. In that way the interests of the public are served instead of a private operator arbitraging between Port Botany and Port Kembla to maximise the profit regardless of the cost to the community and loss of economic future to the Illawarra. There is nothing more urgent than to talk with the community before flogging off one of its principal assets. That is the view of The Greens but it is clearly not the view of this Government.

Reverend the Hon. FRED NILE [11.43 a.m.]: The Christian Democratic Party does not support The Greens motion. The motion is not urgent; it is a tactic to delay the bill, as the Government has explained. The Christian Democratic Party will not cooperate with that tactic.

Question—That the motion be agreed to—put.

The House divided.

[In division]

The PRESIDENT: Order! It is not in order for visitors sitting in the public gallery to interject and converse with members.

Ayes, 17

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

Noes, 20

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

Pairs

Mr Lynn	Mr Foley
Mrs Maclaren-Jones	Mr Roozendaal

Question resolved in the negative.

Motion negatived.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Notice of Motion No. 1 postponed on motion by the Hon. Michael Gallacher.

OMBUDSMAN AMENDMENT BILL 2012**In Committee****Clauses 1 and 2 agreed to.**

Mr DAVID SHOEBRIDGE [11.54 a.m.], by leave: I move The Greens amendments Nos 1 and 2 on sheet C2012-164A in globo:

No. 1 Page 3, schedule 1 [2], line 9. Omit "**Sections 19A–19C**". Insert instead "**Sections 19A–19D**".

No. 2 Page 5, schedule 1 [2]. Insert after line 11:

19D Inquiries to which sections 19A–19C apply

The provisions of sections 19A–19C apply only in relation to publications or disclosures in connection with an inquiry held by the Ombudsman concerning a matter referred to the Ombudsman by the Inspector of the New South Wales Crime Commission or the Inspector of the Police Integrity Commission.

The purpose of these amendments is to insert a new section 19D. The new section provides that the provisions of new sections 19A to 19C apply only in relation to publications or disclosures in connection with an inquiry held by the Ombudsman concerned a matter referred to the Ombudsman by the Inspector of the New South Wales Crime Commission or the Inspector of the Police Integrity Commission. Proposed new sections 19A, 19B and 19C all put in place effectively new gag provisions for the Ombudsman. New section 19A as proposed by the bill allows the Ombudsman to direct that any evidence given before any inquiry held by the Ombudsman, the contents of any document or any information that might enable a person to find out about the evidence that was put before the inquiry, or even the fact that someone had appeared before an Ombudsman inquiry, must not be published except in such manner and to such persons as the Ombudsman specifies if the Ombudsman so directs.

The Ombudsman is not to give that direction unless satisfied that the direction is necessary or desirable in the public interest. So it effectively allows the Ombudsman to put a gag order on any inquiry—not just an inquiry that has been forwarded to the Ombudsman through the Inspector of the Police Integrity Commission or the Inspector of the Crime Commission but any inquiry. That would allow the Ombudsman to have the same secretive hearings that we have had in the Crime Commission and the Police Integrity Commission. I could understand why there might be a necessity to have the ability to put those kinds of restraining orders, or gags, in place where the inquiry results from a matter that has been referred from the Police Integrity Commission or the Crime Commission, because those two bodies quite often hear very sensitive policing information and, in the absence of a power to put some kind of secrecy around the evidence that comes out when there has been a referral from one of those bodies, secret policing, police intelligence and criminal intelligence might get out.

But why on earth have this gag provision in relation to the balance of the Ombudsman's work, in relation to the bread and butter work that the Ombudsman is meant to do across all government agencies—in relation to the Department of Community Services, Housing, Treasury and Finance? What is the necessity for this general gag provision? No argument has been raised as to why the Ombudsman needs these kinds of secrecy provisions. Not once in a single report from the Ombudsman over more than a decade has the Ombudsman indicated that the Ombudsman needs secrecy provisions—not once. It has never been publicly discussed at any point. The Law Reform Commission has not looked into this. There has been no report from the Ombudsman looking into this matter. But all of a sudden the Government moves to give the Ombudsman this broad gagging power.

The Greens amendment would limit this gagging power to circumstances where the inquiry in question results from a referral from the Crime Commission or the Police Integrity Commission. We understand there may be a need in those circumstances. But there is no argument at all to broadly change the Ombudsman's practice in response to this narrow issue being addressed by this bill, which is to allow the Ombudsman to investigate Taskforce Emblems.

The same point is made in relation to proposed section 19B, which provides that a person who is present at an inquiry must not publish, or permit to be published, any evidence given before the inquiry or any of the contents of a document produced at the inquiry, except to the Ombudsman, an officer of the Ombudsman or an Australian legal practitioner appointed under section 19 (4) or as permitted by the Ombudsman or the regulations. That is an absolute prohibition: It is not subject to direction from the Ombudsman when the

Ombudsman might think it is in the public interest; it is not subject to any kind of limitation. So anyone who is present at an inquiry cannot publish or permit to be published any evidence given before the inquiry or any of the contents of the document produced at the inquiry.

Let us imagine a high-profile whistleblower has been out in the media, has made a series of detailed allegations and has been talking to the community about potentially large-scale corruption. Let us take a fanciful example such as a whistleblower in a government department who finds out that a Government Minister is rorting the State for mining licences worth hundreds of millions of dollars. Let us imagine something extraordinarily implausible like that might be occurring.

The Hon. Michael Gallacher: That could never happen!

Mr DAVID SHOEBRIDGE: I hear the Government say, "That could never happen", but I think it might. There is a potential for that kind of thing to happen. That whistleblower may well refer that matter to the Ombudsman and one would hope that the Ombudsman would take on board the inquiry and would commence an investigation. The Ombudsman would then hold a hearing and the whistleblower would, hopefully, be called to give evidence at the hearing and produce a whole lot of documents to the Ombudsman. Why should those documents then have a cloak of secrecy over them and why should the evidence that the person gives to the Ombudsman have a cloak of secrecy over it?

What if the Ombudsman's inquiry is taking months and months to complete but there is a State election or some other issue relating to mining licences and the whistleblower does not want to wait for the finalisation of the Ombudsman's report but wants to get the documents out into the public domain and wants to get the evidence on the public record? This proposed gag provision would prevent the whistleblower from doing that because once the whistleblower has given the documents and the evidence to the Ombudsman it is a criminal offence for the whistleblower to then go out and provide the documents and the evidence to the community at large. There is no reason at all to put in place this gag provision.

The Ombudsman needs to have the ability to hold fearless and independent investigations, but the Ombudsman is not the only place the Government should be held to account; it is not the only place for scrutiny. There is a very valid place for scrutiny in the broader public discussion, for scrutiny in the media, for scrutiny in community organisations and for scrutiny in this Parliament. This gag provision effectively means that once someone gets a matter off to the Ombudsman everybody has to remain shut while, potentially, the Government has the benefit of a secrecy cloak placed over it by the fact that the Ombudsman is having an inquiry. It is a major backward step for public accountability and scrutiny in New South Wales. As I said before, there may be an argument to limit the gag to when there is a referral from the Inspector of the Crime Commission or the Inspector of the Police Integrity Commission, but a general gag should not be applied to the Ombudsman.

The same points can be made in relation to section 19C. There is a narrow argument to apply that kind of provision when inquiries result from referrals from the Inspector of the Crime Commission or the Inspector of the Police Integrity Commission, but there is no call at all for a broad criminalising of people who may, for their own decent and fair reasons, want to go out and talk about an investigation that the Ombudsman has been undertaking. The Ombudsman may not want the investigation talked about, he may want to be the only person inquiring about a matter, but there is no argument at all why the Ombudsman, in most cases, should be the only person talking about it. There is a very valid place for the broader public to talk about these matters without the threat of criminal penalties simply because the Ombudsman is conducting an investigation. I commend the amendments to the Committee.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [12.04 p.m.]: After careful consideration, the Opposition will not support The Greens' amendments. I can see where The Greens and Mr David Shoebridge are coming from and I can see the force of his argument that there has not been a public discussion about the Ombudsman needing these powers. Certainly there has been no call from the Ombudsman that I am aware of that these powers are necessary for the operation of that office on a more general basis, and there is certainly a compelling case for the Ombudsman to have these powers in connection with matters that are referred to the Ombudsman by the Inspector of the Crime Commission or the Inspector of the Police Integrity Commission, as is facilitated by this legislation.

However, the Opposition is not at this time prepared to cavil with the direction of the bill and limit it to those circumstances only, although we will keep a weather eye upon whether and how these powers are used by the holder of that office, and it will be a matter for the scrutiny of this place and the members of this place to ensure that there are no—

Mr David Shoebridge: How will you know there is a gag order?

The Hon. ADAM SEARLE: I acknowledge the interjection and remind Mr David Shoebridge that there is, in fact, an oversight committee for the Ombudsman on which a number of members of this House, including me, serve. With those observations, the Opposition will not support The Greens amendments.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [12.05 p.m.]: The Government equally does not support The Greens amendments. The non-disclosure and non-publication powers of the Ombudsman provided in this bill are appropriate for all his inquiries, not just for the inquiries referred by the Inspector of the Crime Commission or the Inspector of the Police Integrity Commission. In the past the Ombudsman has relied on general powers under the Ombudsman Act arising under case law to give directions preventing or restricting the publication of evidence from his hearings.

The bill expressly provides non-disclosure and non-publication powers. Such express powers already exist for other integrity agencies in New South Wales—namely, the Independent Commission Against Corruption and the Police Integrity Commission. The Greens amendments to restrict the application of these express powers to the investigation of matters referred to the Ombudsman by the Inspector of the Crime Commission or the Inspector of the Police Integrity Commission would deny the Ombudsman an important general power which has been requested by the Ombudsman to provide certainty for his inquiries.

Mr DAVID SHOEBRIDGE [12.06 p.m.]: I find it remarkable that the Ombudsman has apparently been in negotiations with the Government about having these additional gag powers without disclosing to the broader community, without putting a report forward, without doing the kind of usual open consultation that the Ombudsman normally requires government agencies to do before they take major steps. The Ombudsman is meant to be there as the public guardian of openness and accountability and scrutiny.

The Hon. Adam Searle: Don't tell me you are attacking the Ombudsman now.

Mr DAVID SHOEBRIDGE: It is deeply troubling that the Ombudsman, who is meant to have that role, appears to have had private negotiations with the Government—no public reporting, no public discussions, no report being put forward to this Parliament or to the broader community, but has had offline discussions with the Government about getting new gag powers. That is an appalling process for the Ombudsman to be engaged in and I find it quite remarkable that such a fundamental change to the practices of the Ombudsman is proposed, including section 19B, which operates as a matter of law and is not subject to direction of the Ombudsman. Section 19B just provides that anyone who has been present at an inquiry cannot publish or permit to be published any evidence or any document produced at the inquiry. It is just a general gag provision. It does not require a direction or any public interest test by the Ombudsman at all.

Before we make those kinds of legal changes and apply a general gag for what has occurred at the office of the Ombudsman surely, in accordance with what the Ombudsman repeatedly says is good practice for every other government agency it looks at, there would be a report or some kind of public discussion, some kind of engagement before we rush through this legislation that was tabled in the other place only yesterday afternoon. Instead, there has been an off-the-record conversation between the Ombudsman and the Government. It seems to me that much of it was considering the narrow referral powers from the Inspector of the Crime Commission and the Inspector of the Police Integrity Commission, but this bill is not limited to that; this bill covers all the operations of the Ombudsman, all the inquiries held by the Ombudsman.

It is poor practice to rush this kind of legislation through on less than 24 hours notice on the second last day of Parliament for the year without any consultation with the broader legal community, whistleblower groups or other public interest advocacy groups. We are rushing this legislation through and putting this gag on everything the Ombudsman does without any consultation. It is poor practice from the Government and, I must say, from the Ombudsman.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [12.09 p.m.]: We seem to have walked into a parallel universe in which the Ombudsman is criticised by The Greens. I think this has more to do with the fact that neither the Ombudsman, the Inspector of the Police Integrity Commission, the Inspector of the Crime Commission or anybody else sought the legal opinion of Mr David Shoebridge on this. By extension of what he said, Mr David Shoebridge has suggested that the Ombudsman somehow has conducted himself in an inappropriate way in relation to the discussion with the Government.

Mr David Shoebridge: Poor practice, I said.

The Hon. MICHAEL GALLACHER: No, you made reference to it being inappropriate and all the rest of it. I think Mr David Shoebridge's comments are inappropriate.

Mr David Shoebridge: It is hot off the photocopier.

The Hon. MICHAEL GALLACHER: That is why it is declared urgent. This matter is urgent. This is about giving the Ombudsman the ability to get on and do the job. You cannot have it both ways, David. You cannot one minute say that we must get this inquiry underway and ensure the protection and security of people who give evidence and then take umbrage the next moment because you were not consulted and that it is being rushed through. We are trying to give the Ombudsman the ability to deal with this issue on behalf of the many complainants that Mr David Shoebridge purports to represent not only here but also by his performance at the estimates committee hearing. This is about giving the Ombudsman a guarantee that he can get out there and do the job. It is also about giving him the same level of protection against publication orders that is enjoyed by other integrity-based organisations such as the Police Integrity Commission and the Independent Commission Against Corruption.

Mr DAVID SHOEBRIDGE [12.11 p.m.]: The Greens amendments would not prevent this bill from going through and they are not intended to do that. The Greens amendments would simply limit to the matter of urgency these new gag powers that no-one has seen before and about which there has been no public consultation or engagement with interested parties such as the legal profession or other public interest advocacy groups. I do not care whether it comes to my office; it is the public that should be consulted before this happens. Let us limit these gag powers to the actual matter of urgency.

This is urgent because it is hoped that there will be a referral from the inspectors of the Police Integrity Commission and the Crime Commission. I understand it is urgent and that there might be a need for secrecy provisions for those inquiries. The Greens amendment would allow the necessary secrecy provisions to be put in place for those urgent matters. The Minister is either deliberately misunderstanding and mischaracterising the amendments or engaging in the shameful behaviour of political grandstanding. The amendments would allow the urgent inquiries to be undertaken and also allow the Ombudsman to have those powers in relation to referrals from the Crime Commission or the Police Integrity Commission. The amendments would not implement the wholesale change that the Government has snuck in under the radar without any consultation. I commend the amendments to the Committee.

Question—That The Greens amendments Nos 1 and 2 [C2012-164A] be agreed to—put.

The Committee divided.

Ayes, 5

Ms Faehrmann
Dr Kaye
Mr Shoebridge

Tellers,
Ms Barham
Mr Buckingham

Noes, 31

Mr Ajaka
Mr Blair
Mr Borsak
Mr Brown
Mr Clarke
Ms Cotsis
Ms Cusack
Mr Donnelly
Ms Fazio
Ms Ficarra
Mr Gallacher

Mr Gay
Mr Green
Mr Khan
Mr MacDonald
Mr Mason-Cox
Mrs Mitchell
Mr Moselmane
Reverend Nile
Mrs Pavey
Mr Primrose
Mr Roozendaal

Mr Searle
Mr Secord
Ms Sharpe
Mr Veitch
Ms Voltz
Ms Westwood
Mr Whan

Tellers,
Mr Colless
Dr Phelps

Question resolved in the negative.

The Greens amendments Nos 1 and 2 [C2012-164A] negatived.

Schedule 1 agreed to.

Schedules 2 and 3 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.

EMERGENCY LEGISLATION AMENDMENT BILL 2012

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

LAW ENFORCEMENT (CONTROLLED OPERATIONS) AMENDMENT BILL 2012

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

Second Reading

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [12.25 p.m.]: I move:

That this bill be now read a second time.

The Law Enforcement (Controlled Operations) Amendment Bill 2012 implements recommendations of the recently tabled "Report on the Review of the Law Enforcement (Controlled Operations) Act 1997". To implement those recommendations, the bill will amend the Law Enforcement (Controlled Operations) Act 1997 and the Surveillance Devices Act 2007, and will make consequential amendments to the Law Enforcement (Controlled Operations) Regulation 2012. The review found that overwhelmingly the Act was operating well and achieving its objectives.

Those objectives are, first, to provide law enforcement agencies with the investigative tools they need to effectively investigate serious crime, particularly organised crime and drug trafficking. To this end, the Act permits the chief executive officer, or a senior delegate, of each prescribed agency to authorise suitably trained officers to undertake, as part of an approved controlled operation, what would otherwise be illegal activities—in other words, controlled operations. Secondly, the Act would provide a strict system of accountability for the approval of controlled operations and the conduct of controlled activities by ensuring that authorisations are granted only in accordance with statutory guidelines, and by providing external monitoring of compliance with those requirements by the New South Wales Ombudsman. Thirdly, the Act would safeguard officers by providing an indemnity against departmental, criminal or civil prosecution for all

controlled activities they undertake. Fourthly, the Act would remove any doubt as to the status of evidence obtained in the course of a controlled operation by ensuring that all such evidence would be classified as legal and prima facie admissible.

The review made two recommendations that aim to streamline the controlled operations process and assist law enforcement agencies to reduce red tape. The first recommendation is that law enforcement agencies be permitted to nominate a secondary law enforcement officer. Presently an application to conduct a controlled operation must nominate a principal law enforcement officer. The principal law enforcement officer is the officer who will conduct and have responsibility for the controlled operation. That responsibility also extends to other duties, such as reporting on the conduct of the operation, once the operation has been conducted.

The review received a submission from a law enforcement agency that one of the reasons for requiring amendments to applications was that the principal law enforcement officer was unavailable at the time when a controlled operation was to be conducted. That may have been as a result of illness or conflicting duties. Accordingly, the bill will amend the Act to allow law enforcement agencies to nominate a secondary law enforcement officer. The secondary law enforcement officer must be nominated when an application for an authority to conduct a controlled operation is made. The secondary law enforcement officer will assume the responsibilities of the principal law enforcement officer when the principal law enforcement officer is unavailable.

The bill amends the Surveillance Devices Act 2007 to permit civilian participants in authorised controlled operations to wear surveillance devices to record a conversation they are party to, without seeking a surveillance device warrant. Currently section 7 (4) of the Surveillance Devices Act 2007 permits law enforcement officers who are participating in an approved controlled operation and operating under an assumed name or identity—in other words, they are undercover—to wear surveillance devices to record a conversation they are party to without seeking a surveillance device warrant. However, no similar exemption is provided for civilian participants in a controlled operation. Section 7 (3) (a) of the Law Enforcement (Controlled Operations) Act 1997 states that a civilian participant:

must not be authorised to participate in any aspect of a controlled operation unless the chief executive officer is satisfied that it is wholly impracticable for a law enforcement participant to participate in that aspect of the operation.

Therefore, a civilian participant is permitted to participate in a controlled operation only when it is unfeasible for a law enforcement officer to do so. It might be noted that the exemption provided for in the Surveillance Devices Act applies only to law enforcement officers who are acting undercover. A law enforcement officer acting undercover is comparable to a civilian participant who, although not operating under an assumed identity, is acting covertly on behalf of a law enforcement agency. Providing this exemption will save police and courts time in preparing and giving consideration to surveillance device warrants and also will be in line with the policy objectives of the Act.

The use of surveillance devices by civilian participants will still be subject to the safeguards provided for within the Law Enforcement (Controlled Operations) Act 1997. The intended use of the device would be included in the operational plan and would be a matter that the chief executive officer of the relevant law enforcement agency would have to consider when deciding whether or not to authorise the controlled operation. The bill also makes consequential amendments to the Law Enforcement (Controlled Operations) Regulation 2012. Those consequential amendments provide for the secondary law enforcement officer within the code of conduct and other written notices. The amendments within the bill will assist law enforcement agencies in the conduct of controlled operations and reduce red tape. 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 future day.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

The Hon. JEREMY BUCKINGHAM [12.32 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 981 outside the Order of Precedence relating to the suspension of coal exploration licences in the Bylong Valley be called on forthwith.

This matter is urgent. The exploration licences that are before the Independent Commission Against Corruption are being operated today by current licence holders. The Mount Penny project may be before the Department of

Planning but the ability of licence holders to continue to operate will depend on whether they hold a valid exploration licence, which in future will be referred to as a valid mining licence. The Doyles Creek exploration project, which is continuing, is in the process of preparing an environmental assessment. Members of the public are rightly outraged by what they have heard from the hearings of the Independent Commission Against Corruption which have raised serious questions about the actions of two former Labor Ministers. Without prejudicing the findings of the inquiry relating to those persons, already it is clear that the taxpayers of New South Wales have been duded out of hundreds of millions, if not billions, of dollars in potential licensing fees and all from the granting of these exploration licences. That is why this matter is urgent.

Instead of these assets delivering for the people of New South Wales by being used in our schools and hospitals and by providing essential infrastructure, massive financial windfalls have been gifted to a small number of highly connected and already very wealthy men, including a former mining Minister in this State. This matter is urgent because those persons profiting from assets obtained from what appear to be dishonest dealings should not be allowed to continue one day longer. Until such time as all the evidence is collected, presented and considered by the appropriate authorities no-one should be allowed to profit from mining exploration licences that have been obtained dishonestly. The Government should take action to suspend these licences now. It is not reasonable to say that these people are before the Independent Commission Against Corruption and therefore no action should be taken that pre-empts its findings. If the hearings of the Independent Commission Against Corruption continue for many more months licences can be on sold, developments started and we will lose the ability to address any of the wrongs that might occur.

The Greens believe that the Government already has that power. Despite claims by the planning Minister that he is powerless to intervene under planning law, the resources Minister has clear grounds to suspend or even terminate these licences. Under section 125 of the Mining Act 1992 cancellation or operational suspension is possible if the Minister considers that the holder of the authority provided false or misleading information in or in connection with an application. If the Government is not convinced that it has sufficient power to take appropriate action to suspend, it is doubly urgent that we debate this motion and be given an opportunity to make a clear statement before the end of the parliamentary session that the Government should introduce legislation immediately to give it the power to do so.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [12.35 p.m.]: The Government opposes the motion moved by the Hon. Jeremy Buckingham to suspend standing orders as it does not believe it is doubly urgent for members to debate this motion. This matter is not urgent. The Hon. Jeremy Buckingham should respect and not seek to circumvent the independent process of the Independent Commission Against Corruption. The Hon. Jeremy Buckingham would be well aware that in the latter part of 2011 members in this Chamber and in the other place warmly agreed to refer Doyles Creek exploration licence EL7270 to the Independent Commission Against Corruption. The Hon. Jeremy Buckingham, who is seeking urgency on this matter, supported that referral by the Government but is now second-guessing the Government's decision. No cynicism is greater than that of The Greens.

This motion is an attempt by the Hon. Jeremy Buckingham to put himself in the political spotlight and to stop the passage of legislation in this Parliament. This matter is not urgent because as members would be aware the Independent Commission Against Corruption is undertaking a number of public inquiries—Operation Jasper, Operation Acacia and Operation Indus. Among other things Operation Jasper is examining the circumstances surrounding the decision made in 2008 by Minister Macdonald to open a coal exploration area in the Bylong Valley. The Hon. Jeremy Buckingham is not giving due regard to those public inquiries. This matter is not urgent. I suspect that the Hon. Jeremy Buckingham is seeking to second-guess the Independent Commission Against Corruption while it is conducting its public inquiries. I remind the member that in November last year he supported the following motion:

- (1) That under section 73 of the Independent Commission Against Corruption Act 1988 this House refers to the Independent Commission Against Corruption for investigation and report with respect to:
 - (a) the circumstances surrounding the application for and allocation to Doyles Creek Mining Pty Ltd of Exploration Licence No. 7270 under the Mining Act 1992 (NSW) (Mining Act);
 - (b) the circumstances surrounding the making of profits, if any, by the shareholders of NuCoal Resources NL as proprietors of Doyles Creek Mining Pty Ltd;
 - (c) any recommended action by the New South Wales Government with respect to licences or leases under the Mining Act over the Doyles Creek area;

- (d) any recommended action by the New South Wales Government with respect to amendment of the Mining Act; and
- (e) whether the New South Wales Government should commence legal proceedings, or take any other action, against any individual or company in relation to the circumstances surrounding the allocation of Exploration Licence No. 7270.

The Hon. Jeremy Buckingham: What about Mount Penny?

The Hon. DUNCAN GAY: The Hon. Jeremy Buckingham will blow up like a coal seam gas bomb if he does not keep quiet. This important part of the motion will answer his question:

- (2) That as deemed necessary, the Commissioner may also inquire into any related matters.

The matter is not urgent because the Independent Commission Against Corruption has the discretion to come up with any findings and the Government will consider them and act appropriately. It is an act of gross impropriety for a member who voted for it to now try to pre-empt an inquiry that is well underway. Frankly, I thought better of him.

The Hon. STEVE WHAN [12.39 p.m.]: The Opposition will support The Greens' motion to suspend standing and sessional orders. Yesterday the Leader of the Opposition, John Robertson, wrote to Premier O'Farrell calling for the suspension of all mining licences currently under investigation by the Independent Commission Against Corruption. He offered bipartisan support should any legislative change be required to make that happen. He said:

No individual or company that holds any of these licences should be allowed to profit or benefit from them whilst questions remain about how they were obtained.

Clearly, neither the Opposition nor The Greens is saying that these licences should be taken away or permanently cancelled. That would be to prejudice the Independent Commission Against Corruption outcome. However, we are saying that the Independent Commission Against Corruption investigation and hearings should be suspended and a process undertaken to consider whether further action should be taken based on its recommendations. That is not prejudging the Independent Commission Against Corruption. It is reasonable that in the interim the licences specifically the subject of the Independent Commission Against Corruption investigations should be suspended, not other licences in the area. The Opposition will support the motion.

Dr JOHN KAYE [12.41 p.m.]: The argument of the Deputy Leader of the Government rested on the proposition that this motion would undermine the current Independent Commission Against Corruption [ICAC] investigation into coalmine licences. That is completely incorrect. To that extent, the Government does not have an argument against the motion for urgency. Asking the Government to explore and investigate options for the suspension and termination of exploration licences does not undermine the Independent Commission Against Corruption investigation. The motion does not even prejudice what is happening at the Independent Commission Against Corruption. The motion says very clearly that evidence has been presented at the Independent Commission Against Corruption creating a strong case that would raise questions about the probity of the process regarding how some licences were obtained.

New South Wales has two pieces of legislation that address that issue specifically. Therefore, it is entirely appropriate for the Government to ask: Should we look at halting the exploration and development of the mine until we find out the circumstances under which approval for the exploration licences for the mines was obtained? That is an entirely appropriate procedure because if we play the tape forward, in six months time when the Independent Commission Against Corruption hands down its findings for the three investigations named by the Minister, the licences may have been obtained corruptly but they have been handed on—development work has occurred and money has been invested.

In the interests of protecting the reputation of New South Wales as a place where development approvals and the like are obtained fairly and honestly in a level playing field, we must also protect ourselves from the sovereign risk of having to tell the new owners, "Wait a minute, your licence was obtained unfairly. We have to investigate how we are going to deal with that." This motion says that the Government ought to pay attention and, in fairness to the mining companies and their employees before they go too far down the track of investing, conduct an investigation into whether it is appropriate to put matters on hold. This procedure is followed regarding proceeds from criminal activities. New South Wales has two pieces of legislation that deal with such a circumstance and create an opportunity to seize assets and undo things specifically where there is a presumption or a risk that an adverse activity has occurred.

The Hon. Duncan Gay: We waited for 18 months while Steve Whan was in Cabinet.

Dr JOHN KAYE: That is another argument in favour of urgency.

The Hon. Duncan Gay: It's an argument in favour of getting the facts right—proper process. I thought you believed in proper process.

Dr JOHN KAYE: I do believe in proper process. This motion does not undermine proper process. On the contrary, it is an inappropriate process to allow this bill to go through. This matter is urgent. I support the motion of the Hon. Jeremy Buckingham.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 16

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

Noes, 19

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

Pairs

Mr Foley	Mr Lynn
Mr Roozendaal	Mrs Maclaren-Jones
Ms Voltz	Mrs Pavey

Question resolved in the negative.

Motion negatived.

PORTS ASSETS (AUTHORISED TRANSACTIONS) BILL 2012

Second Reading

The Hon. DUNCAN GAY (Minister for Roads and Ports) [12.53 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Government is pleased to introduce this bill to authorise the lease of Port Botany and Port Kembla to the private sector. The bill will enable the long term lease of these ports and associated port land for a term of no greater than 99 years. The bill also allows for the lease of other port assets, including Cooks River and Enfield logistics terminals, with some industrial land at Enfield to be sold to the private sector. But it does not include the ports of Yamba or Eden, Sydney Harbour wharves and cruise functions, the Port Botany landside improvement strategy functions and a range of other maritime roles including the harbourmaster, sea pilots and emergency response obligations.

The freehold title to land at Port Botany and Port Kembla will remain in government ownership and will be vested in a public sector agency. The Government is seeking approval for this important initiative to help free up billions of dollars to help fund a critical backlog of infrastructure across the State. This backlog includes such vital work as the Government's billion dollar commitment to the Pacific Highway, the upgrade of the Princes Highway and WestConnex. It will provide the missing links in Sydney's arterial road network thereby addressing the challenges that Sydneysiders face daily on our roads. The long-term lease of Port Botany and Port Kembla will enable the private sector to invest in the ongoing development of the ports to meet growing freight demands across all sectors such as the import of consumer goods and the export of coal and other mineral resources and agricultural commodities. Ongoing private sector investment in the ports will help drive growth in the State economy, support jobs and at the same time allow the Government to focus its limited resources in areas which affect people's day-to-day lives—hospitals, roads, transport and schools.

Proceeds from this transaction will be paid into the Restart NSW Fund that the O'Farrell-Stoner Government established to kick-start major infrastructure investment across the State. Thirty per cent of the fund is dedicated for rural and regional areas and \$100 million from the lease of Port Kembla will be spent meeting some of the Illawarra's urgent infrastructure needs as prioritised by Infrastructure NSW. Similar to other Government transactions, the bill allows the Treasurer to direct the establishment of special purpose transaction entities, including transaction State Owned Corporations [SOC] and transaction companies to facilitate the lease of the port assets. The special entities may include trusts, which are commonly used for infrastructure transactions of this kind, such as the recent Sydney desalination transaction. The bill also allows for the exercise of port State Owned Corporations functions through the creation of subsidiaries for the purposes of the lease. The bill enables the Treasurer to designate associated port land vested, for historical reasons, in other public sector agencies such as Roads and Maritime Services, for transfer to the NSW Port Corporations or other public sector agencies for the purpose of the transaction.

The intention is that only land owned by government agencies in or around Port Kembla will be transferred, which will be important for the port lessee's future management of the port. In addition, the bill establishes the Ports Assets Ministerial Holding Corporation, managed by the Treasurer or an authorised Minister, to hold the port assets to be leased to the private sector on behalf of the Crown. Consistent with other government transactions, some employees will transfer to the new private sector lessee following an expression of interest process. Enterprise agreement employees have the option to remain with the public sector. The bill includes a number of provisions that set out commitments made by the Government to employees transferring to the private sector. These provisions are consistent with other government transactions, such as the contract for the private operation of Sydney Ferries, and include a two year employment guarantee for enterprise agreement employees and transfer to the lessee on at least the same terms and conditions. Employees will have continuity of entitlements, including those that relate to superannuation, sick leave, annual leave and long service leave. Finally, all employees transferring to the new lessee, whether they are enterprise agreement or contract employees, will be eligible for a transfer payment of up to 30 weeks pay—depending on their length of service.

To allow for continuity in the management of the ports assets by the lessee the bill allows for the secondment of public sector employees to the private sector on the same terms and conditions for a period of time after the transaction is finalised. Staff seconded to the lessee remain employees of the port concerned. The bill lays out how the operation of current and future planning controls will apply to Port Botany. The effect of the bill will be to remove the existing artificial limits on container throughput at the port. The removal of the throughput limit enables Port Botany to reach its natural capacity, which was significantly expanded as a result of approval by the previous Government to add a third terminal at the port. The removal of the cap is necessary; regardless of who owns the port. The Sydney Ports Corporation had plans in place to apply to have the cap lifted regardless of any transaction. By allowing for the throughput limit to be removed the Government is ensuring that taxpayers receive value for the investment already made. It will align Port Botany with major ports around the world—none of which have such a cap—and allows the State to receive full value for the lease. In terms of planning and approvals for any future development of the two ports, the Government intends to continue the application of the current New South Wales planning regime, subject to the changes rendered by the provision addressing throughput limits at Port Botany.

The existing planning instruments applying to the two ports are currently being reviewed by the New South Wales Department of Planning and Infrastructure in order to determine how they need to be rationalised to reflect the change from public to private operation. The Government is carrying out a number of major transport and freight improvements while maximising the use of existing infrastructure links to efficiently move trucks in and out of the area. The vast majority—some 85 per cent—of all containers have an origin or destination within 40 kilometres of the port. It is clear that the ongoing imposition of the cap on throughput at Port Botany would result in a massive inefficiency in the future that would greatly constrain the State's economy.

On the matter of congestion it is important to note that airport traffic is by far and away the biggest contributor to congestion in Port Botany. The Sydney Airport precinct accounts for almost 30 per cent of all traffic on the M5 East compared to only 1.8 per cent for port-related trucks. In terms of managing future growth and mitigating impacts on local communities, the Government has a clear and achievable policy set out in our 10-year plan, NSW 2021. By 2020 the proportion of container freight movements by rail from New South Wales ports will double. The State and Federal Governments are also taking various other important steps to improve traffic flow around the port and shift greater volumes of goods from road to rail. These include the announced Moorebank Intermodal Terminal, the development of the Southern Sydney Freight Line, the Enfield logistics terminal, the truck marshalling yard at Port Botany and implementation of the Port Botany landside improvement strategy. The new operator will be required to make an annual contribution to improving road and rail landside logistics related to the port.

As I mentioned earlier the Government has also announced its support of WestConnex, an important long-term initiative to support the efficient movement of freight between Port Botany and logistics hubs in western and south western Sydney. In particular, the widening of the M5 East motorway to four lanes in each direction will help alleviate congestion in the area. My intention is that the port leases will include a number of important stewardship requirements to ensure the ports are managed and developed appropriately in the future. These stewardship requirements include obligations to use the land for port-related purposes only, to provide ongoing access for road and rail transport, to develop the port where feasible to do so and to maintain the port in good working order.

As is usual in the long-term lease of infrastructure assets the Government retains step-in rights and can terminate the lease if the lessee is in breach of key obligations. As outlined in the bill, the Government will retain oversight and monitor prices charged by

the ports. In accordance with principles adopted by the Council of Australian Governments, commercial outcomes should be promoted by establishing competitive market frameworks in preference to regulation but where there is a need for regulatory oversight of prices the introduction of price monitoring should be considered a first step. Port users tend to be large sophisticated businesses with significant commercial bargaining power. There is little or no asymmetry of market power that would necessitate heavy-handed price regulation by the State.

As part of the Government's price monitoring regime all New South Wales ports, including the private port lessees, must give notice of any proposed change to service charges and provide the rationale for how the increase is calculated and why the increase is needed. The port lessee must also provide an annual report of charges to the relevant Minister and the Minister has the power to require information be supplied to the Government relating to port charges. If it is necessary in the future the Minister has the ability to refer any inappropriate pricing behaviour by the port lessee's to the Government's independent pricing watchdog, the Independent Pricing and Regulatory Tribunal. In addition, in the event of pricing disputes a port user can always apply under Commonwealth legislation to the National Competition Council to have the asset declared as nationally significant infrastructure, but I am advised that to date this has not been necessary in respect to container ports in Australia.

Our proposed pricing regime features ongoing oversight rather than the regulations put in place by the Queensland Labor Government when it recently leased the Port of Brisbane. The bill provides an important authority to the port lessee to give directions to maintain or improve safety and security at the port. These directions could regulate port activities that include the driving and parking of vehicles and the movement, handling and storage of dangerous goods. The bill gives the port lessee some ability to enforce compliance with its directions such as powers to enter land or premises at the port for the purpose of determining whether the directions are being complied with. The port lessee's enforcement powers do not extend to issuing fines.

Importantly, the bill ensures that any directions given by the port lessee are subordinate to, and cannot contravene, the State's regulatory powers, including the Dangerous Goods Regulation and directions given by the harbourmaster. The port direction regime gives the port lessee a means of managing its commercial risks without usurping the Government's role as regulator. These provisions are consistent with the powers of Sydney Ports Corporation and Port Kembla Port Corporation to ensure safety and security at its ports. The lessee must, in turn, report to the Minister on a range of matters including the giving or cessation of any port directions, any contravention the port lessee is aware of, any exercise by the port lessee of the power to enter premises and any action taken by the lessee to enforce compliance with a port direction. The bill includes a number of other provisions to facilitate the authorised transaction, such as the inclusion of land acquired by the Ports Assets Ministerial Holding Corporation in the lease.

A further arrangement allows for the adjustment of the objectives and functions of Sydney Ports Corporation and Port Kembla Port Corporation to take into account their changed role following the transaction. The Government's plan to drive regeneration in this State through greater private sector investment in our economic infrastructure will deliver both proceeds and savings by shifting capital obligations to the private sector allowing the Government to focus on key social investments. I have previously indicated that the proceeds of the transactions will underpin increased investment in the Pacific Highway, the Princes Highway and WestConnex as well as \$100 million in new infrastructure spending in the Illawarra. This bill is a key part of the Government's commitment in NSW 2021 to build the infrastructure that makes a difference to both our economy and people's lives. The enactment of this bill will release funds for critical and desperately needed infrastructure in the State and will allow private sector capital to drive efficiency to drive the economy. I commend the bill to the House.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [12.54 p.m.]: I lead for the Opposition in debate on the Ports Assets (Authorised Transactions) Bill 2012. Members will not be surprised to learn that the Opposition opposes this bill root and branch. This is one of the most irresponsible transactions proposed in the history of this State. The asset at Port Botany is worth several hundred million dollars. What is proposed by this bill is the fire sale of two of the most important infrastructure assets in this State.

The Hon. John Ajaka: Leased.

The Hon. ADAM SEARLE: I note the interjection of the Hon. John Ajaka. A 99-year lease effectively is a sale in any person's language. Any fair-minded observer would say that this Government is alienating a public asset for our lifetime and for the lifetime also of our children. The sale is being undertaken with no public case having been made in support of the sale of the ports, no study has been done on the impact on Australian importers and exporters and there has been no examination of the impact on the cost of living for families in this State. As a community and as legislators debating this important piece of legislation we are in the dark about what impact this sale will have on families, consumers, businesses and the broader economy of the State. The Opposition understands that the Government has done a scoping study. Opposition members in the other place have asked for access to that study but that request has been refused by the Government. Opposition members understand that the pre-scoping study was undertaken by Goldman Sachs. We are shocked that an investment bank has recommended the asset sale or lease. What was the cost of this important document?

The PRESIDENT: Order! The Hon. Sophie Cotsis will have an opportunity to contribute to the debate. She will listen to the Deputy Leader of the Opposition in silence.

The Hon. ADAM SEARLE: The investment bank Morgan Stanley prepared the report at a cost of \$10 million of taxpayers' money but the public, the Parliament and the Opposition have not had access to that

report. Where is the report? The Opposition understands that nearly half a million dollars was spent on work Minter Ellison did and over \$400,000 went to PricewaterhouseCoopers. Almost \$11 million has been spent on the preparation of a document that has been hidden from the people of New South Wales by the Treasurer, the Premier and this Government. What will be the impact on international and national shipping? What impact will this initiative have on the transport costs of imported and exported goods, that is, goods that arrive and leave the port by road and rail?

No information is publicly available regarding this transaction and the impact it will have on our economy and our society. What impact will this initiative have on the environment? Where is the discussion paper on its potential impact on the environment and the local neighbourhood? What will be the impact of removing the cap of 3.2 million 20-foot equivalent units? What potential impact will there be on traffic congestion? Has this Government sought information about the potential impact of this transaction on competition in the port and the transport sector? Simply put, this Government has not done the most basic homework relating to the potential impact of this proposed sale, which is negligent. If the Government has done its homework perhaps it is keeping it a dark secret because it knows that the results of those investigations will show this transaction is bad for all sorts of reasons.

The upshot of this bill is that the Government wants to sell a multibillion dollar asset that produces annual revenue at the rate of \$175 million from Port Botany and \$50 million from Port Kembla, excluding the revenue from the Enfield and Cooks River facilities. On the basis of what documentation is it doing that? The Government produced a one-page briefing note. The learned contributions of the Minister in this Chamber and in the other place and the contribution of Government members hardly shone a ray of light on what is really happening. The Government is willing to give away this significant revenue stream but for what purpose? What will replace this revenue stream? This Government keeps invoking the need to maintain the triple-A rating but one of the factors feeding into the rating agency's assessment of the retention or reduction of the triple-A credit rating is the total revenue available to this State. The Government will be giving away revenue streams but with what will it be replacing them?

The previous Government made a massive public investment in the State's port assets. Our ports are in fantastic condition, with the previous Labor Government making very significant investments in port infrastructure when it was in office. Port Botany has undergone a massive expansion with a \$1 billion investment in a new container terminal, a new \$80 million bulk liquids berth, truck marshalling yards, upgraded rail infrastructure and improved local roads. Port Kembla has also seen massive investment, including completion of a massive inner harbour expansion, transfer of the car import trade and investment in the outer harbour expansion. There have also been major investments in better performance, with reforms introduced by Labor leading to more efficient ports and reduced truck queuing.

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

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

Item of business set down as an order of the day for a later hour.

QUESTIONS WITHOUT NOTICE

PARSONS REVIEW

The Hon. LUKE FOLEY: My question is directed to the Minister for Police and Emergency Services. Given that two months ago, that is, on 20 September, the Minister informed the House in relation to the Parsons review that he "expects to be in a position to bring these matters to Cabinet in the coming weeks", and given that the Minister has now had the audit for more than a year, when will the Government implement the recommendations of that review?

The Hon. MICHAEL GALLACHER: As soon as I am satisfied with the answer from Police in relation to a number of questions that I have regarding the final conclusions.

DRIVER FATIGUE

The Hon. JOHN AJAKA: My question is directed to the Minister for Roads and Ports. Can the Minister update the House on the impact of driver fatigue on road safety?

The Hon. Penny Sharpe: It's bad.

The Hon. DUNCAN GAY: I acknowledge the comment of the Opposition spokesperson on transport; and an appropriate comment it is. I do not acknowledge the member to rubbish her in any way but rather to acknowledge that tired driving is bad. As the Christmas season approaches I take this opportunity to remind drivers in New South Wales to stay safe on our roads. That means driving to the speed limit and road conditions, organising a plan B to get home after a night out, and taking regular breaks on long-haul trips. One of the major problems over the Christmas season is driver fatigue. People are more likely to drive long distances to see family and friends and to go on holiday. Unfortunately, driver fatigue is a major factor in road crashes. In 2011 fatigue accounted for around 19 per cent of fatal crashes—about the same level as drink-driving. While there were significant reductions in fatigue-related crashes between 1999 and 2011, we know that there is still more work to do in this area.

One strategy to target driver fatigue is Driver Reviver sites. Driver Reviver sites will operate throughout New South Wales during school holidays and over long weekends. Congratulations to all the people, many of them volunteers, who work at those sites. New South Wales has been developing rest areas to meet the basic needs of heavy vehicle drivers by providing improved amenities, including an appropriate number of sealed truck parking spaces, toilet facilities, suitable access, signage, shade, shelter, tables and chairs, as well as longer rest opportunities in line with heavy vehicle fatigue legislation.

As members would know, "Wake up to the signs" is the current campaign used to reinforce the signs of fatigue—for example, tired eyes, yawning and drowsiness. The campaign is aimed at reminding drivers to take regular breaks and "Stop. Revive. Survive". Drivers also are advised to avoid driving when they would normally be asleep, and to be aware of circadian lows in the afternoon and evening. Technological developments in the future may mean lane departure warnings, steering controls and crash avoidance systems will help prevent fatigue-related crashes. But, interestingly, there is also a very futuristic possibility for ocular technology to be used in cars to monitor the eyes of drivers and alert them to the possibility of fatigue.

The Hon. Steve Whan: We just don't have it here.

The Hon. DUNCAN GAY: No. We need it for some of your speeches. Of course, all these options will have to be investigated to determine how they might reduce the road toll in New South Wales. In the meantime, the Government will continue to work to get the message out to drivers that recognising the signs of fatigue is important to their safety on the road. Worryingly, research undertaken by Transport for New South Wales has indicated that drivers do not recognise that they are fatigued, and driving performance can be affected before drivers realise they are fatigued. I again ask all drivers to be careful over the Christmas season and drive safely. Do not leave work late after a heavy night out before a hard day at work and then drive about eight hours to get to destinations. Heavy vehicles are not the problem in this period; the problem is with domestic vehicles.

SPEED CAMERAS

The Hon. ADAM SEARLE: My question is directed to the Minister for Roads and Ports. Will the new tender for mobile speed camera offences contain any incentives for private operators to increase the number of fines they issue?

The Hon. DUNCAN GAY: No.

WASTE LEVY

The Hon. Walt Secord: Mr President—

The Hon. PAUL GREEN: Well done, Walt; you were quicker.

The Hon. Walt Secord: What were you doing? If you snooze you lose, buddy.

The Hon. PAUL GREEN: Actually, it is The Greens go.

The PRESIDENT: Order! The Hon. Paul Green has the call to ask a question, not to have a conversation with the Hon. Walt Secord. The clock is ticking.

The Hon. PAUL GREEN: It is a very short question, Mr President. My question without notice is directed to the Minister for Finance and Services, representing the Minister for the Environment. Given that the Queensland Government has introduced legislation to remove that State's waste levy, will New South Wales follow the example of Queensland and remove its waste levy?

The Hon. GREG PEARCE: I thank the member for that very good question. I will seek a detailed answer for him.

HOSPITAL RADIOACTIVE WASTE

The Hon. WALT SECORD: My question is directed to the Minister for Finance and Services. In light of the answer given by the Minister yesterday about radioactive hospital waste, will the Minister inform the House how much hexavalent chromium, also known as chromium 6, has been released into Sydney Water and Hunter Water systems since April 2011? Have there been any breaches of official licences?

The Hon. GREG PEARCE: That is like a repeat of the question that was asked yesterday, when I indicated that I would get an answer.

The Hon. Walt Secord: It is a completely different question.

The Hon. GREG PEARCE: It follows a pattern of questions from the Hon. Walt Secord in relation to Sydney Water. Honourable members would recall that last week he purported to produce a photograph of a canal that he claimed was polluted. I had a look at the photograph. You could not really see much in it, but what you could see—

The Hon. Luke Foley: Point of order—

The Hon. Duncan Gay: A point of order on props.

The Hon. Luke Foley: The Minister is debating the question asked by the Hon. Walt Secord—indeed, other questions asked previously by the member—rather than making any attempt to answer the honourable member's question.

The Hon. Duncan Gay: Point of order: Mr President, the Hon. Walt Secord is about to use a prop.

The Hon. Catherine Cusack: To the point of order: The Minister is not debating the question; he is referring to the question. It is impossible to answer a question without referring to it, and in this instance the Minister is referring to a pattern of questions in answering the question.

The PRESIDENT: Order! Regardless of whether or not the question was being debated, the Minister was referring to and answering other questions instead of responding to the question asked. If the Minister has any further relevant information to provide in response to the question asked, he should provide it.

The Hon. GREG PEARCE: I do. You see—

The Hon. Walt Secord: Point of order—

The Hon. Duncan Gay: Point of order: The member is about to use a prop again.

The PRESIDENT: Order! I will hear the Hon. Walt Secord on a point of order.

The Hon. Walt Secord: The Minister for Roads and Ports is misleading the House. Last week I—

The PRESIDENT: Order! There is no point of order. The member will resume his seat.

The Hon. GREG PEARCE: I was trying to give a relevant answer in that I was drawing together threads of material used by the shadow Minister in coming up with his questions. The member did produce a

photograph. The noticeable thing about the photograph was that there appeared to be the shadow of a very large man holding a bucket or a tin, and it appeared that the man was pouring the content of the bucket or tin into the canal.

The Hon. Walt Secord: Point of order: I take offence at that remark and I seek leave to table the photograph.

The PRESIDENT: Order! No remark was made about the Hon. Walt Secord for him to take offence to, so I do not require anything to be withdrawn. Members may not seek leave to table documents during question time. I remind the Hon. Walt Secord that there is an appropriate time for him to seek leave to table documents. He may seek leave to do so at the conclusion of question time when there is no business before the House.

SECURITY INDUSTRY

The Hon. CATHERINE CUSACK: My question is addressed to the Minister for Police and Emergency Services. Will the Minister update the House on reforms to the security industry?

The Hon. MICHAEL GALLACHER: It is important for all in this House to recognise that security industry reforms are being implemented in New South Wales. The reforms commenced on 1 November, following the passage of the Security Industry Amendment Bill 2012. The reforms formalise the Government's vision for the security industry and they also address the issues identified by the Independent Commission Against Corruption in relation to the regulatory problems confronting the industry and implement its recommendations.

The reforms will achieve significant improvements through the enhancement of police regulation of the security industry by expanding powers and authorising other persons. Powers of inspection and seizure in relation to inspections of security firms are now extended to civilian staff of police who have been authorised by the commissioner to exercise the functions of an enforcement officer under the Security Industry Act. Further, for the purposes of conducting compliance auditing or generally administering the legislation at premises at which a security activity is being carried on, no search warrant is required to enter. Power of entry without a warrant is limited to exclude entry into premises or part of premises that are used only for residential purposes. This aligns with the way compliance auditing is conducted by a range of other New South Wales government agencies.

Red tape has been reduced and efficiencies will be gained in the licensing process, which is a benefit to those working in the industry as well as to those regulating it. A licence renewal process includes the continuation of the authority of the old licence being renewed, subject to any further particulars required by the commissioner and with a provision for a penalty for late renewal. The Government has responded to concerns within the industry with the abolition of the provisional licensing scheme from 1 November 2012. It is envisaged that this is likely to lead to a significant reduction in the number of mutual recognition applications for licences.

Many of the findings of the Independent Commission Against Corruption investigation were in regard to security industry training provided by registered training organisations. The regulation of registered training organisations by the Commissioner of Police has been retained, and this counters the unintended impact of the 1 July 2011 commencement of the National Vocational Education and Training Regulator Act 2011 on the functions of the Commissioner of Police with regard to the regulation of security industry training. The level of oversight required by the security training industry warrants retention of the regulation of registered training organisations by New South Wales rather than referring it to the national regulator.

A Security Licensing and Enforcement Directorate [SLED] Advisory Council, comprising government and industry representatives, has been established to replace the Security Industry Council. This forum will allow stakeholders and the regulator to collaborate, to discuss opportunities and to exchange information. The directorate can offer better and more regular communication with industry. The development of an improved website, including an online complaints form, is only one initiative designed to reach out to the industry. The directorate also has the increased capacity to conduct compliance audits and compliance investigations more effectively. Quicker processing of applications and enhanced customer service will result in complaints resolution and adjudication and enforcement of training standards being better managed.

ENVIRONMENTAL DEFENDERS OFFICE

The Hon. CATE FAEHRMANN: My question without notice is directed to the Minister for Police and Emergency Services, representing the Attorney General. Will the Minister list the number of individuals and community organisations that the Environmental Defenders Office NSW has assisted, pro bono, to understand New South Wales environment, heritage and planning laws over the past 10 years?

The Hon. MICHAEL GALLACHER: It probably comes as no surprise that I do not have those figures with me today; I may have left the file somewhere. I will get a response from the Attorney General, as requested.

COMMUNITY HOUSING

The Hon. MATTHEW MASON-COX: My question is addressed to the Minister for Finance and Services. Will the Minister update the House on the plans to vest properties to community housing providers?

The Hon. GREG PEARCE: Earlier this year I called for a comprehensive review of the social housing vesting program. This was a proposal we inherited from the Labor Government, which involves the transfer of legal title to social housing properties owned by the taxpayer so that they are owned instead by not-for-profit community housing providers. When announcing this program in 2009 the then Government stated its intention to give taxpayer-owned properties worth more than \$2 billion to community housing groups to use as collateral to raise another \$1 billion for further social housing developments. The then housing Minister David Borger said that "community housing providers could borrow up to 50 per cent of the market value of each property" and would use that for leveraging on other properties. On 11 March 2011 the former Government transferred some 3,063 properties. On coming to government, and as a precaution, I sought a review of this proposal to test its validity and the robustness of the projected financial outcomes prior to agreeing to the transfer of a further 3,000-odd taxpayer-owned properties.

It was crucial that we looked at what had been achieved since the first 3,000 properties had been transferred to the community housing sector. It was important to ascertain what leveraging had occurred and how many additional properties had been provided for social housing in the time since the first 3,000 properties had been given to community housing providers, as well as the rental income derived from those properties. The review identified the need for a number of improvements to the model, including performance reports from each community housing provider, to understand what finance they had obtained and what actual building had occurred on the back of those transfers. The community housing providers were asked to provide further details of the vesting financial arrangements and leverage outcomes in the form of a business case.

Representatives of Housing NSW and the Land and Housing Corporation met with community housing providers in July of this year to outline these requirements. All the providers were in agreement and indicated their willingness to work with the agencies towards improved reporting and responsibility criteria. Last month I received the first three of the 15 business cases. When reviewing the leveraging outcomes it appeared from those first three that the highest leveraging achieved was 12 per cent. That is obviously not the 50 per cent proclaimed in the original plan. I am advised that the 15 community housing providers have now submitted their new business cases to Housing NSW for consideration on a provider-by-provider basis. Once approved by Housing NSW the business cases are sent for concurrence to my hardworking colleague the Hon. Pru Goward, the Minister for Family and Community Services, who has ministerial responsibility for community housing providers. I thank the Hon. Matthew Mason-Cox for the opportunity to update the House about the thorough due diligence process that this Government has undertaken.

CHICHESTER PIPELINE LEAD CONTAMINATION

Dr JOHN KAYE: My question without notice is directed to the Minister for Finance and Services in his capacity as the Minister responsible for Hunter Water. Given that since 1995 the board of the Hunter Water Corporation has been in possession of a report on lead contamination on farmland caused by the Chichester above-ground main water pipeline and that the cost of complete remediation was identified as being a little over \$2 million, why has Hunter Water Corporation opted for the least effective solution based on fencing? Will the Minister order a new, independent investigation of the lead contamination problem along the pipeline and seek to implement the most effective way to deal with that problem?

The Hon. GREG PEARCE: The pertinent issue is that Hunter Water detected contamination of land near the Chichester pipeline in 1995. Who was in Government in 1995 and subsequently? The Labor Party.

The Hon. Duncan Gay: I was.

The Hon. GREG PEARCE: Were you still here?

The Hon. Duncan Gay: Yes.

The Hon. GREG PEARCE: But the message did not get through until the Government changed.

The Hon. Mick Veitch: You should check your facts.

The Hon. GREG PEARCE: Well, there you go.

The Hon. Greg Donnelly: "I'm not embarrassed. I'm not embarrassed."

The Hon. GREG PEARCE: You are not; I am. However, the point is the same: From the time that the Labor Party came to government—

The Hon. Michael Gallacher: In late 1995.

The Hon. GREG PEARCE: —in late 1995, it did nothing about this problem. It did nothing as always. This is not an operational matter but it could become one as I read this answer if it becomes difficult. I am advised that based on the information available at the time Hunter Water determined that the soil be left undisturbed, given that the health and environmental risks were understood to be low and attempts to clean up the site were understood to be likely to cause greater environmental damage. Notification of an incident was given in 2010. Who was in government in 2010? The Labor Party.

The Hon. Melinda Pavey: No, it was just Eddie Obeid.

The Hon. GREG PEARCE: Let us not traverse the subject of Eddie Obeid. We enjoyed having Eddie Obeid here for so long. I am advised that following notification of an incident in 2010 in which there was a confirmed case of risk to animal health attributed to contact with the pipeline—not contact with Eddie Obeid—Hunter Water took appropriate action including notification and consultation with landholders adjacent to the pipeline, notification to relevant authorities and further testing and fencing along the pipeline corridor to prevent access. There was a poor, sick cow—

Dr John Kaye: It was dead.

The Hon. GREG PEARCE: Was it dead?

Dr John Kaye: It died of poisoning.

The Hon. GREG PEARCE: Dr John Kaye has indicated that the poor cow died. I think the House would feel sympathy for the owners of the cow and for all its relatives, but I am told that cows do die sometimes. Hunter Water continues to work closely with the Livestock Health and Pest Authorities and the Department of Primary Industries to inform and take action to manage any impacts on individual property owners and affected cattle. The health of Lower Hunter residents is paramount. There is no risk to drinking water supplies, and routine testing shows that water from the pipeline fully complies with the Australian Drinking Water Guidelines. However, I applaud Dr John Kaye for again raising this matter because I have not looked at it for a while. I will take the matter up with Hunter Water to ensure that it is being properly addressed.

ADJUNGBILLY CREEK CONTAMINATION

The Hon. MICK VEITCH: My question is directed to the Minister for Roads and Ports, representing the Minister for Primary Industries. Will the Minister confirm that Forests NSW has contaminated Adjungbilly Creek with the chemical atrazine, which has been found at levels three times higher than safe limits? Have local residents and downstream water users been informed?

The Hon. DUNCAN GAY: Will I confirm that Forests NSW has polluted a stream? No. What I will do is take the question on notice and find out the facts of the situation. That is the appropriate way of doing it, rather than prejudging the situation as the question has.

OPERATION DELIVERY

The Hon. RICK COLLESS: My question is addressed to the Minister for Police and Emergency Services. Will the Minister update the House on the most recent operations targeting heavy vehicles?

The Hon. MICHAEL GALLACHER: I am happy to update the House on the operational performance of the NSW Police Force. As most members would recall, the NSW Police Force and Roads and Maritime Services [RMS] have throughout 2012 conducted a number of high-profile operations and investigations into the heavy vehicle transport industry, prompted by some terrible crashes and growing evidence of speed limiter tampering. Police and Roads and Maritime Services have held industry forums and conducted a number of operations to flush out the minority of operators who put the rest of the community at risk.

Operation Delivery is the seventh such heavy vehicle compliance operation to take place this year. It was a one-day operation conducted on Thursday 15 November and it focused on driver fatigue, speed limiter tampering, vehicle standards, and mass and load restraints. Police and Roads and Maritime Services officers inspected 169 vehicles, resulting in the issuing of 84 defect notices and 18 traffic infringement notices. In addition, 52 random drug tests were conducted. Eight speed limiter defects, one serious mass loading breach, two major brake defects and one serious work diary breach also were detected and one driver was charged with a special range prescribed concentration of alcohol drink-driving offence.

I understand that the police and Roads and Maritime Services will also use the chain of responsibility laws to investigate transport companies where appropriate. The chain of responsibility holds other parties in the transport chain responsible if, for example, it is found that a company's business practices led to or encouraged breaches of the road rules by truck drivers. The operations conducted this year have already removed countless unsafe trucks from New South Wales roads. Sadly, the results of Operation Delivery show that some rogue operators still continue to engage in dangerous practices. Officers will continue to monitor and stop heavy vehicle operators who ignore the law and put at risk their lives and the lives of other road users.

POLICE TRANSPORT COMMAND

The Hon. PENNY SHARPE: My question is directed to the Minister for Police and Emergency Services. Since the establishment of the Police Transport Command what proportion of incidents on the rail network have been responded to by local area command officers and what proportion have been responded to by the Police Transport Command?

The Hon. MICHAEL GALLACHER: I will ascertain that information from the NSW Police Force.

The Hon. Mick Veitch: Since you can answer Duncan's questions maybe he can answer yours.

The Hon. MICHAEL GALLACHER: He would probably do a better job.

The Hon. Duncan Gay: I will steal one of his at one stage.

The Hon. MICHAEL GALLACHER: Again.

OPERATION STEEL

The Hon. NIALL BLAIR: My question is addressed to the Minister for Roads and Ports. Will the Minister update the House on the heavy vehicle enforcement operations around Port Botany, known as Operation Steel?

The Hon. DUNCAN GAY: I said I would steal one very soon. As I described yesterday, efficient freight networks and operations play a huge role in driving our national and State economies. The value of products carried on the New South Wales freight network each year exceeds a staggering \$80 billion. This includes freight moved by rail, road, sea and air. Contrary to the pixies at the bottom of the garden beliefs of The Greens, heavy vehicles do and will continue to play a crucial role in moving freight.

As someone pointed out to me when I first became the Minister for this portfolio, a freight train will never pull into a supermarket to deliver groceries. We not only need productive heavy vehicles on our roads, we

also need safe vehicles on our roads. I can safely say that no government has done more than this Government to crack down on rogue trucking elements within the heavy vehicle industry. Since coming to office the Government has conducted an unprecedented series of high-profile and sustained enforcement and compliance campaigns, notably in relation to combating speeding and speed limiter tampering.

Another area the Government is determined to clean up is loads not being properly restrained. Two recent enforcement activities conducted by Roads and Maritime Services, in conjunction with the marvellous New South Wales police, focused on load restraint issues associated with the transportation of containers. They were called Operation Steel 1 and Operation Steel 2. The joint enforcement actions resulted in 611 trucks being intercepted, 48 containers being cracked open to examine the load inside, 110 traffic infringements being issued and 239 defects being detected and infringements being issued.

Some of the more disturbing offences included a heavy vehicle at Port Botany with three out of four locking pins not being locked in; a container at Port Botany carrying heavy mining equipment not being appropriately restrained—the container in question was directed to quarantine and not allowed to continue until the load was properly secured; a container with heavy steel ingots that were strapped down only by fencing wire—and we have all seen the tragedy that happens when steel ingots are not restrained; a fleet of 12 heavy vehicles being grounded after one of them was found to be carrying a large steel cable that had not been restrained properly; and four heavy vehicles were found to be using non-compliant speed limiters.

I take this opportunity to thank the New South Wales Police Traffic and Highway Patrol—notably that great guy Superintendent Stuart Smith and his great offsideer Inspector Phillip Brookes—and the team of Roads and Maritime Services heavy vehicle inspectors led by the subtle Paul Endicott.

MARRIAGE EQUALITY

Reverend the Hon. FRED NILE: I direct my question to the Minister for Police and Emergency Services, representing the Premier. Further to the point of order I took yesterday concerning the validity of the three same-sex marriage bills, is it a fact that, as stated by constitutional lawyers such as Professor Anne Twomey, the bills are unconstitutional as they are in direct conflict with the Commonwealth Marriage Act and because Federal laws always supersede State laws? What action is the New South Wales Government taking to resolve this complex legal question?

The Hon. MICHAEL GALLACHER: I thank Reverend the Hon. Fred Nile for his question.

Dr John Kaye: Point of order: The question is seeking a legal opinion and is therefore out of order.

The Hon. Dr Peter Phelps: To the point of order: The first part of the question purported to give rise to a question on legal opinion, but the second part, which is the key part of the question, asked what the Government is doing. That is completely in order.

The PRESIDENT: Order! While I accept Dr John Kaye's point of order, I will allow the Minister to answer that part of the question that is in order.

The Hon. MICHAEL GALLACHER: Thank you for your ruling, Mr President. The issue raised in the House yesterday by Reverend the Hon. Fred Nile regarding the validity of any State-based marriage laws is important. The Premier has decided that it is appropriate for these issues to be properly considered prior to members of the Parliament being asked to vote on any bill. The Premier has recognised that there are significant issues to be considered and therefore has decided to refer this matter to the Standing Committee on Social Issues for consideration. The terms of reference will be that the Standing Committee on Social Issues inquires into and reports on the appropriateness of passing a same-sex marriage law in New South Wales, and in particular:

1. any legal issues surrounding the passing of marriage laws at a State level, including but not limited to:
 - (a) the impact of interaction of such law with the Commonwealth Marriage Act 1961;
 - (b) the rights of any party married under such a law in other States' and Federal jurisdiction;
 - (c) the rights of the parties married under such a law upon dissolution of the marriage.
2. the response of other jurisdictions both in Australia and overseas to demands for marriage equality;

3. any alternative models of legislation including civil unions;
4. changes in social attitudes (if any) to marriage in Australia.

The reporting date for the inquiry will be 9 May 2013. The inquiry will give the public and the members of this Parliament an opportunity to give proper consideration to all the issues.

BULLABURRA PEDESTRIAN BRIDGE

The Hon. HELEN WESTWOOD: My question is directed to the Minister for Roads and Ports. What factors were considered by Roads and Maritime Services in its review of the planned signalised pedestrian crossing facility at Bullaburra? Is the proposed Bullaburra pedestrian bridge designed to incorporate CityRail's easy access designs for access to the platform?

The Hon. DUNCAN GAY: I thank the Hon. Helen Westwood for her question, which certainly is an important one for the people of Bullaburra. The answer requires a considerable amount of detail. I will refer the question to my department and provide a detailed answer.

HERITAGE SERVICES

The Hon. DAVID CLARKE: I address my question to the Minister for Finance and Services. Will he report to the House on his recent inspection of the Heritage Services facility at Alexandria?

The Hon. GREG PEARCE: I thank the Hon. David Clarke for his very important question. I am pleased to advise the House that on Wednesday 31 October 2012, I spent a very interesting afternoon further informing myself on the excellent work being done by the New South Wales Public Works division of the Department of Finance and Services. As the honourable member indicated, I inspected the Heritage Services facility at Alexandria. The Heritage Services team delivers a program known as the Minister's Stonework Program. The program provides essential support for the conservation and repair of historical sandstone buildings and monuments.

During my inspection of the Heritage Services facility at Alexandria, which is colloquially known as the Stoneyard, I was shown the operations carried out within a number of buildings including the Saw Shed, the Bankers Shed and the Carving Shed. Honourable members will be interested to know the Saw Shed contains a store of the best quality yellow block sandstone that is used for the restoration of various of the State's sandstone buildings or monuments.

The Hon. Sophie Cotsis: How much sandstone is left in Sydney?

The Hon. GREG PEARCE: A lot. It was impressive to see the huge blocks of sandstone awaiting transformation at the hands of the skilled New South Wales Public Works stonemasons into the most intricate and delicate monuments. I am sure all members are familiar with the coat of arms that adorn courthouses across the State. One of the projects currently being delivered by New South Wales Public Works is the restoration of the coat of arms for the historical Central Local Court in Liverpool Street, Sydney. It was a pleasure to observe the work of senior stonemason, Paul Thurloe, as he painstakingly worked to restore the head of the unicorn back to its former glory.

I also saw stonemasons carving stone for installation onto the historical Thomas Walker Hospital at Concord and other historically significant buildings and monuments across the State. These included the restoration and conservation of the renowned Paddington Gates at Centennial Park. This work is being completed in time for Australia Day 2013, which is the park's 125th anniversary. Also being carried out was work for the seismic stabilisation of the chimneys and gables, stone façade restoration and repointing of the Newtown High School of the Performing Arts. The Heritage Services team also is working on the stonework of the Hartley Historic Complex and the protection and conservation of the transit stones that were originally used in Australia's first observatory in today's Parramatta Park.

In addition to working on specific restoration and conservation projects, the Heritage Services team ensures that the State will have an ongoing capacity to conserve its sandstone built heritage for future generations. It does that by supporting the training and development of stonemasonry skills and labour resources. For example, at present, I understand three stonemason apprentices are based at the stone yard. The

Heritage Services team is also carrying out research and investigations into potential sources of conservation quality yellow block compatible sandstone. The team is conducting negotiations with suppliers for assured long-term supplies of yellow block at reasonable and sustainable prices.

I was mightily impressed by the skills and dedication shown by the workforce at the stone yard. From apprentice stonemasons to master craftsman, they were all committed to doing the best job possible for the people of New South Wales. In particular I thank Sue Brennan, Dave Munson and their staff at New South Wales Public Works for hosting my inspection and taking the time to show me around their workplaces.

SHOOTERS AND FISHERS PARTY

Mr DAVID SHOEBRIDGE: My question is directed to the Leader of the Government. What, apart from duck hunting, has the Government had to promise the Shooters and Fishers Party to get its vote for the Government's legislative agenda?

The Hon. MICHAEL GALLACHER: They cannot stand democracy, can they? They cannot understand. There will be ample opportunity for people to air their views in a host of areas over the coming months and years. Members opposite will have the opportunity to air their views. We consider all proposals that are put, as a government does. We consider them all. We make our decisions based on merit, and we will defend them in this House.

INTELLIGENT SPEED ADAPTATION TECHNOLOGY

The Hon. LYNDIA VOLTZ: My question is directed to the Minister for Roads and Ports. In 2010 the Leader of The Nationals and now Deputy Premier described the trial of intelligent speed adaptation technology as "not a policy, simply a thought bubble". Now that the trial is completed, will the Minister advise the House of the results of the trial and what action the O'Farrell Government will take to respond?

The Hon. DUNCAN GAY: Certainly, in due course.

FIRE AND RESCUE NSW FIREFIGHTER STATE CHAMPIONSHIPS

The Hon. TREVOR KHAN: My question is addressed to the Minister for Police and Emergency Services. Will the Minister provide us with an overview of highlights and results of the 2012 Fire and Rescue NSW State Firefighting Championships held at Tamworth in October?

The Hon. MICHAEL GALLACHER: Tamworth and West Tamworth brigades hosted the 2012 Fire and Rescue NSW State Championships at Cross Park in Tamworth from 16 to 18 October, where 180 retained and permanent firefighters from across New South Wales, Victoria and New Zealand braved 31 degree temperatures to compete in 15 events over the three days of competition. The events showcased the skills that firefighters use in day-to-day firefighting operations and that are practised in their station training programs. State, Federal and local politicians, members of other emergency services and the local community of Tamworth, including 600 local school students, witnessed firefighters displaying Fire and Rescue NSW sophisticated vehicles, equipment and operational skills over those three days. The championships are also used as a means to educate the community about fire safety. Visitors to the competition ground had the opportunity to learn fire safety tips from the experts.

The defending champions, Kelso Fire Brigade, took home the coveted Alfred Webb Cup—but only just, I am told—and the team from Echuca in Victoria secured second place, just 20 points behind Kelso. Berry Fire Brigade also had a good run at securing the title, placing third with 1,221 points. This was the first time that the State Championships were held in the new three-day, midweek format, and it proved to be a great success. Congratulations to the winners and all the teams that participated in this long and proud Fire and Rescue NSW tradition. I thank the firefighters from Tamworth and West Tamworth and the Firefighter Championships Association for making this event successful.

TRAFFIC CONGESTION

The Hon. SHAOQUETT MOSELMANE: My question is directed to the Minister for Roads and Ports. Given that a Roads and Maritime Services report indicates that it now takes motorists up to 16 minutes to travel less than three kilometres along Cleveland Street every morning, what is the Minister doing to improve congestion and traffic flow on this important link road?

The Hon. DUNCAN GAY: Sometimes I wonder whether members opposite pay attention. We need fatigue management for them. Yesterday I detailed time after time the good news on the streets around Sydney. I said at the time that those opposite just do not like good news, and there was the honourable member, old Sharkey, scouring through the information until he found some bad news.

The Hon. Lynda Voltz: Point of order: The Minister is obviously debating the question. I ask you to bring him back to the question and ask him to be relevant.

The PRESIDENT: Order! While there may have been a preamble of some generality, I believe that the Minister was about to be directly relevant.

The Hon. DUNCAN GAY: Unlike those opposite, I was honest enough to say that there were some roads that I was not happy with. One of those roads is the one I drive on each morning as I come into Parliament—Cleveland Street.

The Hon. Penny Sharpe: You should get the train.

The Hon. DUNCAN GAY: I am roads Minister, not the Minister for trains. I have to be out there every day in my car testing roads to make sure they are right for our customers, the people of New South Wales. It would be defeating the purpose if I were to catch a train. Is the shadow Minister for Transport suggesting that I neglect my duties as Minister for Roads and Ports? That is absolutely disgraceful. I will not do that.

The Hon. Penny Sharpe: Point of order: Unfortunately the Minister is trying to verbal people. I suggest that if the Minister were serious about congestion on Cleveland Street he would catch the train and get his car off the road.

The PRESIDENT: Order! The member should not make a debating point while she is taking a point of order.

The Hon. DUNCAN GAY: Members opposite asked me a question and they do not want the answer. If my answers do not fit their desperate attempts to paint bad news they do not like them. There is a lot of good news out there, but I did indicate that a couple of spots needed a bit more work. We are certainly not pretending that it is all good news. Sadly, there will be a price for progress, and that price is that as we fix some roads we will be a little slower getting to others that need attention. Among those roads are the M2 and the M5 West. With regard to the improvements we are making, people are pleased to see the shovels and machines out there and things happening because they have not seen that for 16 years. They are very happy about that. I regularly get letters and phone calls of congratulations and pats on the back. I am nearly as popular as Greg Pearce.

CRISIS, HOMELESS AND YOUTH SUPPORT SERVICES

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. Is the Minister able to provide costings for single-night accommodation for crisis, homeless and youth support services and provide information regarding any regional variations? Have these services kept up with consumer price index increases or is a review of funding for these services underway?

The Hon. GREG PEARCE: That is another very good, detailed question to which I will obtain a detailed answer from the relevant Minister.

GOVERNMENT PERFORMANCE

The Hon. MARIE FICARRA: My question is addressed to the Minister for Finance and Services. Will the Minister inform the House what he has done over the past year to make New South Wales number one again?

The Hon. GREG PEARCE: What a good question, and I thank the honourable member for it. Over the past 12 months the Finance and Services portfolio has achieved a number of significant milestones and commenced work on a number of important initiatives that will be of lasting benefit to the people of New South Wales. One of the biggest reforms has been the significant changes to the WorkCover scheme. The reforms have

resulted in a significant reduction in the \$4.1 billion deficit. It enables an increased focus on the acceleration of return-to-work outcomes, with an additional \$196 million being allocated to rehabilitation services and increasing support to seriously injured workers.

The Hon. Michael Gallacher: Point of order. The dispute between the coalition colleagues opposite is rendering the Minister's answer incapable of being heard. I ask the coalition opposite—that is Labor and The Greens—to cease.

The PRESIDENT: Order! I uphold the point of order.

The Hon. GREG PEARCE: I was talking about the important changes to WorkCover that will contribute to New South Wales having a vibrant economy and injured workers returning to work as quickly as possible, improving their conditions and outcomes, including an increase in benefits, about which I was very pleased.

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

The Hon. GREG PEARCE: Unlike the mob opposite, one of the first things we did was to increase benefits for those who were most seriously injured. Those opposite were happy to see people struggle on \$432.50. We increased the statutory benefits by 70 per cent for the most seriously injured workers, who those opposite ignored—the people who were supposed to be their constituency but whom they ignored. Those opposite allowed those injured workers to languish in the worst possible circumstances. As I outlined yesterday, I established the Property Asset Utilisation Taskforce—PAUT—to compile a comprehensive list of government property assets and develop a strategy to ensure a smarter strategic approach to managing those assets. The strategy aims to realise \$300 million to be directed to the housing initiatives outlined in the 2011-12 budget papers.

The Government is establishing a single whole-of-government approach to the approximately \$12.7 billion it spends each year on goods and services that is simple and easy to understand for business, the community and the public sector. We have already abolished the State Contracts Control Board and replaced it with the NSW Government Procurement Board, abolished the 2.5 per cent management fee, introduced simple terms and conditions, removed unrealistic indemnity and insurance requirements, removed the requirement to have done prior work with the New South Wales Government and removed the preference to procurement panels.

And there is plenty more to be done. We have fast-tracked actions to address the level of overdue fines owed to the Office of State Revenue, which had escalated to almost \$1 billion by March last year. The moratorium was a great success, with more than 321,000 fines worth \$67 million committed to be paid. I am not sure whether any of those involved a black Honda. We trialled outsourcing debt recovery to the private sector, and this already has reduced the current debt level to \$893 million. [*Time expired.*]

The Hon. MARIE FICARRA: I ask a supplementary question. Could the Minister elucidate his interesting answer?

The Hon. Lynda Voltz: Point of order: I have raised this point of order previously. If Ministers do not finish answering their questions they should seek leave under Standing Order 64 to extend the time available to provide their answer. Ministers should not, as has been done today and was done yesterday, repeatedly be asked supplementary questions on Dorothy Dixers.

The PRESIDENT: Order! Under Standing Order 64 a Minister may seek leave to conclude his answer. However, I have consistently ruled that a supplementary question seeking an elucidation of the Minister's answer is in order.

The Hon. GREG PEARCE: We have moved to complete stalled social housing projects that the previous Government did not complete. We are currently developing a Housing Estates Strategy to address the poor condition of housing estates left by the Labor Party and provide a pipeline of works into the future.

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

The Hon. GREG PEARCE: We have initiated the Lower Hunter Water Plan to secure the future of the region's water supply. We have started an extensive community consultation program whereby the Hunter community can have its voice heard on key water planning issues, which plan is due for completion in late 2013. We have initiated also the Metropolitan Water Plan review. In the information communications technology space, we launched the Government's ICT Strategy and set out 85 actions to transform the way we procure and use technology. We have mandated already the use of the Procure IT contract, developed a social media policy, updated and renewed our information technology framework, published an open government plan, released a plethora of new government data sets, launched two apps development events, begun the Service NSW transition—

The Hon. Penny Sharpe: Oh, you winner.

The Hon. GREG PEARCE: I acknowledge the interjection that I am a winner. As I was saying, we have begun the Service NSW transition and announced two new data centres in Silverwater and Unanderra. These are just some of the many reforms we are undertaking in Finance and Services. After 16 years of inertia under Labor, we are attacking the problems in this State head on. This is the only way to make New South Wales number one again.

THE GREENS NSW

The Hon. ROBERT BORSAK: My question without notice—probably my final one for this year—is directed to the Minister for Roads and Ports. Is it a fact that in his capacity as Leader of the House in the Legislative Council he was approached by The Greens to consider for next year's sittings, and in line with the preference of their former leader, allowing them to be addressed by the title Earthian, rather than Mr, Ms or the Honourable?

The Hon. DUNCAN GAY: I thank the member for his question. I just love the opportunity to talk about my favourite Martians. As members would be aware, the people of this State have lost so much hope in The Greens that The Greens have decided to pitch to extraterrestrial voters. They finally worked out that if their policies are so difficult to understand here, for best clarification they should try to pitch them to an alien force. It is certainly an acknowledgement that they are lost in space. Warning, warning, David Shoebridge! Some have noticed an uncanny likeness between the Hon. Jan Barham and Mrs Robinson—the Mrs Robinson from *Lost In Space*, not the other Mrs Robinson. Many members may forgive a little Martian for wondering Dr Who's John Kaye? My ever-observant staff thought we might have a Mork and Mindy in Cate and Jeremy—more like "Dork and Mindy".

The Hon. Penny Sharpe: If you're going to do it, it's supposed to be funny.

The Hon. DUNCAN GAY: It is. Recently the leader of The Greens commenced a speech with the words, "My fellow earthlings." I am told that he should call on the important power of the Greyskull. I have not got a clue what it means, but I am told that rewards will happen elsewhere if I manage to get this far in my answer. Another indication is that David Shoebridge bears an uncanny resemblance to Dr Zachary Smith. I would not dare say that.

COMMUNITY HOUSING

The Hon. SOPHIE COTSIS: My question is directed to the Minister for Finance and Services. In light of the Minister's previous answer regarding the transfer of remaining dwellings and given the importance of the report to community housing providers, will the Minister commit to publicly releasing the report?

The Hon. GREG PEARCE: Of course, members would be aware that community housing is one of several different forms by which social housing is provided in New South Wales. Obviously, the major provider is public housing, but there also is Aboriginal housing and rental assistance schemes. Private sector housing also is available, but we have a major problem with market rent costs for the very needy members of the community. In each of these areas community housing offers secure, affordable, long-term rental housing for people on low to moderate incomes with a housing need. There are approximately 400 not-for-profit community housing organisations, including housing associations, housing co-operatives, churches and other community organisations. These organisations manage approximately 18,000 properties—

The Hon. Sophie Cotsis: Point of order: The Minister was asked a specific question about when he will commit to publicly releasing the report.

The PRESIDENT: Order! The Minister is being generally relevant.

The Hon. GREG PEARCE: As I was saying, community organisations manage about 18,000 properties, which account for approximately 10 per cent of the social housing in New South Wales. The majority of community housing properties are used for long-term housing for people on low incomes, many of whom have an additional housing need. Most of the other properties are used for crisis or transitional housing for people who are homeless or at risk of becoming homeless and are in crisis. The community housing sector does a remarkably good job.

The Hon. MICHAEL GALLACHER: The time for question time has expired. If members have further questions I suggest they ask them tomorrow or put them on notice.

FIREARMS PERMITS

The Hon. MICHAEL GALLACHER: On 17 October 2012 Mr David Shoebridge asked me a question about firearms permits for volunteers to euthanase animals. I provide the following response:

I am advised that the Firearms Act 1996 requires applicants for a firearms licence to demonstrate a genuine reason for requiring that licence. Section 12 of the Act currently provides that for the genuine reason of "animal welfare" an applicant for a licence must be:

- an officer of the RSPCA or the Animal Welfare League who is a special constable, or
- a veterinary practitioner, or
- a person who is employed in the Department of Primary Industries or the Livestock Health and Pest Authorities Division of the Government service and who has responsibility for animal welfare, or
- an owner, transporter, drover or other handler of animals who may need to destroy animals to avoid suffering.

SCHOOL MEALS PROGRAM

The Hon. DUNCAN GAY: On 17 October 2012 the Hon. Robert Brown asked me a question about providing a simple basic meal on a regular basis to children during the school year. The Minister for Education has provided the following response:

The Department of Education and Communities does not collect information on the number of children who attend school each day without having had breakfast or who will not have lunch.

BULLABURRA PEDESTRIAN BRIDGE

The Hon. DUNCAN GAY: I provide the following response to a question asked of me today by the Hon. Helen Westwood concerning the Bullaburra pedestrian bridge:

The proposed \$3 million New South Wales government-funded Bullaburra pedestrian bridge is designed to provide a safe crossing for pedestrians over the Great Western Highway. I am advised that Roads and Maritime Services is proposing to locate the pedestrian bridge from Cooranga Street across the highway to land adjacent to the railway station. As part of the Great Western Highway upgrade, Roads and Maritime Services is proposing to widen the existing two-lane highway to a four-lane divided highway.

Roads and Maritime Services is committed to working closely together with the community to find the best possible outcome to address the project's key goals of improving pedestrian safety and traffic flow. Earlier this year Roads and Maritime Services consulted with residents and local community members, including representatives of the Bullaburra Township Committee, Bullaburra Progress Association and Blue Mountains City Council, about design options for the proposed pedestrian bridge, and 86 community responses were received. These were compiled into a Community Issues Report, which was released in June 2012 and is available on the Roads and Maritime Services project website. After considering the submissions received, the New South Wales Government is proposing to proceed with a pedestrian bridge with ramps and stairs. This would replace the planned pedestrian crossing at the new traffic lights to be built on the highway at Cooranga Street. A supplementary review of environmental factors for the proposed pedestrian bridge is currently being finalised.

ADJUNGBILLY CREEK CONTAMINATION

The Hon. DUNCAN GAY: I provide the following response to a question asked of me today by the Hon. Mick Veitch concerning the herbicide atrazine:

Following recent routine stream water sampling in the Tumut region, Forests NSW detected a concentration of atrazine in two samples that exceeded the Australian Drinking Water Standards [ADWS]. Forests NSW use atrazine in combination with other

chemicals to control weeds in newly established pine plantations. This is an authorised use of this herbicide and atrazine is a widely used herbicide. Atrazine is highly mobile in water and as such Forests NSW is careful to ensure that it does not enter waterways but also tests after application so it is aware if it has been carried into minor streams and waterways by unforeseen rainfall events.

In accordance with Forests NSW herbicide policy and the Environment Protection Authority [EPA] protocol, Forests NSW notified the Environment Protection Authority, WorkCover, the Greater Southern Area Health Service and the Gundagai Shire Council of the event. Forests NSW also notified as many downstream neighbours as possible as soon as possible. Sampling of water at the neighbours' pumping points is being undertaken for atrazine so that these neighbours can resume using the water as soon as clearance can be given. The atrazine will be carried downstream and, as it does so, it will be diluted to below hazardous concentrations. A heightened sampling regime is being instituted to monitor the concentrations of atrazine in watercourses. Contingency plans are in place in the event measured concentrations exceed the standards. Forests NSW is continuing to investigate the cause of these incidents and to monitor for the presence of atrazine in the affected streams.

Questions without notice concluded.

TABLING OF PAPERS

The Hon. Greg Pearce tabled the following papers:

1. Annual Reports (Departments) Act 1985—Reports for year ended 30 June 2012:
Department of Family and Community Services, volumes 1, 2 and 3
Department of Premier and Cabinet
Department of Trade and Investment, Regional Infrastructure and Services
2. Annual Reports (Statutory Bodies) Act 1984—Reports for year ended 30 June 2012:
Barangaroo Delivery Authority
Centennial Park and Moore Park Trust
Cobar Water Board
Community Relations Commission
Dams Safety Committee
Environmental Trust
Forests NSW
Game Council of New South Wales
Historic Houses Trust of New South Wales
Infrastructure NSW
Internal Audit Bureau of New South Wales
Jenolan Caves Reserve Trust
Lifetime Care and Support Authority of New South Wales
Lord Howe Island Board
Motor Accidents Authority of New South Wales
New South Wales Aboriginal Land Council
New South Wales Rural Assistance Authority
NSW Food Authority
Parramatta Park Trust
Roads and Maritime Services
Royal Botanic Gardens and Domain Trust
Sydney Catchment Authority
Western Sydney Parklands Trust
WorkCover Authority
Zoological Parks Board of New South Wales
3. Report of NSW BusinessLink Pty Ltd for year ended 30 June 2012

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

TABLING OF PAPERS

The Hon. David Clarke tabled the following papers:

1. Annual Reports (Departments) Act 1985—Reports for year ended 30 June 2012:
Department of Attorney General and Justice
Office of the Director of Public Prosecutions
2. Annual Reports (Statutory Bodies) Act 1984—Report of Legal Aid Commission of New South Wales for year ended 30 June 2012
3. Crimes (Administration of Sentences) Act 1999—Report of Serious Offenders Review Council for year ended 31 December 2011

Ordered to be printed on motion by the Hon. David Clarke.

ASSENT TO BILLS

Assent to the following bills reported:

Biofuels Further Amendment Bill 2012
 Environmental Planning and Assessment Amendment Bill 2012
 Local Government Amendment (Conduct) Bill 2012
 Statute Law (Miscellaneous Provisions) Bill (No. 2) 2012
 Forestry Bill 2012

PORTS ASSETS (AUTHORISED TRANSACTIONS) BILL 2012

Second Reading

Debate resumed from an earlier hour.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [3.37 p.m.]: As I said earlier, the port assets of Port Botany and Port Kembla are in fantastic condition and will be able to handle a growing economy for decades to come because of the investments made by the former Labor Government. However, this Government is willing to give away the \$175 million a year in revenue from Port Botany, the \$50 million a year in revenue from Port Kembla and the potential revenue from the Enfield intermodal terminal and revenue from the Cooks River facility for what the Government seems to be suggesting may be some \$2.5 billion to \$3 billion, or perhaps a little more. All the revenue streams to which I have referred will just disappear. The Government will be auctioning off a revenue stream. The money the Government would have received on behalf of New South Wales residents is being brought forward, given a net present value and flogged off in one hit. No more revenue will come from this facility to the people of New South Wales over the next 99 years.

The question is: Why would the Government do this? It is difficult to ascertain the answer because of the paucity of details provided by the Government in relation to this all-important bill and the transaction which it will facilitate. The Government is now looking to sell off these world-class assets to the private sector, which will result in a massive public sector investment and what will be a massive private sector return. It will be creating an unregulated and private monopoly. It is not as if the port users have too many other places to go. Things will get worse for industry and consumers. The returns on this massive public investment are being privatised and the Government will be handing over these monopoly assets completely free from any form of regulation.

The Government is allowing one private company to bid for Port Botany, Port Kembla, the Enfield intermodal terminal and the Cooks River rail yard. The operator will have the unprecedented monopoly power over key trade infrastructure with the ability to dictate prices to truck operators, shipping lines, importers and exporters. At the end of the day, New South Wales families will be paying for this in the form of higher prices and a slower economy. The bill gives the purchaser power to introduce a port infrastructure charge. I refer to division 6A, clause 66A, which states:

66A Application of Division

- (1) This Division applies to the following persons (referred to in this Division as *port users*):
- (a) the owners of cargo loaded or unloaded in the course of stevedoring operations at a designated port,

Consignees of goods in a container or consignees of bulk liquids coming through Port Botany will have a new landlord who will have the power to levy a port infrastructure charge on them. The Government currently has that power and with such monopolies it is important and proper that the power to levy such charges—or at least the final approval—rests with Government. The supervision that attends with the scrutiny that is imposed upon government agencies and the ability for the community through local members, mayors and councillors to sit around the table and express concerns to a shareholding Minister, Premier or Government is important. The fact that this power resides in the hands of elected officials provides a significant degree of accountability to the local and wider community.

This will change if this port is flogged off for 99 years to a private company. If one is a consignee the private sector company, and not the Government, will have the power to levy the port infrastructure charge as much as the market can possibly afford to bear. The customers of the landlord, whether it is Port Botany or Port

Kembla, will seek to pass on the costs to the end users—the mums and dads and communities of New South Wales. The owners of shipping companies and vessels that berth at a designated wharf, buoy or dolphin at Port Kembla similarly will be subject to port infrastructure charges. Clause 66A further states:

- (c) persons liable to pay a site occupation charge at a designated port,
- (d) persons who operate road or rail cargo transport services as part of the port-related supply chain

Trucking companies and operators of rail cargo transport services—wherever they are in the chain of production and whether or not those services operate as part of the port-related supply chain—can be levied with a port infrastructure charge. This will not involve the Independent Pricing and Regulatory Tribunal. The Australian Competition and Consumer Commission will handle competition issues and there is talk of price monitoring as part of the Council of Australian Governments process. There will be no democratic oversight of what those port infrastructure charges might be, nor will there be any constraint upon what those port infrastructure charges may be used for. I am informed that \$12 per full container load is levied on shipping companies for cargo that comes off a ship in Port Botany to pay for things such as construction of the truck marshalling yard. That nets about \$10 million per year.

Even though the Government will not disclose that levy, we understand that the charge and revenue stream has now been included in the tender documents to auction off that revenue stream. That means that the cost that is passed on as a throughput to the port and is ultimately levied on consumers to pay for the local infrastructure around the port can now be levied as part of the revenue stream and then sold off to the new port operator. There will be no requirement or democratic supervision to ensure that that operator will spend the money only on local infrastructure. The bill proposes to insert a new section 66B in the Act, which provides:

Port infrastructure charges are payable by port users to fund investment (and return on investment) in *port infrastructure projects*, being the acquisition or development of land or the provision of services and facilities by the port operator ...

The operator can do what it likes with the charge. For example, it can pay off its return on investment rather than invest in infrastructure. No-one can do anything about that; it is just part of the revenue stream that will be sold off by the Government. Unfortunately, there is not much detail on that. The Minister will no longer have to sign off on increased levies or charges. The only obligation the operator will have is to publish, every six months or thereabouts, a summary, a brief, or otherwise as the author determines, to tell everybody what it has been doing around the port. If people object to that, all the mechanisms that are currently available to complain to a number of Ministers will no longer exist; it will be left up to the market. That is the rationale behind the bill: if people do not like the deal they are getting from Port Botany, they can go to Brisbane—about the closest port where they could exercise their rights to seek competition. Ross McAlpine from Shipping Australia said in his 2011 Chairman's Report:

Shipping Australia was concerned at the decision by the NSW Government to sell Port Botany by 2013 on the basis of a 99-year lease similar to what occurred in Brisbane. SAL disagreed with the sale of the Port of Brisbane and given the subsequent cost increases by stevedores and empty container parks, as a result (in their view) of very significant increases in land rentals, it appears to us that concern was justified. The major container ports in Australia are in a very strong market position, with the exception of Adelaide which competes with Melbourne. There is some marginal competition, for example, exports from northern NSW can go through Brisbane, rather than Sydney; and, similarly, exports in the southern region of New South Wales can go via Melbourne. For container imports and many exports there is no real alternative to Sydney.

There was no consultation with any stakeholders, as far as we can understand, prior to the decision being taken. In particular, we would like to know whether other options such as possible public private partnership arrangements were considered.

He went on:

Another issue of significance is how the current Port Botany Landside Improvement Strategy which is backed by government regulation will be applied in a pure private enterprise environment.

That of course is a very good question, and one I am sure the Minister will be able to answer. There is a significant opportunity for price gouging here because this facility will be a very considerable monopoly, but the monopoly will be private, rather than public, and without the supervision a public entity would entail. There are also some potentially onerous business conditions embodied in the Act. According to part 3A, Private ports, the entry onto land on the port by the port operator empowers them to issue what could be onerous directions to people on the port and people who do business on the port. Again, the details here are somewhat scant.

Not only is the Government handing over unrestricted pricing powers to the private operator, it is also creating a new tax on truckers, importers and exporters. The new private operator will have the ability to levy a

tax on truckers, shipping lines and businesses to pay for any investment—or, indeed, to pay off any borrowings. It is of course unprecedented for the port authority to have powers to levy charges and taxes on importers, exporters or truckers. This is just a blatant attempt by the Government to fatten up the port for sale. It will do nothing but put truckers out of business, put prices up for consumers and place further pressure on manufacturing jobs. For example, people who use the port have written to us. ATA NSW is the peak State body that represents the trucking industry, including some of the nation's foremost transport companies, businesses with leading expertise in truck technology. ATA says it wants some protection against price gouging, protection which is missing from the legislation. ATA says:

The potential for a new owner of the ports to impose crippling fees on our industry is of significant concern, and one that appears to have been overlooked in the drafting of this legislation.

It goes on to refer to:

... small to medium container carrying operators, who compete effectively at Port Botany, and who provide valuable employment to many people living in Sydney. However, the survival of these businesses is jeopardised if a new port owner decides to impose onerous fees and charges on these small businesses.

It continues:

There has been no consultation with our industry about this impending legislation, despite several attempts to convene meetings with the government since June 2012.

The potential for major impacts on trucking operators is a serious threat. Our industry operates on tight margins, and additional fees and charges are impossible to pass on to customers while maintaining competitiveness. The introduction of additional fees and charges will cause some operators to cease trading, causing increased unemployment and reducing productivity on the port.

ATA NSW seeks amendments to the legislation to include safeguards for the industry. I have received correspondence from Elgas, Qenos, Origin Energy, Terminals Pty Ltd and, of course, Vopak, the primary users of Port Botany and the major providers of bulk storage and transportation for liquid chemicals, gas and oil storage. It says of the bill in its current form that it:

... currently lacks any provisions of sale that would allow the Government to carry out proper oversight of fees levied and lease valuations, or regulation of any rezoning undertaken by the new owners.

Vopak provides a brief analysis of the bill in its current state, which it says can result in long-term damage to the economy of New South Wales by raising petrol and jet fuel prices across New South Wales due to the impact on storage and transportation costs on independent retailers, distributors and importers of petrol, diesel and jet fuel; raising LPG prices, while possibly limiting its availability across New South Wales, due to the impact on storage and transportation costs; increasing the prices paid by New South Wales consumers for chemicals and petroleum products; causing numerous job losses, as the port's leaseholders and users are forced to protect the commercial viability of their operators; and opening the doors to possible ongoing security risks at the port. Vopak goes on to say:

The Bill is also likely to compel a number of the leaseholders and users to move their operations to other ports, such as Melbourne—making efficient and effective development of NSW infrastructure more difficult and driving investment out of the State.

With the closure and pending closure of the Clyde and Kurnell refineries, the Port's new landlord could hold a monopoly on the critical trade and infrastructure gateway to NSW, without any constraints or considerations for the overall interests of the State.

This is not some kind of leftie outfit; these are major corporate interests operating at the port who have their ongoing commercial viability, the viability of their workforces and the New South Wales economy foremost in their minds. They have made a passionate plea to the Government and to all sectors of this House to make changes to the legislation to ensure that price regulation is effective and real, and not just on the never-never. The light hand of regulation that Treasurer Mike Baird has been peddling to the crossbench and other parts of the community is simply a black farce and anyone who is not a babe in the woods would recognise it as such.

The Treasurer will be handing over unrestricted pricing powers to the private operator. I note that the Treasurer, when speaking in reply in the other place, talked about his "price monitoring regime". But if one looks at the legislation—and leaves aside the Treasurer's fine words—one sees that there is nothing in it that provides any accountability on a private operator regarding any charges, levies or fees that it will be able to impose on its customers, other than requiring that the prices be published on a website. That is it: they just have to be published. In reality, the Independent Pricing and Regulatory Tribunal will have no power to regulate the privatised port operator and anyone who says differently cannot read or is being less than honest in this debate.

No action has been taken to date to stop the gouging of truck operators through access fees from stevedores in other places. Why would it be different here if there is no brake applied, if there is no requirement either for Independent Pricing and Regulatory Tribunal supervision or for ministerial sign-off? The price monitoring scheme proposed by the Treasurer will see the same outcome, with the private port operator having unfettered powers to gouge higher prices and new charges from industry.

The bill also removes the cap on throughput at Port Botany. This cap was imposed as a condition of consent for the expansion of the port and is important to residents around the port facility. The cap was introduced when weighing up the impact of the port expansion on the local community. This Government campaigned on giving back planning powers to local communities, but this bill simply legislates to ride over local planning decisions and to ignore the impact on the local area and the legitimate concerns of the community.

Increasing the cap from 3.2 million containers per year without restriction—to as much as can be crammed through—will mean thousands more trucks on the roads around Port Botany every day. This change is being made without any consultation with the local community and with no regard for how it will impact on the community. For example, there is no commitment to implement any new infrastructure in order to alleviate traffic or congestion concerns. Another matter that has not been contemplated by the Government relates to increased throughput and to how the product will be taken off the port and transported to the community. No new infrastructure is planned—no new rail, roads or transport connections—to take produce off the port and transport it to other places around the State. This legislation will result in the creation of a massive transport bottleneck.

This bill also robs Newcastle and other parts of the State of port investment and a new container terminal. It has been a commitment since 2003 that Newcastle would be the location of the next major container facility once Port Botany reached its capacity of 3.2 million containers, which was part of a vision to diversify the Port of Newcastle and the Hunter economy. A new container terminal at Newcastle would help to reduce the costs of exporters operating from the Hunter. With this bill the Government now appears to be turning its back on that commitment; the Government is failing to invest in the Hunter and it is turning its back on the Hunter community.

This bill is the complete opposite of economic reform and it will put brakes on our economy for years to come. The Minister for Roads and Ports also failed to stand up for an industry that needs the port against this shameless grab for cash. We are entering a more connected and global age and our connection to the world through our ports is more important than ever. Selling our ports today to a private body with unfettered powers to increase charges and introduce new taxes is simply selling out the people of New South Wales and selling out the public interest. The Opposition will not support the legislation.

The Hon. Duncan Gay: It's a lease, not a sale.

The Hon. ADAM SEARLE: I acknowledge the Minister's interjection. It is a 99-year lease. I suggest, as I did before, that we will not be seeing that asset back in public hands in the Minister's lifetime—natural, political or otherwise—in my lifetime or in my children's lifetimes. I think my grandchildren may be a fair age by the time this asset comes back into public hands. Of course, there will be no requirement on the private operator to maintain the asset in good condition. It is a good asset in good condition now but, of course, over time assets depreciate or deteriorate as they are used. One might say that an operator has an incentive to keep it in good working order, which of course operators do—up to a point. When it is clear that the clock is running down on the lease one does not have to be a genius to work out that diminishing returns mean that a commercial operator who does not retain ownership of that asset towards the end of the lease simply will let it go. There is a significant risk that by the time it comes back into public hands it will be in a very run-down state.

There are many other things I could say about this bill. The Opposition has a number of amendments designed to remedy the evils that we have identified. I urge crossbench members to think very carefully about the complete failure by this Government to provide for any oversight or regulation of new fees and charges or of the level of new fees and charges and to consider supporting at least those parts of our amendments that address those concerns.

The Hon. ROBERT BROWN [3.54 p.m.]: The Shooters and Fishers Party will support the Ports Assets (Authorised Transactions) Bill 2012. We have considered the amendments put forward by the Labor Party and we have discussed those amendments with them but we will not be supporting the amendments.

Dr John Kaye: What about The Greens amendments?

The Hon. ROBERT BROWN: We considered those as well. Like most members in this House—certainly the members who have carriage of this legislation—we too have been approached and have received correspondence and attended meetings with almost an identical list of persons as that put forward by the Hon. Adam Searle, so I will not go through all those documents, read them onto the record and put different interpretations on them as our interpretation is the same as that provided by the Hon. Adam Searle. We have also had representations from the Transport Workers Union, Unions NSW and the Maritime Union of Australia.

Their concerns are pretty much the same as the concerns of the operators currently using the port. The Hon. Adam Searle put those concerns on the record—the uncertainty of pricing structures in the future and the fact that not all but many of them have permanent infrastructure on the port site. For example, a facility does not get much more permanent than Elgas—a 65,000-tonne liquid gas storage facility dug into the ground 130 metres below the port. Elgas rightly makes the point that it cannot remove its \$200 million investment and take it somewhere else. It could fill it with seawater or do something else but it cannot take that facility to Newcastle or to some other place.

After going through the correspondence, having discussions with those people and encouraging most of them to have discussions with the Labor Government—some of them have had more discussions than others—we then approached the Treasurer and put some detailed questions to him. We asked for some certainty that prices on the port will remain competitive with those of potential alternative sites around Australia, not just in New South Wales. The unions' industries are concerned that the levies raised from time to time by the Ports Corporation for the purposes of infrastructure upgrades be spent on those pieces of infrastructure for which the levies are raised and that the different sectors within the port operations—for example, the transport sector—are not paying for levies that will be used on parts of the port that do not offer the sector any advantage, any savings or, indeed do not do anything to improve the efficiency of their operations on the port.

The Transport Workers Union and the major transport companies to which we spoke—quite often at the same meeting in the same room—are rightly concerned and we asked those questions of the Government. We spent a fair amount of time considering the amendments—for example, the amendment to force all these price increases and levies through the Independent Pricing and Regulatory Tribunal alone. The Government questioned whether that proposal would be better or worse than its proposal. Nobody has a crystal ball but after a quick look at this legislation, and no-one has had six months to think about some of these issues, it seems to us—

Dr John Kaye: We offered you that. We offered you six months and you turned it down.

The Hon. ROBERT BROWN: I thank Dr John Kaye for his generous offer. From a negotiating point of view the Government's legislative solution appears to us to be a better solution for the port operators than simply having to rely on the Independent Pricing and Regulatory Tribunal. From a commercial viewpoint it seems to us to be the better of the two solutions. We often see Independent Pricing and Regulatory Tribunal determinations that have everybody going for the tribunal's throat every other day and saying that the Government is abrogating its responsibility to an independent authority.

We will support the Government's bill but we would like the Minister to answer the following specific questions in his reply to debate on the bill. Will the Minister guarantee that the Government has the power and ability to ensure that the money raised by levies on port users is spent on the purposes for which it was raised? Will the money raised from levies on any sector of port users be spent for the benefit of all port users? If port users complain of price gouging will the Government use the opportunity provided by the legislation to refer the matter to the Independent Pricing and Regulatory Tribunal? Finally, will the Minister assure the House that the Government will give serious consideration to any recommendations made by the Independent Pricing and Regulatory Tribunal? Having asked those questions—I hope we will get some answers—we then have to stand back and look at the situation and ask ourselves why it would be in the interests of the Government of New South Wales to allow Port Botany to become uncompetitive. Can anyone explain why that might be?

The Hon. Lynda Voltz: Because they just want the money.

The Hon. ROBERT BROWN: Yes, it does want the money but I assume that the Government would also want the continued growth that is provided by the throughput of that port, because it is prepared to risk the opprobrium of the electorates by lifting the caps. It does not seem logical to make an automatic assumption that the Government will have no interest in the facilities being used and expanded because it no longer will own them.

The Hon. Helen Westwood: Have a look at Sydney Airport if you want to see a good example. Sydney Airport is a good example. They are flogging it off.

The Hon. ROBERT BROWN: Yes, I concede that that is a good example. One could argue also that Telstra is a good example.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! This is not the Committee stage of the bill.

The Hon. ROBERT BROWN: I apologise for not speaking through the Chair. I have some other questions of a non-commercial nature to ask the Minister concerning issues that have been raised by non-port operators. The Shooters and Fishers Party—and I suppose The Greens and the Labor Party—have received representations from various community groups that wish to retain unfettered public access to the banks and the breakwall at Molineux Point. The representations have primarily been made by local fishermen, who make a very good point. They say that if they are denied access to the breakwall they will fish on the sea side. We have seen the tragic consequences when people are washed off the rocks. That happens almost on a weekly basis in high season, particularly in bad weather. Molineux Point is a valuable spot for fishermen and they can be seen along the rock wall on any day or night of the week. Many of them are shiftworkers from the port and it is convenient for them to fish there before they go home. We do not want those fishermen or any other members of the public denied access to the road and to Molineux Point.

I understand that an operator might say that it cannot guarantee the security of the facilities. I note that the Hon. Adam Searle correctly referred to one of the points made by bulk liquid operators—they want to be able to guarantee the continued security of their area of the port which lies adjacent to the road. At this time nothing in the legislation will excise that area from the port. The Government's argument is: Who will pay for the maintenance? Will it be Botany council or will it be somebody else? The Government contends that if it is put inside the lease area the new landlord will be responsible for its maintenance.

Some people may say that there is not much to maintain on a road and a breakwall but those people should not kid themselves. Those very expensive pieces of infrastructure are of no real use to a port owner except for the prospect of the Government agreeing in the future to add additional port facilities along the breakwall. We would like an assurance from the Minister. We do not want him to say that the Government has no plans to add additional port facilities; we want an unequivocal statement that the Government will not allow further development on the south-eastern side of the port along the breakwall or at the point. Although Yarra Bay appears to have some limitations on how it could be used, expansion of the port could be a real threat in the future.

If we are given detailed assurances from the Minister and not just waffle the Shooters and Fishers Party is prepared to support the legislation to allow this sale. I call it a sale because 99 years is a long time. It is impossible for us to sit in this Chamber and imagine the technologies that will be used at the port in 99 years time. It is ridiculous even to assume that trucks and trains will still drive into the port because we do not know what will occur 100 years from now. My final point is that the maintenance and the capital requirements of a working port over such an extended period will be enormous. In those back-of-the-envelope determinations as to whether this is a good deal or bad deal for the people of New South Wales we must factor in the cost of maintaining a port of this size and capacity for the next 100 years. That cost could be enormous.

The Hon. WALT SECORD [4.07 p.m.]: I oppose the Ports Assets (Authorised Transactions) Bill 2012, which authorises the transfer to the private sector of the State's ports assets at Port Botany in Sydney's east and Port Kembla in the Illawarra for up to 99 years. Currently the State's ports assets are vested in the Sydney Ports Corporation and the Port Kembla Port Corporation. They are Stated-owned corporations. Port Botany is Australia's second largest container port, while Port Kembla is responsible for transporting different types of goods, including grain, coal and motor vehicles. I will make a number of points about this bill. Firstly, this significant bill was rushed through the Legislative Assembly with undue haste. By way of background, it was introduced in the Legislative Assembly at 11.38 a.m. on 17 October by the Treasurer, Mike Baird, and had passed through all stages to the third reading by the end of the next day. That extraordinary time frame prompts these questions: What was the rush? Why was there an attempt to avoid scrutiny? Why is the Government proceeding with such haste?

Secondly, the decision to sell the ports does not make economic sense. Since the 1960s taxpayers have poured billions of dollars into these facilities to improve their productivity. Their money has created valuable

assets and critical public infrastructure which has created jobs and prosperity. Any potential sale could not possibly compensate the taxpayers of New South Wales for their long-term investment, their jobs or the potential return. This is the same Treasurer who was the architect of the desalination plant fire sale.

From memory, the former Auditor-General, Tony Harris, said the desalination plant deal was a "dud deal" which will drive up water prices. The O'Farrell Government sold the plant for \$2.3 billion although it cost \$2 billion to construct. However, as part of the financial deal the Government has agreed to pay a rental of \$1 billion over four years to the new owners of the desalination plant. Under the arrangement the O'Farrell Government has sold an asset for \$300 million, but it has agreed to pay between \$195 million to \$202 million a year rental for the desalination plant. These payments must be made even though the desalination plant is currently on stand-by. This is simply madness. I have no confidence that the O'Farrell Government will manage the ports process. It will not protect New South Wales consumers. For the desalination plant the Government received a profit of \$300 million, but the State Government is willing to pay rent of \$200 million a year to the new owners.

To return to the Ports Assets (Authorised Transactions) Bill 2012, thirdly, the O'Farrell Government does not have a mandate to sell these important public assets. That is because during the election campaign the Coalition expressly denied it had any plans to sell the State's ports, especially Port Kembla. This was not just an omission to explain policy; this was part of an orchestrated plan of deceit. It was repeatedly put to Coalition members and they denied that they had plans to sell the ports. The Ports Assets (Authorised Transactions) Bill 2012 is significant because it is in stark contrast to numerous explicit promises and guarantees made by the Premier before the last election. Premier Barry O'Farrell promised that he had absolutely no plans to sell the ports. But this bill will do just that: It sells our ports.

Once again the Greiner school of top-drawer-policies approach before an election and lower-drawer-policies after the election is back. Clearly, the students—Barry O'Farrell, Mike Baird and the Hon. Greg Pearce—have learnt well at the feet of their master, Nick Greiner. Importantly, the O'Farrell Government cannot hide under weasel words of a "general mandate" on this key issue. The sale of ports was front and centre during the election. The formal O'Farrell-Stoner position was crystal clear on every occasion: There would be no selling-off of the ports. Fourthly, and most importantly, to get the support of the crossbenches to seal the deal the Premier agreed to a deal with the Shooters and Fishers Party to overturn a 20-year ban on duck shooting in New South Wales. In opposition and in government, Barry O'Farrell repeatedly denied that he was going to reintroduce any form of duck hunting. His environment Minister gave similar assurances.

To secure the support of the Shooters and Fishers Party for the Ports Assets (Authorised Transactions) Bill 2012 the Premier is winding back the proud record on environmental protections of previous Labor governments. For the record, former Premier Nathan Rees and former Premier Kristina Keneally said there would be no repeal of duck shooting laws in New South Wales. They said no to a deal with the Shooters and Fishers Party. The O'Farrell deal is nothing short of disgraceful. Today's Ports Assets (Authorised Transactions) Bill is just another betrayal—just like the betrayals of the cutting of 15,000 public sector jobs; the \$1.7 billion cut to public, Catholic, Jewish, community and independent schools and TAFE colleges; the 9.5 per cent increase in TAFE fees; the special needs education cut to 272 schools; the \$3 billion cut to Health; the \$500 million cut to community services; and the cut to non-government organisations, such as for cystic fibrosis and VisionCare. That is just a tiny portion of the long list of cuts.

The Premier should put the sale of ports to the families and businesses of New South Wales and seek a clear and unequivocal mandate. The community should have a say on their future of important public infrastructure. I remind the House of recent and explicit comments by a senior Cabinet Minister who said the Government had no plans to sell the ports. On 4 August 2011 he stated:

I have no plans to privatise New South Wales ports.

On 13 September 2011 he stated:

There are no plans before me to privatise Newcastle or Port Kembla.

That person has an obligation to explain his contradictory comments to this Chamber and to the taxpayers, families and businesses of New South Wales. That person was the Hon. Duncan Gay, who is the Minister for Roads and Ports. Fifthly, this bill is not about leasing the ports; it is a de facto sale of public assets. Again, the O'Farrell Government cannot hide behind weasel words. A 99-year lease, by anyone's common sense test, is a sale. Just ask any voter. Further, it is not a strategic sale: It is a fire sale. It is a quick cash hit. The Ports Assets

(Authorised Transactions) Bill 2012 is all about short-termism. The O'Farrell Government is seeking a quick cash injection without looking to the future. Over the years Port Botany will be worth billions of dollars to the State. The expansion of the third terminal alone is worth \$1.1 billion. That was money that had been invested by the Labor Government. It was invested in a public asset with a view to its remaining in public hands and earning even more money for New South Wales taxpayers.

The families of New South Wales have invested billions of dollars in this port since the 1960s. Current discussion in the financial media predicts that the O'Farrell Government will get back as little as approximately \$2 billion on the sale of the ports. However, the Government owes approximately \$900 million. That is not nearly enough to justify the permanent loss of our ports and removing those assets from public hands. In contrast, the ports actually generate revenue of more than \$225 million a year for the taxpayers, so the ports are a valuable long-term asset—a revenue-generating asset. Any punter can do the math on that, but that is not the view of this State Treasurer. For the record, this is the Treasurer who was responsible for the embarrassing \$1 billion error in the State's accounts.

The upshot of the Ports Assets (Authorised Transactions) Bill 2012 is that the Government wants to flog off this multibillion-dollar asset. It annually produces revenue at the rate of \$175 million from Port Botany and \$50 million from Port Kembla. The Coalition is selling an asset that makes money for the people of New South Wales. A recent economic analysis suggests that this Government is practically going to give it away. It can only be described as a fire sale. Mark my words: the sale of Port Botany and Port Kembla will be regretted by future generations. The revenue streams will disappear. As the shadow Treasurer, Mike Daley, stated on 17 October in the Legislative Assembly, multiply 99 years by \$175 million a year from Port Botany and \$50 million a year from Port Kembla, and that works out to a healthy return to the State. We are talking about tens of billions of dollars.

On top of this, the Ports Assets (Authorised Transactions) Bill 2012 also gives the purchaser power to introduce port infrastructure charges. On 25 October the Leader of the Opposition, John Robertson, and the shadow Treasurer, Michael Daley, raised concerns that new fees and charges imposed by a new privatised port operator could be passed on to New South Wales families as higher prices. Those concerns arise from proposed division 6A, section 66A. Mr Robertson and Mr Daley have cited petrol and liquefied petroleum gas prices. Not only will the O'Farrell Government give away ownership of our ports, it also will lose control of them. The new monopoly operators will have the power to impose unlimited rents and charges on companies that are responsible for importing, transporting and distributing petrol, gas and jet fuel from Australia's major port.

A group of businesses involved in bulk liquid fuel storage and distribution at Port Botany are alarmed by the bill. They include Elgas, Origin Energy, Qenos, Terminals Pty Ltd and Vopak. Further, this morning the Unions NSW General Secretary, Mark Lennon, warned about the ports deal, saying he feared that it would drive up prices. Mr Lennon said of the ports sale:

That is not in the best interests of port users, and it is certainly not in the best interests of the community because we can see that it will lead to price gouging, and therefore higher costs for consumers who use the facilities that come through the port.

This bill has no safeguards for New South Wales families or businesses. I will speak briefly about the bizarre linkage of the Port Kembla sale to the Princes Highway upgrade that has outraged the Illawarra. My State colleagues from the Illawarra, particularly the member for Keira, Mr Ryan Park, have canvassed this issue extensively in the community. The O'Farrell Government has promised that \$100 million of the proceeds from Port Kembla will be spent in the Illawarra. That is a matter of public record. The statement came from the State Treasurer, Mike Baird, and the Minister for Finance and Services, the Hon. Greg Pearce. The O'Farrell Government and its Treasurer told Parliament that future projects, such as stages two and three of the Princes Highway upgrade, "could not proceed" unless Port Kembla is sold. In short, they are attempting to hold long-promised and lifesaving upgrades to ransom in an attempt to silence the Illawarra community.

In conclusion and in summary, the Premier, Barry O'Farrell, has no mandate to sell our ports. Indeed, his mandate is not to proceed with the sale of our ports. New South Wales Labor objects in the strongest terms to the sale of this asset. The sale by the O'Farrell Government is economic vandalism of unprecedented proportions. The Government is flogging off this asset stream for short-term revenue gain. I urge the crossbench to join the Opposition in opposing the bill. I will be voting against the Ports Assets (Authorised Transactions) Bill 2012. I thank the House for its consideration.

The Hon. JOHN AJAKA (Parliamentary Secretary) [4.19 p.m.]: I support the Ports Assets (Authorised Transactions) Bill 2012. The purpose of the bill, as the House has heard, is to authorise the

Government to offer to the market a long-term lease for the State's port assets at Port Botany and Port Kembla. I will focus my contribution on Port Kembla. Port Kembla will continue to be one of the Illawarra's major economic drivers under a private lessee and support the employment of many local people. Port Kembla will also remain a critical link with international markets under a private lessee. The long-term lease of Port Kembla will bring much-needed private sector involvement in the port.

Government ownership of ports constrains ongoing capital investment in these assets due to growing competition for scarce funds in areas such as health, education, roads and transport. However, a private lessee will have greater access to capital to support the development of the port over time. This will be critical in helping expand and develop jobs and economic activity in the Illawarra region. As the House has heard, the long-term lease of the State's port assets will provide capital upfront to fund a backlog of critical public infrastructure across the State. The Government has dedicated \$100 million from the long-term lease for the Illawarra to help fund priority infrastructure needs in the region.

The Hon. Rick Colless: Point of order: The Hon. Walt Secord was heard in silence. I ask that you call members opposite to order to ensure that the Hon. John Ajaka is heard in silence.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! Members will allow the Hon. John Ajaka to continue his presentation without interruption.

The Hon. JOHN AJAKA: It should be noted that in the leasing of the port certain key roles will be retained. Marine services functions—including the role of harbour master, sea pilots and vessel control services—will remain with the Port Kembla Port Corporation. The Government will retain the regulatory oversight of Port Kembla with a price monitoring regime established to ensure transparency on pricing outcomes, consistent with principles adopted by the Council of Australian Governments. The Government will also retain overarching responsibility for safety, security and environmental regulation.

Port Kembla is Australian's largest vehicle import harbour and the State's largest grain terminal. It has a diversified revenue base derived from bulk products including grain, steel, coal and iron ore and from motor vehicles and construction goods. Port Kembla is also naturally placed to accommodate Sydney's future container growth when Port Botany reaches capacity. As the House has heard, Port Kembla is an attractive asset to the private sector given its enormous potential for growth. The lease will help ensure this growth potential is reached by providing much-needed access to capital and specialist expertise in the development of infrastructure, in turn driving the long-term economic development of the Illawarra. I commend the bill to the House.

Dr JOHN KAYE [4.24 p.m.]: Here we go again, another dodgy sell-off, another squandering of public assets, another handing over of crucial economic infrastructure to the private sector in order to secure a quick grab for cash by the O'Farrell Government at the expense of the future of the community, at the expense of the future of the economy and at the expense of the future of the environment. The Greens oppose the Ports Assets (Authorised Transactions) Bill 2012 and will vote against it. If through some misfortune it gets through the second reading we will seek to amend it in Committee. This legislation more or less mirrors all the other pieces of privatisation legislation that we have seen come through this Chamber under this Government and its predecessors. Each and every one of them is nothing but a short-term grab for cash, nothing but a ratings agency driven approach to economics that leaves any independent, intelligent observer asking: Why would you sell-off an income-earning asset which has an income stream that can inevitably support the State's finances?

There are at least six key reasons why The Greens oppose this legislation. The first is that it is simply dodgy economics, driven by the thoroughly and comprehensively discredited rating agencies and the fetish of the triple-A rating. This is handing over a long-term income stream for a short-term hit of cash. Secondly, this is privatisation of the profit-making aspects of the ownership of the two ports while maintaining the expenses, risks and liabilities in public hands. Thirdly, it is a loss of control of our lifeline, the lifeline of the community of New South Wales to the global economy. Whether we like it or not, governments have made us part of the global economy. Our umbilical cord, our clear connection to that global economy, is through the ports at Port Kembla and Botany, yet they are to be handed over to private sector decision-makers whose only interest is their corporation's bottom line and who have no commitment to the long-term economic, environmental or social health of our community.

Fourthly, there will be massive impacts on the environment, on traffic flows, on local communities and on heritage. Fifthly, the process by which this legislation will secure passage through the Chamber is not only

damaging to the reputation of New South Wales; it is damaging to the very essence of government. Sixthly, there is huge public opposition: the public does not want the ports privatised. This was never mentioned during the election campaign. The Government has no mandate for this but is pushing ahead with it. Despite opposition from the union movement, opposition from the community, opposition from business and opposition from every sector of our society saying this is bad, the Government pushes ahead, with the community having no opportunity whatsoever to have a say.

I will deal one at a time with each of those issues. It has been argued that we need to sell off an income-earning asset in order to invest in infrastructure—the new El Dorado of public policy, that you have to get money into infrastructure and in order to do it you eat yourself. You sell off your old infrastructure to purchase new infrastructure. The problem is quite straightforward. It has been illuminated by a number of economists who have said very clearly that the numbers do not stack up: the arithmetic does not work. For example, Port Kembla shows a profit—not a dividend—of about \$50 million a year. We are told it is to be sold at a price of about \$500 million a year. That is the same ratio we saw for the electricity industry that Labor tried to privatise. It is the same ratio we are seeing for electricity assets that the Coalition is trying to privatise. It is the same ratio with ports.

The problem is that the real rate of interest, the above inflation rate of interest for governments, is about 2 per cent. At a 2 per cent real rate of interest and an income stream of \$50 million a year we can borrow \$2.5 billion of capital. That is to say, public ownership of Port Kembla alone—that does not include Port Botany yet—would enable us to borrow \$2.5 billion and service it from the profit that comes out of Port Kembla. That is five times the current sale potential. The difference is quite straightforward. Because of our collective economic might, because we are a sub-jurisdiction of the Commonwealth, because we are a part of a trillion-dollar undertaking, our capacity as a State to borrow collectively is far greater than the capacity of an individual corporation.

Our rating, our credibility as a borrower, is far higher, so the risk premium is lower so the interest rate we get is lower. Therefore, we can afford to borrow more against that income stream than any private sector investor. It is worth more in public hands than it is in private hands. The problem I have outlined at Port Kembla is probably three times larger at Port Botany. This is not just a \$2 billion squander; it is probably more like a \$6 billion to \$8 billion squander of long-term public wealth and public assets. It is a giveaway of an income-bearing asset for a quick grab of cash. But this is not just about ports; this is about all privatisations. The most successful privatisation was Jeff Kennett's electricity assets sell-off in Victoria—successful in that it was shameful and cost the people of Victoria greatly in the long run. Whenever one talks about privatisation the right wing always says, "Oh, yes, but what about Victoria? How well did we do in Victoria?"

The gross proceeds were about \$20 billion even in the most so-called successful privatisation in this country. At a 6 per cent interest rate, which was about the real bond rate at the time, using that sum of money to repay debt would have required about \$1.2 billion a year. The Victorian State Electricity Commission's earnings before interest and tax in its last year of operation were \$1.202 billion. The sale of the Victorian electricity industry gained nothing for its economy, and everybody cites that as the most successful example. Every other example, including Labor's gentrader privatisation, has been a net loser. The 99-year lease of these two ports will be a massive net loser to the tune of \$6 billion to \$8 billion a year. But this sale is being driven by the rating agencies. We are told, "Oh, goodness gracious, we can't borrow more money or we will lose our beloved triple-A rating"—given to us by rating agencies that have been thoroughly discredited by their ratings-for-sale scandal that brought the world's economy to its knees.

The rating agencies scandal triggered the global financial crisis, brought down 100-year-old American financial institutions and destroyed southern European economies. Those same ratings agencies—the spivs in sharp suits—with those same corrupt individuals are driving economic policy in New South Wales to sell off public assets. There simply is no case to heed the ratings agencies. After the discredited collateralised debt obligations scam we should not listen to rating agencies. They should be driven out of town for the damage they have done to our economy. The cost of losing our triple-A rating, if anybody pays any attention to it, is not great—tens of millions of dollars in a budget around \$30 billion to \$50 billion. Compared with the long-term benefits of maintaining public ownership, whatever short-term costs are associated with losing the triple-A rating are irrelevant.

Any sensible measure of the credit worthiness of our State would consider owning an income-bearing asset a positive outcome and would regard utilising that asset to the maximum advantage of the community and maintaining it in good health for the future of our community as something that should be rewarded, not

punished by a downgrading. We simply should not listen to the rating agencies. We should drive economics in this State as if we really care about the future, not as if all we care about is a couple of spivs in sharp suits who have destroyed the economy around the world. It may be argued—we have not heard it yet—that we need to get these ports into private hands because private sector ownership is more efficient. What utter, ideological nonsense.

Nobody can argue that Port Kembla or Port Botany is poorly managed—they compete on a world scale as well-managed ports that use their assets efficiently. Privatising these ports will give no efficiency gain. On the contrary, the losses will be in efficiency as the corporations' focus moves away from serving the community to maximising profit. The second reason for opposing this legislation is that it is a classic case of selling off the profit-making activities and keeping the risk, liabilities and costs in public hands. That is written clearly in this legislation. Clause 3 defines a ports asset to mean, amongst other things, the assets, rights and liabilities of a port State-owned corporation—a port SOC. So it includes liabilities. Clause 4 (1) states:

This Act authorises the transfer of ports assets to the private sector or to any public sector agency ...

Written in black and white, this legislation enables the Treasurer of New South Wales, Mr Mike Baird, to force the liabilities on to a public sector agency. The Government has admitted already in *Questions and Answers* that Sydney Ports Corporation and Port Kembla Ports Corporation will retain the most expensive activities—marine safety, emergency pollution response, harbour master and marine pilots, vessel traffic control, navigation buoys and markers. But the benefits and joys of owning the lease over the ports and making income will be privatised. All this bill does is privatise the profit-making activities. Even the Port Botany landside infrastructure will be maintained in public hands.

That is what the Government is telling us it will maintain in public hands, but what will be in the lease that Mike Baird signs? What stinkers will be buried in that lease? Will the clean-up costs remain in the lease? Will the repair of damage done to the ports' landside be included? Will landside chemical spills be included? What equivalents to liquidated damages and market and maintenance risks that the previous Government kept in public hands with its gentrader transaction will be in this transaction? We have seen it before and undoubtedly we will see it again. At the very least the Government should be honest and fully capitalise any risks and liabilities kept in public hands. It should also be upfront about capitalisation of those costs.

The third reason for opposing this legislation is that it involves a loss of control over key economic assets. New South Wales is part of a globalised economy. For better or worse, we are an import/export State. The Illawarra in particular lives and dies economically on its capacity to generate earnings that go out of the region and State. This legislation hands over the aorta of New South Wales to private sector operators who simply care only about their profit bottom line. They have no concern about the future of the State, and no concern about making sure that investments at the ports secure opportunities for investment, job generation and the future of our State. The Illawarra faces three significant economic challenges at the one time. It must address rising youth unemployment, bring down its very high carbon footprint and compete with the ports of Sydney and Newcastle for freight.

Port Kembla needs a \$700 million investment or it will become a complete backwater. At the same time this legislation creates the risk that the leases over Port Kembla and Port Botany will be held in single hands. That means that the new lease operator will be tempted to run Port Botany as an overflow port, not the lifeblood of the Illawarra economy, and not the unique monopoly infrastructure that generates jobs, opportunities, and new import and export opportunities. Port Botany will be nothing but a backwater. This legislation will enable some dark scenarios. The lessees of Port Kembla and Port Botany, whether foreign or domestic, could put all containers through Port Botany and have no container facilities at Port Kembla.

Port Kembla would be relegated to car imports and exports of bulk commodities such as coal and wheat without any add-ons for the economy of Port Kembla. This is a dark scenario for the future of Port Kembla and the Illawarra and one which The Greens will not tolerate. The Greens will do everything possible to stop it occurring. The same is true with Port Botany. Handing over this State's key infrastructure to private operators makes no economic sense. There are real issues with the environment, heritage and traffic associated with privatisation. Lifting the cap at Port Botany means that local residents will have inflicted on them massive increases in noise, a reduction of amenity and the environmental impact of additional traffic. That cap is not being lifted because it is in the best interest of the State but because it maximises the asset sale price. It sacrifices the welfare of local residents to fatten up the asset for sale. Later in the debate my colleague the Hon. Cate Faehrmann will talk of that in greater detail.

I turn to the dodgy process by which this legislation is securing its passage through the upper House. It is clear the bill is being debated today—on the last day of sitting for Government business, after it sat on the *Notice Paper* for one month—because a deal has been made with the Christian Democratic Party and the Shooters and Fishers Party. The Christian Democratic Party clearly does not care about the future of the Illawarra or the future of the State. The Christian Democratic Party is purely interested in its own power and maintaining the alliance with the Shooters and Fishers Party. It is a party that should not call itself Christian because it does not show Christian concern—

The Hon. Paul Green: Point of order: That is a gross insult and very misleading. The Christian Democratic Party loves the South Coast.

Dr JOHN KAYE: To the point of order: There is no point of order. I have insulted a party not an individual, just as Mr Gay continually insults The Greens. I am doing the same.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! The member is specifically referring to the two members of the Legislative Council who are members of the Christian Democratic Party.

Dr JOHN KAYE: Further to the point of order: I could put the same argument; that the Minister for Roads and Ports continually refers to the five members of The Greens in the upper House.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! The member can take points of order on that.

Dr JOHN KAYE: They are never held up. I hear the ruling. A deal has clearly been done. The deal involves cruel and dangerous duck shooting that will undermine the future of our environment. It reflects badly on the Government. The practice of deals being made with the right-wing crossbench is a monster created by the previous Government and it has been exacerbated by this Government. Finally, this legislation is not in the public interest. A petition of 10,000 signatures was lodged today in the Legislative Assembly, from a population of 408,000 in the Illawarra. I move the following amendment:

That the question be amended by omitting all words after "That" and inserting instead "a select committee is appointed to inquire into and report on the provisions of the Ports Assets (Authorised Transactions) Bill 2012".

2. That the committee consist of seven members comprising:
 - (a) three Government members
 - (b) two Opposition members, and
 - (c) Paul Green and John Kaye.
3. That the Hon. Paul Green be the Chair of the Committee.
4. That the Deputy Chair of the committee be elected at the first meeting before proceeding to any other business.
5. That notwithstanding anything contained in the standing orders, at any meeting of the committee four members will constitute a quorum, provided at least one is a crossbench member.
6. Unless the committee decides otherwise, a member of the House who is not a member of the committee may take part in a private meeting of the committee but may not vote, move any motion or be counted for the purpose of any quorum or division.
7. That a committee member who is unable to attend a deliberative meeting in person may participate by electronic communication and may move any motion and be counted for the purpose of any quorum or division, provided that:
 - (a) the Chair is present in the meeting room
 - (b) all members are able to speak and hear each other at all times, and
 - (c) a member may not participate by electronic communication in a meeting to consider a draft report.
8. That the committee report by Tuesday 16 April 2013.

Ports privatisation was never mentioned during the election campaign. Following the petition of 10,000 signatures lodged today in the Legislative Assembly—well over the threshold set by the O'Farrell Government for public interest—and given that the Government does not have a mandate— [*Time expired.*]

The Hon. SHAOQUETT MOSELMANE [4.44 p.m.]: I also oppose the Ports Assets (Authorised Transactions) Bill 2012. The intention of the bill can be summarised as follows:

This Bill is to authorise and facilitate the transfer to the private sector of the State's ports assets at Port Botany and Port Kembla, subject to the restriction that the land concerned can be leased to the private sector for up to 99 years but ownership of the land must remain with the State. The State's ports assets are currently vested in the Sydney Ports Corporation and the Port Kembla Port Corporation, which are State Owned Corporations and are referred to in this Bill as port State Owned Corporations [SOCs].

I am not sure who the author of this preamble is hoping to dupe by saying that the land concerned can be leased to the private sector for up to 99 years but ownership of the land must remain with the State. It is as though the Government is the responsible party and that it wants to reassure us all that the land will not be lost and it will somehow prevent the land from being taken away. It is a farcical concept designed to say, "Look, we are only leasing, not selling, the ports." The fact is that the Government is selling the ports, and it is selling them for 99 years. By the time this lease ends many generations of Australian citizens will have come and gone and it will still be in private hands.

The attempt to make this sale look like a lease is cheap and, in my view, an insult to the people of New South Wales. The public knows full well that it is the sale of a public asset and, once sold, it is gone forever, not just for 99 years. It is effectively gone forever for me, my child and grandchildren. It is ridiculous to assume that the new owner, whoever that may be, will not approach the government of the day and seek to renegotiate the contractual agreement and any legislation to get another 99-year lease. The bill will effectively allow the sale of the ports. As a strong supporter of public ownership I cannot but be critical of a bill that is designed to dispose of a revenue-raising asset. It is simply ludicrous to sell this asset that we all know produces income and generates jobs.

The only way I can describe the proposal to privatise this government asset is as worrying and very disappointing. I am deeply concerned about: first, the sale of another public asset that is a successful revenue-generating public asset; secondly, the effect this asset sale will have on the economy; and thirdly, compromise to the public service it performs. What is even more disappointing is the speed with which this Government is seeking to push this bill through both Houses. Why would the Government want to dispose of an asset in such a fashion? We all should be concerned that the Premier and the Treasurer have not thought through this plan thoroughly, nor has it been afforded the scrutiny it deserves. We are all elected with a mandate to serve in the best interests of the people of New South Wales, and this proposed sale of Port Botany by the O'Farrell Government is definitely not in the best interests of the people of New South Wales by any measure. Why would any right-thinking government want to sell a revenue-producing, publicly owned, premier asset for a pittance?

It is terribly perplexing and incomprehensible that it would be sold cheaply, especially when it has just been expanded. It has doubled in size and now will be sold for a pittance. What is really being proposed is the fire sale of two of the most important infrastructure assets in New South Wales. This sale is being undertaken with no public case made to sell the ports; no study done of the impact on Australian importers and exporters; no examination of the impact on the cost of living for New South Wales families; and no examination of the impact this will have on the people surrounding the ports, including Botany and my duty electorate of Rockdale. We are in the dark as to what the impacts of this sale will be on New South Wales families, consumers, businesses and the broader economy.

The Government has refused to release the pre-scoping study undertaken by Goldman Sachs, an investment bank. As our Deputy Leader in this House, the Hon. Adam Searle has said—and I agree—no-one should be surprised that an investment bank is recommending an asset sale. Assets such as Kingsford Smith Airport or Port Botany are extremely valuable public assets and those in the business of airports and ports will run over themselves to get their hands on them. They represent a lucrative revenue base which the Government is now trashing. It is sheer madness to sell them. It is no wonder that right-wing market extremist ideologues in this Government and the companies that express an interest in the assets are now salivating over the opportunity to purchase this valuable public asset.

The Government is handing over these monopoly assets completely free from any form of regulation. We are informed that the Government is allowing one private company to bid for Port Botany, Port Kembla, the Enfield intermodal terminal and the Cooks River rail yard. This operator will have unprecedented monopoly power over our key trade infrastructure, with the ability to dictate prices to truck operators, shipping lines, importers and exporters. At the end of the day it will be New South Wales families paying for this in the form of higher prices and a slower economy.

Right-wing market extremist ideologues in this Government are now saying, "Sell it and let's put our hands on the proceeds." You do not make New South Wales the number one State by fleecing it of its public assets; you only make New South Wales and the people of this State poorer and big business richer. Those on the right that believe in privatisation, according to Bob and Con Walker in their book *Privatisation: sell off or sell out? The Australian Experience*, present three central claims in support of their privatisation agenda: that the public sector should be smaller; that government should get out of activities which are "properly" the domain of the private sector; and that privatisation is needed to reduce public sector debt. I think I should add a fourth: that the O'Farrell-Stoner Government is hell-bent on squandering the State's public assets. That is the way that this Government thinks and no consideration is given to the use of public assets as a means of revenue raising and the human beings who work at the port. There is no consideration for the rights of the workers. It is just a case of, "Hand all workers over to the private sector, and it is no longer our business or our responsibility." That is totally unacceptable, but typical of this Government.

Our ports are in fantastic condition, and past successive Labor governments have made massive investment in our ports infrastructure. Port Botany has undergone a massive expansion, with a \$1 billion investment in a new container terminal, a new \$80 million bulk liquids berth, truck marshalling yards, upgraded rail infrastructure, improved local roads, and an excellent boat ramp and facilities for boating and recreational fishing. Port Kembla has seen massive investment, including completion of a massive inner harbour expansion, transfer of the car import trade and investment in the outer harbour expansion. There have been major investments in better performance, with reforms introduced by Labor leading to more efficient ports and reduced truck queuing. These assets are in fantastic condition and will be able to handle a growing economy for decades to come.

This Government cannot help itself. For the past 18 months it has shown that it is incapable of protecting the rights of workers. The Government has taken control of the Industrial Relations Commission and frozen wages, has attacked injured workers, attacked workers' rights to fairly bargain collectively, is happy to force retail workers to work on public holidays, has opposed equal pay, slashed public sector entitlements, slashed public sector jobs, demolished the Health and Education budgets, attacked community services, and in a mean and petty act even cut Community Building Partnerships grants. This Government is happy to throw the ports workers to the lions and into the control of big business, with no regard given to their wellbeing. I appreciate that it is difficult for a conservative mob that has no appreciation of public ownership to understand the significance of having public assets in the hands of the people of New South Wales. That is why they can dispose of the State's assets, at a price that is shocking to all on this side of the Chamber. In the other place the newly elected member for Heffron, Mr Ron Hoenig—a man who, through more than 30 years of service as mayor of Botany, has intimate knowledge of this very issue—has said:

The people of New South Wales have invested billions of dollars in this port since the sixties. The Government will get back a lousy \$2 billion, and it owes about \$900 million. It is going to give away \$180 million a year, a revenue source for the people of New South Wales. The Government is going to worry about that afterwards and it is going to tell the people of New South Wales that it is going to build them super-duper roads, but it is not going to be able to move the containers. This is an example of what governments do when they do not want scrutiny and they do not want to answer ...

Those opposite would do well to heed the words of the member for Heffron. The proposed selloff of Port Botany has little public benefit when one weighs up the amount of money put into the ports in the past 50 years with the expected sale price—especially when one considers that the \$515 million Port Botany expansion was only completed earlier this year. Premier Barry O'Farrell is not content with privatising electricity; he wants to privatise Port Botany, Port Kembla—he wants to sell off every asset in public hands in New South Wales. His attitude is: Sell all assets. Why bother about the management of Australia's second-largest container port? For the Premier it is an asset to be sold, but for the people of New South Wales and those working and living in and around the port, it is their livelihood that counts, and must count.

This State-owned asset is actually a revenue-making asset. It is just as mad as the decision to privatise the international airport. One cannot walk or drive into Kingsford Smith Airport without first being fleeced. Sydney Airport Ltd has a monopoly: it determines the price, it determines its own services, and it determines its own building applications. It is a money-making empire. It does not give a damn about others. It cares about its bottom line, full stop.

Mr David Shoebridge: Perhaps cafes and a shopping centre at the port.

The Hon. SHAOQUETT MOSELMANE: I acknowledge that interjection.

Mr David Shoebridge: Or Port Kembla Westfields.

The Hon. SHAOQUETT MOSELMANE: Furthermore, this Government is handing over these monopoly assets completely free from any form of regulation. The Government is allowing one private company to bid for Port Botany and the others that I mentioned earlier. This operator will have unprecedented monopoly power over our key trade infrastructure. Not only is Treasurer Mike Baird handing over unrestricted pricing powers to the private operator, he is also creating a new tax on truckers, importers and exporters. The new private operator will have the ability to levy a tax on truckers, shipping lines and businesses to pay for any investment it makes. It is completely unprecedented for the port authority to have any powers to levy charges and taxes on importers, exporters or truckers. This is a blatant attempt, as my colleagues have said, to fatten up the ports for sale. It will do nothing but put truckers out of business, put prices up for consumers and place further pressure on manufacturing jobs.

In summary, this bill is an indictment on the Premier and his Treasurer. It is the complete opposite of economic reform; it will put the brakes on our economy for years to come. The Minister for Roads and Ports has failed to stand up for industry against this shameless grab for cash. Selling our ports today, with unfettered powers to increase charges and introduce new taxes, is nothing but selling out the people of New South Wales. I oppose the bill. It is an absolute shame that we are losing yet another important public asset. It is a shame that this Government has decided to rush this decision and this bill through without due care and proper consideration for the people of New South Wales.

The Hon. Dr PETER PHELPS [4.58 p.m.]: The previous speakers have shown why you do not go to socialists to ask for economic advice. The fundamental flaw behind the propositions that they have been putting is that because these assets return income to government they should axiomatically be retained in government hands. That is the same as saying to an elderly person with a passbook account earning 0.2 per cent interest, "Don't look around, don't try to find an interest-bearing account that offers a greater rate of return. No, because you are getting your 0.2 per cent you should keep your money in that passbook account." No member opposite has actually addressed the issue at hand here, which is: What is the return on asset? Is it a valuable use of government money to retain a significant amount of money in these assets?

Fortunately, there is a report that has looked into this. Who was it done by? It was done by the Labor Government's own Infrastructure Australia. We do not hear too much noise from the other side of the Chamber now, do we? Infrastructure Australia looked into this. The report had to be obtained under freedom of information legislation because it was not publicly released. It was obtained by Sean Parnell of the *Australian*. What did the report find? It found that the return on asset for Port Kembla was at 3.8 per cent; the return on Sydney Ports was even lower at 3.3 per cent. If the assets were to be liquidated tomorrow we could stick that money into any savings account of any of the four big banks in Australia and we could get at least 1 per cent or even 1.5 per cent or 2 per cent higher return on that money. That goes to show the economic incompetence of the other side of the House—the economic incompetence of The Greens and the economic incompetence of the Labor Party. They think that because there is any return all ports should be kept in public hands.

These figures come not from the Government but from the Labor Party's own product, Infrastructure Australia. The report also shows how far some corporations are from meeting the principles of the 2010 National Ports Strategy that infrastructure must be operated on commercial lines. As I remember, the Labor Government was in power federally in 2010. But those opposite are not interested in doing that. Dr John Kaye gave the game away. He is opposed to any privatisation, any attempt to try to bring the market into this. But this is not privatisation; this is a lease. Those opposite do not know the difference between a sale and rent, but Labor's own report from Infrastructure Australia showed exactly what it is.

By way of argument, Dr John Kaye talked about comparisons. Did he choose to compare like with like? Did he say, "I will go and find another port somewhere"? He decided to compare a port with a power station. I am not sure about you, Mr Assistant-President, but I do not know what the container rate is through most power stations. I am not sure how much bulk handling of grain goes through power stations. In fact, I suggest that Dr John Kaye, who does know a lot about power stations, when comparing ports should first try to seek a comparison with another port. Who has done that comparison? Infrastructure Australia has done that in the same report. It looked at Auckland, which has a return on asset of 6.3 per cent, and Singapore, which has a return on asset of 6.3 per cent. I note that the Hon. Walt Secord made a contribution on this bill earlier today. He should turn his attention to Vancouver and Toronto, which have, respectively, rates of return on assets of 6.6 per cent and 7.5 per cent.

Perhaps even more importantly, let us look at the United Kingdom. There are approximately 120 commercial ports in the United Kingdom and 95 per cent of the United Kingdom's international trade is

handled through seaports. Their total tonnage is about 520 million tonnes a year—most of it containerised. The major landlord ports were privatised in the early 1990s—ABP, Peel Ports, PD Ports and Forth Ports—and these ports now account for 80 per cent of the total tonnage. It is now planned to privatise the remainder of the smaller trust ports. In the United Kingdom there is zero government commercial interest in the sector now, and what has the result been? Because they have moved from a socialistic government-owned model to a commercialised model the result has been increased trade, improved productivity and increased investment. What a shock. What a surprise that those three things would happen.

Let us come back closer to home and let us look at Queensland and the Port of Brisbane. That sale was completed in November 2010 under, let us see, a Labor Government. And who are the owners now? The owners are Queensland Investment Corporation, Industry Funds Management—so even the unions think it is good to buy into these commercialised ports—Global Infrastructure Partners and ADIA. The sale was broadly structured as a 99-year lease. Where have we heard that before? How remarkable that a Labor Government would do that. What a shock. What an outrage. Where is the outrage from the other side of the House about that? There is none. Their opposition to this bill is all hypocrisy and it is effected to try to secure their own preselections.

The privatisation of the Port of Brisbane was viewed globally as a successful privatisation and there was a smooth transition with minimal community and media focus. That does not suit those opposite; they want to run this as their own little political campaign when they have nothing meaningful to say about the state of investment and growth in New South Wales. In Queensland there is ongoing investment in infrastructure with up to \$1 billion in the pipeline for Brisbane, and the privatisation has been overwhelmingly accepted as successful. The facts speak for themselves: this is a good deal for the people of New South Wales, it is a good deal for the future of New South Wales, it is a good deal for business, it is a good deal for workers and it should be accepted wholeheartedly. Those opposite should not try to squander it.

The Hon. GREG DONNELLY [5.05 p.m.]: I speak against the Ports Assets (Authorised Transactions) Bill 2012. I concur with the contribution made by the Hon. Adam Searle, who outlined the key aspects of the reasons why the Opposition opposes this legislation. I do not intend to revisit the points made by the Hon. Adam Searle and other Opposition members in this debate. I believe they are valid arguments and that they underpin the reasons why the legislation should not be supported. Instead, I will focus on a couple of points that I do not believe have been touched on in any significant way and that are quite apposite to this debate. They are issues that have come up and will continue to come up under the administration of this Government with respect to the way in which it deals with the sale, lease, rent or other financial/commercial arrangements in relation to State assets.

In the lead-up to the State election last year the Government made some significant political capital at the time about its Contract with NSW, which the Hon. Barry O'Farrell, the then Leader of the Opposition, said was going to be a document that would act as the cornerstone of what would be the relationship between the new government, if elected, and the citizens of New South Wales. The document was used throughout the election campaign and it was quoted in many instances in media events not just by the then Leader of the Opposition but by various shadow Ministers at the time. I think most members in this House are familiar with the document. The document is entitled "Contract with NSW Barry O'Farrell" and it states on the cover "Liberal & Nationals Contract with New South Wales—A copy of our commitments for you to keep". It is a handsomely produced document, relatively short, and it contains five parts that set out the commitments given by the Government. I will not go through the whole document but I want to reflect on one part because it was a theme throughout the election campaign by the then Opposition about the need to restore accountability.

Throughout the election campaign it was argued time and again that a fundamental shortcoming of the then Labor Government was that it failed in a number of respects to be accountable. A number of examples were used to argue the case that the then Government did not deserve further support. Of course, we know what the record shows. The fourth point, "Restore accountability", contains a set of sub-points. The third sub-point says, "We will be honest and accountable". At the time the Hon. Barry O'Farrell spoke on many occasions about the need to be transparent and open with the people of New South Wales, not just in what he as the then Leader of the Opposition of the alternative government was offering the people of New South Wales, but what he committed to if elected to government by the citizens of this State. He spoke about the need for his Government to be transparent in the way it operated and he did not put qualifications on that. He said that the lack of accountability and transparency were key failings of the Labor Government and that his Government would not make that mistake. Much was made of that time after time throughout the campaign.

The lack of clarity and transparency with respect to the impact of this legislation is a big problem. I imagine that most members have read the second reading speech by the Treasurer, Mike Baird, in the other

place. I note that his speech took 14 minutes flat. It is easy to count the paragraphs of the Treasurer's contribution to this significant transaction because it runs for only 2½ pages. The only figure he mentions is in his reference to a comment he made in last year's budget speech. He mentions no figures in relation to the financial implications of the transaction.

My difficulty is that the Opposition and crossbenchers in this House are invited to support this legislation on trust. In other words, it is asserted that we should basically trust the Treasury and the Government and that it will all be okay. Members wishing to participate in debate in this place and the other place have sought detailed information about the transaction which is fundamental to this legislation. It has not been provided. Do not think for a moment that no detailed analysis of this legislation has been done. It has been done. I am sure members are aware of the document entitled, "New South Wales Government, Ministerial Handbook". It was produced by the Department of Premier and Cabinet, it was written by General Counsel from the Policy and Strategy Division and it is dated June 2011. The document belongs to this Government, not the previous Labor Government, and it is publicly available for download from the Department of Premier and Cabinet website. Annexure E is entitled, "Guidelines for the Preparation of Cabinet Minutes". At point 5 on page E4 under "Financial Impact" the requirements placed on a Minister with respect to bringing a piece of legislation to Cabinet are set out. That portion reads:

All Cabinet Minutes must include a section summarising the Financial Impacts. Apart from detailing additional costs and/or revenue to the proponent agency, these sections must fully explore and identify any flow-on costs for other agencies as well as any indirect financial cost and offsets. How impacts will be funded and the scale of costs will also be included in this section.

Where there is a financial impact, Treasury should be consulted and its concurrence to the proposed costings should be obtained before the Minute is submitted to the Department of Premier and Cabinet. While Treasury will review the financial impact of the proposals, primary responsibility for the accuracy of the information provided in the Cabinet Minute, including the estimated financial impact, rests with the submitting Minister.

A table on the following page shows how that is to be projected over a forward estimate period and totalled. The Cabinet minute template is contained in annexure F and it further explains how what I have described is to be incorporated in the minute. Clearly, for a transaction of this size, this work has been done by Treasury. The Treasurer has obviously received from Treasury detailed analysis and consideration of the implications of this transaction as required by his Government's own document.

The Opposition is not saying that we expect the Government to hand over all of its information, because we understand the argument of Cabinet-in-confidence material. However, it is reasonable and appropriate that a version of that information be put on the table for Opposition and crossbench members to reflect on. As best as I can understand from the contributions of the crossbenchers who have participated in this debate, they have had to rely on a drip feed of bits and pieces of information by the Government. I have not heard any crossbencher say that they were presented with a detailed analysis produced by Treasury which gives some insight into the implications of a transaction of this size. I find that astounding because the analysis has been done and is in the Treasurer's possession. Not only will he not provide it, he will also not provide a detailed fact sheet or a set of points or a summary analysis of the information. All we have to go on is a 14-minute contribution by the Treasurer, which contains a large range of assertions and value judgements, but no detail.

It is interesting that the previous Labor Government was attacked regularly by the then Opposition about its apparent failures in dealing with issues and, in particular, commercial transactions. Yet the Coalition Government is now behaving in a way which in many respects is analogous to some of the criticisms that it levelled at the former Government. I do not understand why the Treasurer has not been forthcoming with this information. There is a difficulty with the Treasurer of New South Wales, and it is not my problem as a member of this House or the Opposition's problem. It is the range of criticisms that the Auditor-General of this State has made in his report entitled, "Volume Three 2012, Focusing on New South Wales State Finances". The document is in the public domain and has become a significant embarrassment to the Treasurer. No-one in this House questions the expertise of the Auditor-General. After reviewing the performance of Treasury, the Treasurer and the way in which the accounts have been reconciled and recorded in this State, the Auditor-General said:

[New South Wales is] a billion-dollar business ... not a school tuckshop.

The Auditor-General went on to state that while a \$1 million error is unfortunate and a \$10 million error is undesirable, a \$1 billion error is unacceptable. A number of errors identified in his analysis related to valuation errors. With this legislation, a significant transaction is being brought to this House for consent and passage, yet as recently as the past few weeks the Auditor-General of New South Wales belled the cat when he expressed fundamental concerns about valuation calculations by the Treasurer of New South Wales and Treasury and how those calculations have been done.

Members of the Opposition are all meant to say, "I understand." Alternatively, the Government effectively is saying to the Opposition, "Listen, don't worry about that. All you have to do is just understand that we have the best interests of the State at heart. We wouldn't do anything that was unwise. We've learnt from your mistakes when you were the Labor Government. Just trust us." At the end of the day, it is very hard to trust someone if we do not have a basis on which to do so. Basically, the Government made the decision for its own reasons to starve the Opposition, the crossbenchers and the public of meaningful information they could use to make a sensible and considered assessment or even a relevant contribution to debate as to whether this is a good transaction. Why would the Government do that?

Obviously the Government has paid for advice from commercial sources, as acknowledged by the Treasurer. Why has that information not been made available? I simply do not understand why the Government is not prepared to make the information available. What I have said is the result of a very hard lesson I learnt as a member of the previous Labor Government in respect to the gentrader transaction. Mr Assistant-President, you know all about that because you chaired the gentrader inquiry. Attempts to establish a Legislative Council inquiry to examine the ports proposal thus far have been rejected despite the existence of broad similarities between issues associated with the ports proposal and the gentrader transaction. We should all be concerned. The Assistant-President made this salient comment in a media release with respect to the gentrader transaction inquiry:

The transactions caused considerable concern within the community, and led to the establishment of this Inquiry. Concerns included the value obtained from the sale for NSW taxpayers ...

There was an issue in relation to the gentrader transaction also with respect to the value of the transaction. The press release went on to state:

One of the key issues raised during the Inquiry was the value obtained by the transactions.

There can be no doubt that in relation to the sale of State-owned assets, their value to the citizens and to New South Wales is a significant issue. It is rash for the Government to seriously expect the Opposition and the crossbenches to accept its arguments in support of its ports proposition when it will not provide any substantive information about the proposal. I refer to three recommendations made in the gentrader transaction report. Recommendation 1 states:

That the NSW Government disclose the retention values of the electricity assets and bundles of assets that were sold as part of the Gentrader transactions, and the methodology used ...

I consider that to be a perfectly reasonable request. The Government could accede to the Opposition's request for information that is retained by the Treasurer. The analysis in relation to the ports proposal has been done by Treasury for the Treasurer. The Opposition wants to know the value of the asset and the methodology used in ascertaining the value of the proposed ports transaction. Recommendation 3 is an interesting one. It states:

That the structure of the NSW retail electricity industry be subject to an Independent Pricing and Regulatory Tribunal inquiry ...

Why would it not be reasonable to submit this proposal to the Independent Pricing and Regulatory Tribunal right now so that the tribunal can examine the proposal, run its ruler over it and provide a report on how the proposal lines up with some information from independent sources compared to Treasury-based information? Recommendation 6 states:

That the full financial details of the Gentrader transactions be made publicly available immediately.

I conclude by reiterating that as the information already exists—it has been produced by Treasury and is in the possession of the Treasurer—the Treasurer could make it available, but he chooses not to do so. Basically that makes it impossible in good faith to accede to a proposition that amounts to no more than, "Trust us. We know what we are doing."

The Hon. CATE FAEHRMANN [5.25 p.m.]: I am against the Ports Assets (Authorised Transactions) Bill 2012. I note the contribution to debate on this issue by my colleague Dr John Kaye and Opposition members. As The Greens Transport and Ports spokesperson, I will address concerns about significant freight issues, particularly those relating to lifting the container cap applying to Port Botany. We have heard that, no doubt for the purpose of increasing the sale price, the Government has lifted the cap on the throughput of cargo at Port Botany from 3.2 million 20-foot equivalent units [TEUs] to more than 8 million 20-foot equivalent units a year. At one stage the figure was 8 million 20-foot equivalent units a year, but clause 32 of the bill sets no

limits. Perhaps the 8 million represents an ambition; but, in fact, there are no limits on the size of cargo. This bill will make it impossible for any government or planning Minister to impose any throughput limits on cargo out of Port Botany. At the Committee stage I will move an amendment to remove clause 32. Clause 32 states:

A planning control is of no effect to the extent that it would operate to impose a cargo throughput limit for Port Botany.

If this bill is passed, no planning Minister will be able to impose a cargo throughput limit for Port Botany over the term of the 99-year lease. As reported in the media, that has been done for the sole purpose of increasing the sale price. How incredibly irresponsible it is for this Government to sneak that clause into this bill. If this bill is passed, no future government will be able to impose a throughput limit on cargo. We also know that the Government has reduced the target for freight coming out of Port Botany. The previous Government did not meet the target and did not do much at all to meet it, but this Government has reduced the freight target to 28 per cent.

The Hon. Duncan Gay: This is on rail. You did not say what it was on.

The Hon. CATE FAEHRMANN: I thank the Minister for correcting that. The freight target by rail is 28 per cent.

The Hon. Duncan Gay: We are doubling it.

The Hon. CATE FAEHRMANN: The Government will double the target to 28 per cent by rail freight. I would not want to be a resident of the Port Botany area if this legislation is passed in its current form. Can members imagine the noise and light pollution? We know that Port Botany residents already are complaining about the noise and lights associated with port operations, but if this bill is passed in its current form, that pollution will become much worse. The noise and light pollution can only be compacted by a rapid increase in truck movements in and out of the ports. Who knows what the price for this transaction will be? Amounts of \$2 billion and \$3 billion have been suggested. In today's newspapers, \$4 billion has been suggested, but even that amount will go nowhere near paying for the cost of infrastructure that will be required to cope with increased truck traffic that will result from lifting the cap.

Earlier this year the entire windfall from the sale of Port Botany was flagged for completing the upgrade of the Pacific Highway. But now WestConnex has been announced, costing somewhere between \$10 billion and \$13 billion, and has received government support. The sale price will represent a mere drop in the bucket of what will be needed to upgrade the capacity of the transport network in Sydney should this motorway project go ahead. In short, Sydney is destined for traffic chaos should the cap on container movements at Port Botany go beyond 3.2 million to 4 million, 5 million or 8 million per year and the WestConnex is built.

The proposed Moorebank Intermodal Terminal is located right near the rail line and it is planned that some of the containers coming from Port Botany will be sent by rail to that terminal. Greg Cameron, a former BHP Newcastle executive and someone passionate about using the former BHP site as a container port, has written to many members in this place to express his alarm at the decision of the Government to lift the cap on Port Botany instead of using Newcastle as a spill-over port. He writes that the Intermodal Terminal at Moorebank is proposed to handle one million 20-foot equivalent units a year and will be at capacity almost as soon as it is built in 2017. By 2017 Port Botany will have reached its previously imposed cap of 3.2 million, one million of which is to be moved by rail.

When more containers are being moved through Port Botany—four million, five million, six million, seven million or eight million—how are they to be transported? Most of them will be transported by trucks. The Australian Government said that other potential intermodal terminal sites at Moorebank in Sydney would require substantial investment in additional infrastructure to link the national road and rail networks, and currently are not viable alternatives. Mr Cameron states:

The Australian and NSW governments do not have plans for additional IMT capacity beyond 3.2 million twenty foot equivalent units, despite estimating that container movements will increase from 2 million twenty foot equivalent units in 2011 to seven million in 2030. Moorebank IMT, obviously, is a stop-gap measure.

Mr Cameron also states:

In 2011, empty containers comprise more than 50% of the one million containers exported from Port Botany. The proportion of empty exported containers will grow over coming decades. Empties are a significant logistical problem for Port Botany but represent a major commercial opportunity for northern NSW communities in terms of low-cost transport of exports.

The Government has provided no compelling reason as to why it is not investing in Newcastle, for example, upgrading port facilities and rail capacity in that regional city. Many Newcastle residents have been calling for some time for the Newcastle port to become a container terminal. Making Newcastle a container terminal and upgrading Port Kembla would be cheaper than building the WestConnex, which is needed to get all those trucks out of the expanding Port Botany and the limitless containers that will be coming out of that port. Why has the Port of Newcastle been forgotten about by this Government as a flow-over port for Sydney?

Why will Newcastle now miss out on the enormous employment opportunities that this would provide? The Hon. Greg Pearce, the finance Minister, is also the Minister for the Illawarra. All he has managed to do for the Illawarra as a result of this sale is get \$100 million for Illawarra infrastructure. The people in the Illawarra want jobs for the long haul, not just short-term building projects. It has been reported that revenue from Port Kembla alone is \$50 million a year. Over the next few years residents in Port Kembla in the Illawarra will miss out on \$50 million in revenue each year from that port, once again for the sake of short-term revenue making.

We must remember that this Liberal Government is obsessed with small government. Its agenda is to sell off everything that it possibly can. It did not talk about this before the election but it is not surprising that it wants to sell off the silverware as quickly as it can. What will State governments be using for revenue in 25, 50 or 75 years time? This Government is about to sell it all off. This Government is against raising taxes. It is against public assets earning revenue for the people of this State. In 25 years time, when nothing is left to sell off, how will this State make any money? It is a joke. This Government is selfish and thinks only about short-term gains.

I refer to the environmental impact statement that was prepared in 2005 for the Port Botany expansion. In 2005 when that State significant and designated development application was being considered under section 80 of the Environmental Planning and Assessment Act, a condition was placed on Port Botany—the Port Throughput Capacity Limits A1.4—which states:

Port throughput capacity generated by operations in accordance with this consent shall be consistent with the limit specified in the EIS, that is, a maximum throughput capacity at the terminal of 1.6 million twenty foot equivalent units per annum and a total throughput at Port Botany of 3.2 million twenty foot equivalent units. These limits may not be exceeded by the development without further environmental assessment and approval.

I welcome an answer from the Minister when he replies to debate on the second reading. Where is the environmental assessment for this expansion? There has been no environmental assessment, yet one of the conditions on a previous expansion of the port was that any lifting of the 20-foot equivalent units would require an environmental impact statement. The 2005 environmental impact statement states:

The proposal represents approximately a 30% expansion in the port area, however, the functions of the new terminal will represent an increase of approximately 200% of the current cargo movement. This expansion proposal will result in an increase of shipping and associated transport movements and changes as follows—

members should remember this relates to Port Botany in 2005—

Shipping movements from 810 to 1,765 annually.

Sydney Ports currently handle 1.1 million Twenty Foot Equivalent Units ... Forecast trade is expected to increase to 1.6 million TEUs by 2010 and exceed 3 million TEUs by 2025 ...

Increased truck movements from the 2,913 per day to 4,700 per day in 2025.

I bet it was not anticipated that a future government would change the 20-foot equivalent units from 3.2 to nothing. By 2025 there will be substantially more than 4,700 a day. The environmental impact statement goes on to state:

The finding of the EIS, that the impacts may be managed, relies on a number of assumptions and operational improvements, which are summarised as:

The increased rail movements are based on the assumption of increasing the container throughput from 25% to 40% to rail by 2011.

This assumption requires an investment of a third party, government commitment, to the duplication of the single track rail between Botany yards and the Cooks River thereby duplicating the line between the Port and the Enfield yards. This is a significant commitment of resources, which has not been fully committed to.

I refer to the submission of Randwick City Council to the environmental impact statement relating to the 2005 expansion which said that the cap should not be lifted beyond 3.2 million and, if it is, that should be done only after an environmental assessment, which was a condition of the expansion at the time. That submission states:

The EIS raises the issue that the majority of freight is destined for the Sydney markets, however, given the absence of an integrated freight and transport strategy there is no clear analysis of the cost/benefit of alternate locations. Randwick City Council raises concern over this further intensification of major infrastructure in one concentrated location, already subject to intensive industrial use and associated impacts. The employment and economic benefits to alternate regional areas had not been assessed against the environmental and social costs of expanding the Port Botany terminal.

At least the Government conducted an environmental assessment at the time of the proposed port expansion. I urge members to oppose this bill. The lifting of the cap is just one disgraceful aspect of this bill. One of the provisions in the bill will make it illegal to impose a cap unless the Act is changed by a future government or a future planning Minister. It is absolutely disgraceful. This bill is a desperate attempt by a desperate Government to find a few extra billion dollars over the short term while sacrificing State revenue over the longer term of 99 years.

The Hon. Dr Peter Phelps: Rubbish!

The Hon. CATE FAEHRMANN: What will the Government do when it does not have any revenue? Will it raise taxes?

The Hon. Dr Peter Phelps: Did you listen to my contribution?

The Hon. CATE FAEHRMANN: It is extremely difficult not to. This bill is grossly irresponsible in planning, particularly for freight management. The people of this State will look back at this decision when every major arterial road and tollway is gridlocked by B-doubles and ask: How could a government, any government, be so selfish and so stupid?

The Hon. HELEN WESTWOOD [5.40 p.m.]: I speak against the Ports Assets (Authorised Transactions) Bill 2012. Previously, I have been very outspoken against the sell-off of public assets, so it will not surprise those opposite that I oppose this fire sale of our ports. I hesitate to call it a fire sale because that denotes something of very little value. Our multibillion dollar ports at Port Botany and Port Kembla are huge money earners for the New South Wales Government and the citizens and taxpayers of this State. But, wait one minute, that is not all that we get with this fire sale. The Liberal Government has thrown in a set of the proverbial steak knives by bundling in the Cooks River and Enfield logistics terminals as well as some Enfield industrial land to seal the deal. This bill seeks to sell off some of this State's most valuable and significant trade assets. I agree with the shadow Treasurer that this transaction is a blatant grab for cash and one of the most irresponsible transactions in this State's history.

This proposal is incomprehensible on so many levels even for this Liberal Government. Where is the economic case for the sale? Where is the pre-transaction scoping study? Who authored it? Why would anyone flog off some of our most important and significant trade assets? The Opposition was refused access to the scoping report, which will not be released. I am not surprised, but that completely opposes this Government's claim when in opposition that it would be open and transparent in all its dealings. Clearly, on this deal there is no transparency. What is the going price for a monopoly? What deal is to be done? All this will be hidden from the public. The Government is hiding behind the scoping study and will not release it so the public understands what drives this deal. No doubt we will hear the same old song in defence of this bill. Government members will file in one by one to trill the tale that they need the money to build what was not built over the past 16 years. Of course, that is fallacy but it is the only song they know. The string section will chorus in from the backbenchers, but the voters of New South Wales will see through them all and realise that this tune is now overplayed and ineffective.

Our Labor Government invested \$1.1 billion to expand the third terminal at Port Botany because all the data showed it was a sound economic investment. We have always valued the contribution that our ports and their ancillary services provide to the Australian economy. Labor implemented the New South Wales Ports Growth Plan which outlined the strategy for increasing port and trade capacity in New South Wales. Projects under the Ports Growth Plan included a new container terminal at Port Botany bringing port capacity to 3.2 million 20-foot equivalent units [TEUs] per annum, new container and coal terminals at Newcastle, and relocating the car import trade to Port Kembla with three times the storage capacity. However, increasing port capacity is only one part of the solution. We also knew that it was important to enhance the efficiency of port

operations and the supply chains that transport goods to and from the ports. Any changes we introduced were informed and always after consultation. In addition to the Ports Growth Plan we conducted two major public reviews into the regulation and operation of New South Wales ports.

First, the Competition and Infrastructure Reform Agreement [CIRA] review of port competition and regulation in New South Wales was conducted by PricewaterhouseCoopers on behalf of the Labor Government. Second, the Independent Pricing and Regulatory Tribunal [IPART] outlined the need for reform of Port Botany's links with inland transport. The Labor Government responded by introducing the Ports and Maritime Administration Amendment (Port Competition and Co-ordination) Bill 2008. This bill ensured that port corporations decisions balanced commercial and policy objectives, enhanced the role of the port corporations in facilitating improvements in the port-related supply chain, and provided regulatory powers for government to act should voluntary industry action fail to improve the efficiency of the port logistics systems.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! Members will lower the volume of their conversations so other members can hear the member with the call.

The Hon. HELEN WESTWOOD: These reviews highlighted the need to reform the landside interface at Port Botany and for Sydney Ports Corporation to lead and facilitate the reform. The port corporations current objectives require them to operate as a successful commercial enterprise, promote trade, manage port facilities and ensure port safety functions are carried out. The 2008 legislation provided that port corporations could tailor leases to enable shorter terms, productivity and performance targets, enforceable capital expenditure schedules, incentives and penalties for meeting targets, and end-of-term handover provisions. The legislation provided a system of reviews, checks and balances, and all facilitated as a public enterprise for the people of New South Wales.

All probity mechanisms that our Labor Government put in place will now be obsolete for a short-sighted financial gain. It is beyond me how we can forgo guaranteed revenue from these multibillion dollar assets over the next 99 years and not realise the income at Port Botany of around \$175 million per annum and Port Kembla at around \$50 million per annum in today's dollar terms—not including revenue from Cooks River or Enfield. How does the maths stack up? Of course, that is right—the Treasurer is not too good at maths, as we know. Indeed, the Auditor-General had to help him out because he could not manage to count.

The Hon. Duncan Gay: Point of order: The member is misleading the House. It is obvious to anyone who understands the books that the \$781 million found was brought in early by the Federal Government to balance its books to be able to have a surplus budget in the following year.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! The member may continue.

The Hon. HELEN WESTWOOD: I refer the Minister to the previous address of the Hon. Greg Donnelly against this bill when he quoted the Auditor-General's report.

The Hon. Duncan Gay: He was misleading the House as well.

The Hon. HELEN WESTWOOD: He quoted the Auditor-General's report. Perhaps the Minister might like to take that up with the Auditor-General. Indeed, the numbers speak for themselves: It would be impossible to secure a buyer at \$22.5 billion, which is the minimum we need to offset lost future revenue at today's dollar value. This Liberal Government is flogging off these State assets for an extremely low short-term gain that, in effect, will be pocket change for appreciating assets. That sounds like a great deal for someone, but certainly not for the people of New South Wales. The *Australian Financial Review* on Wednesday 8 February 2012 stated:

Pricewaterhouse Coopers infrastructure partner Martin Locke said ports are a great match for long-term investors looking for infrastructure growth assets, with revenues steadily increasing more than inflation. "Funds can be reinvested by the Government into essential greenfields infrastructure," he said.

There you have it; straight from an expert. We can achieve more and better infrastructure outcomes by keeping these assets in public ownership. Again I fail to see the logic in selling it off. I would understand if it was losing money but the assets are profitable. It is clear what those on the other side are motivated by and it is not the economics of the case and it is not public interest; it is ideology. The House heard it all in the contribution by the Hon. Dr Peter Phelps to the debate. His speech was driven by his right-wing conservative economic ideology.

The Hon. Charlie Lynn: That is what the people of New South Wales voted for.

The Hon. HELEN WESTWOOD: I absolutely reject that the people of New South Wales voted for the sell-off of these public assets. This was not taken to the people of New South Wales. The Government knows it has no mandate and the Government is misrepresenting the facts.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! I remind members that interjections are disorderly at all times.

The Hon. HELEN WESTWOOD: I know those on the other side love dishing it out but they will not take it. The Opposition will call the Government to account: No port works in isolation. Each port is connected to producers and consumers through complicated supply chains that include many port users and service providers. For example, the port-related supply chain at Port Botany comprises three stevedoring terminals, over 200 different road carriers, four rail operators, two rail track owners, six metropolitan intermodal terminals and thousands of warehouses, importers and exporters. Supply chain facilities are defined as providing storage, handling and distribution of cargo in connection with a port. These are vital links where bulk goods, containerised commodities or empty containers are staged, stored temporarily and/or transferred. This can also include moving from one mode of transport to another.

As can be seen, the sale of these assets has a huge knock-on effect. The bill gives the purchaser the ability to introduce port infrastructure charges to owners of vessels and shipping companies that berth at a wharf. There will also be a site occupation charge for those who operate rail or road cargo transport charges as part of the port-related supply chain. It is obvious that costs will rise dramatically as new charges imposed by a private owner will be passed onto the public. A *Sydney Morning Herald* article on 25 October states:

However, a group of businesses involved in bulk liquid fuel storage and distribution at Port Botany is furious about the proposal. In a letter to the shadow treasurer, Michael Daley, representatives of Elgas, Origin Energy, Qenos, Terminals Pty Ltd and Vopak warn the legislation could result in "long-term damage" to the NSW economy.

They say the impact on storage and transport costs will lead to higher prices for petrol, jet fuel and LPG.

There is also concern that several leaseholders are likely to move their operations to other ports, including Melbourne, as a result. Terminals Pty Ltd and Vopak own bulk storage facilities at Port Botany, which are used by some of the largest independent service stations in NSW, allowing them to avoid the duopoly of Shell and Caltex at Clyde and Kurnell, respectively.

The companies' bulk storage and transfer facilities are also used by suppliers of jet fuel to airlines, including Qantas, promoting competition in the aviation fuel market.

I predict that our ports will no longer be a competitively viable option and will consequently lose business to some of the other States. There is a valid fear, as stated in the article, that we could lose our trade to Melbourne, where the port is a government-owned asset. I note that Victorian ports Minister the Hon. Dr Denis Napthine has recently said:

The Port of Melbourne is a valuable asset to Victoria, and the Government currently has no plan to privatise the Port of Melbourne Corporation.

It is interesting to note what occurred in Brisbane when its port was privatised. Ross McAlpine, chairman of Shipping Australia, stated in his 2011 report:

Shipping Australia was concerned at the decision by the New South Wales Government to sell Port Botany by 2013 on the basis of a 99-year lease similar to what occurred in Brisbane. SAL disagreed with the sale of the Port of Brisbane and given the subsequent cost increases by stevedores and empty container parks, as a result (in their view) of very significant increases in land rentals, it appears to us that concern was justified. The major container ports in Australia are in a very strong market position with the exception of Adelaide, which competes with Melbourne. There is some marginal competition, for example, exports from northern New South Wales can go through Brisbane, rather than Sydney, and similarly exports in the southern region of New South Wales can go via Melbourne. For container imports and many exports there is no real alternative to Sydney. We look forward to discussing this issue further with the New South Wales Government.

Well, I doubt that conversation ever happened, as we have the bill before us today. We do not have to look too far to predict what will happen when you flog off a monopoly public asset; we only have to look at Sydney Airport to see what will happen in the future. According to Australian Competition and Consumer Commission reports over consecutive years, Sydney Airport is consistently the country's worst and most expensive airport:

The airport, majority-owned by various Macquarie Bank funds, has continued to chalk up record profitability in the past five years but has not raised its spending on services at the same rate. As a result, it is delivering lucrative returns to its owners but providing the worst service in the country to passengers and its airline tenants.

The Hon. Duncan Gay: I don't see airlines and passengers boycotting it.

The Hon. HELEN WESTWOOD: Does the Minister seriously suggest there is an alternative to Sydney Airport? Does the Minister think that there is not a monopoly? If that is what the Minister for Roads and Ports thinks then the State is in trouble. As I have already stated, I do not support the sale of the State's assets and I am strongly opposed to this sale. Let us call it what it is: it is not a lease, it is a sale. A 99-year lease equates to a sale. Not even my grandchildren are likely to see an end to the so-called lease. It is criminal that the Liberal Government are blatantly robbing the people of New South Wales of a guaranteed income stream. There has been no economic case put forward for the sell-off. The scoping study, if it exists, remains a top secret document. I can only suspect that the sale of the port assets will go to start some Liberal pre-election promise or fund some project study that the Government has no intention to deliver on. Let us not forget that the Government does not have a mandate to sell our ports and it will be scratching around for some justification when it all goes belly up. I urge all members to oppose this bill.

The Hon. STEVE WHAN [5.57 p.m.]: I oppose the Ports Assets (Authorised Transactions) Bill 2012. I have listened to many speeches during this debate, particularly that of the Hon. Adam Searle, and I do not intend to repeat the information he put forward in a well thought through speech.

The Hon. Matthew Mason-Cox: Well, why don't you sit down?

The Hon. STEVE WHAN: Many of the contributions from this side of the House have been excellently researched and have put cases that strongly demonstrate the flaws in the Government's proposed privatisation plans. I note the interjection by the Hon. Matthew Mason-Cox. It is typical of the Government. It does not want to hear people speak in opposition to its measures. It wants to be able to suppress discussion. That is why we saw the Coalition go to the last election, contrary to the interjections from the Hon. Charlie Lynn, without informing the people of New South Wales about their plans to privatise this port. The people of New South Wales did not vote for an agenda which included port privatisation at the last election. I am concerned about a number of elements in the bill. They primarily go to the areas where I have shadow ministerial responsibility but they also concern the reason we are debating this bill today: a deal has been done by the Government. I will come back to that. The Government is effectively setting up a monopoly and a choke-point on exports from New South Wales.

Primary producers will play an important role in Australian exports in coming decades. Just recently the Federal Government released the Asian Century white paper. It stated what is fairly obvious to many of us: the vital role that agriculture in New South Wales and Australia could play in supplying the food needs of South East Asia in the next century. The population of South East Asia is increasing, and many countries in neighbouring areas are becoming more affluent. That will lead to an increased demand for food products from Australia. This country has several advantages when it comes to the provision of those food products. The first is, of course, that we are a clean and green producer of food. We can provide a product that is in high demand. We saw that demonstrated in China's loss of confidence in its own powdered milk products for babies. Australian powdered milk products can now command a premium because they are seen to be produced by a clean and green industry.

Another advantage is that Australian farmers are the most efficient in the world. They produce a product that is competitively priced because of their good work in that area and because of the work that has been done in research and development over the years to ensure we stay at the forefront of the development of new strains of product and so on. The next advantage, having produced that clean and green product at the most competitive price in the world, is competitive prices for export. We all know that that is very challenging at the moment given the value of the Australian dollar. It is hurting all export industries in New South Wales as well as our inbound tourism industry. There is not a lot that the New South Wales Government can do to influence that. We have a high Australian dollar because of the strength of our economy relative to that of the United States of America, because of our low debt and because of the attractiveness of our dollar due to the stability of our economy.

The Hon. Duncan Gay: We could blow our debt out.

The Hon. STEVE WHAN: The Minister suggests we could blow our debt out. I would tend to think that is not the greatest idea.

The Hon. Duncan Gay: Nor do I. But if we do not pass this legislation we will blow our debt out.

The Hon. STEVE WHAN: Australia has one of the lowest levels of government debt in the world. The Federal Government has kept Australian debt very low, as have successive New South Wales Labor governments.

The Hon. Duncan Gay: That is rubbish. They squandered the wealth that they inherited.

The Hon. STEVE WHAN: The Minister should compare debt levels around the world. Australia has one of the lowest government debt levels in the world as a proportion of our gross domestic product. That is unarguable. Compare our debt level to that of the United States of America, where net government debt skyrocketed under—

The Hon. Charlie Lynn: Under the Democrats.

The Hon. STEVE WHAN: The Hon. Charlie Lynn is clearly ignorant of what happened in the United States. Its debt skyrocketed under Republican administrations. Debt tables show that debt levels skyrocketed under the first Bush administration and went down when the Democrats came in. Under the Clinton administration debt levels were back under control. But debt levels again skyrocketed under Bush mark II—

The Hon. Dr Peter Phelps: Because there was a war on.

The Hon. STEVE WHAN: Because Bush was a moron? Was that the interjection of the Government Whip?

The Hon. Dr Peter Phelps: Because there was a war on.

The Hon. STEVE WHAN: Sorry, I could have sworn the Hon. Dr Peter Phelps said, "Because Bush was a moron." There could be a reduction in the value of the Australian dollar due to interjections from members opposite, so they should hold themselves in check. Another element influencing the competitiveness of Australian farmers is the cost of transport of their product. Talk to any farmers from inland New South Wales and they will tell you that that is a constraint on their export competitiveness. For example, Monbeef, an exporter from Cooma in the Monaro, the area where I live, sends its beef products direct to port for export overseas in containers. When I was first elected the member for Monaro in 2003, one of the constraints on that company was in the number of containers it could put on a truck because a number of bridges along the route to port were not B-double capable. Over the time that we were in government that problem was fixed so that the trucks could take heavier loads. At least, that was the position in New South Wales; some bridges in the Australian Capital Territory restricted loads until bridgeworks were recently funded by the Federal Labor Government.

Efforts were made by government to improve infrastructure to try to reduce the cost of exports for primary producers. That is a critical job of government not only in New South Wales but federally. The cost of exporting through the ports is critical. We all acknowledge that the cost of goods to port in Sydney has been too high. It has been constrained by congestion of the rail system, and for that reason efforts were made to improve the flow of rail freight to port under the previous Government. Indeed, in question time this week in response to a Dorothy Dixier the Minister talked about his opening of a rail flyover into Port Botany so that trucks could move in and out of the port without having to traverse the rail crossing. Construction of that flyover was started by the previous Government. Those are just a few of the infrastructure measures put in place.

The Labor Government made a massive investment in the expansion of Port Botany: a \$1 billion investment in the new container terminal and an \$80 million bulk liquids berth. As the Hon. Matthew Mason-Cox and the Government Whip could tell the House, as we fly in from Canberra we have watched that grow over the last few years. It is a very impressive project, and it took quite some time to complete.

The Hon. Dr Peter Phelps: A much better sight when you are sitting up there in the business section, Steve.

The Hon. STEVE WHAN: I have to say you can see it just as well from those Dash 8s that I travel on all the time. I have never seen the Whip on a Dash 8. I travel on them an awful lot. That is an impressive project, part of trying to make sure that there are fewer constraints on New South Wales exporters. I am concerned that after this major expansion at Port Botany the Government's handling of the privatisation will mean there will be a constraint in the form of a monopoly choke on access to ports in New South Wales. As we have heard from

many members today, the Government has moved away from the commitment to develop Newcastle as an alternative port. With no management imposed on pricing, the monopoly provider could constrain exporters and increase the cost of exports out of and into New South Wales and thereby increase the cost of living in this State. In none of the contributions of Government members have we heard how that is to be dealt with.

It is of concern that this measure has come before this Parliament without appropriate consultation with exporters and other users of the ports. We have heard that from a number of members who spoke in this debate. That could lead New South Wales exporters to look interstate. I do not have a particular problem with that. Exporters from Griffith already used Melbourne's port because it is closer to them and congestion in Sydney has been a problem. If the inland rail link were developed, as has been proposed by some, more exporters may use Queensland ports. There is some logic to that: they would not then have to transport freight through Sydney to access the port, relieving some of the congestion. That would not be a problem for exporters if those were viable options.

But we need to be aware that at the moment we do not have competition for ports in New South Wales. The option of going to Queensland is not particularly good at the moment because we do not have the inland rail link that the Compton committee was looking at for some time. I do not know where that is up to at the moment. Some exports from the south of the State, particularly around Griffith, have the option of going to Melbourne. That is an option that some exporters would take up. But this Government is putting in place, effectively, a private monopoly over an aspect of export in New South Wales. I think that is a concern to exporters which has not been appropriately dealt with by the Government.

We have other ports in New South Wales. We have heard that Newcastle could be a potential container port. The previous Government certainly had that as an option. Eden is a potential port also, but so far that has not been used for many exports other than woodchips. Container exports from there have been discussed, and there is a facility there for other exports. In the past it mainly has been used for whole logs. This legislation has been on the agenda for some time but we are dealing with it today because apparently the Government has finally reached a deal. We heard from the Shooters and Fishers earlier today that they will be supporting this bill. It is yet another example of the way that this Government does deals to get legislation through. I do not blame the Shooters and Fishers for holding out for their agenda; they are representing their constituents and that is what they are here to do.

The Hon. Duncan Gay: I didn't have to give anything away. It is something I support.

The Hon. STEVE WHAN: I acknowledge the slightly disingenuous comments from the Minister that he did not give anything away for this. Why did this bill not come on for debate before today? Because the Shooters and Fishers had made it very clear that they were not willing to support it until now.

The Hon. Duncan Gay: Point of clarification—

The Hon. Adam Searle: Point of order: There is no such thing as a point of clarification under the standing orders.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! The Minister cannot give explanations.

The Hon. STEVE WHAN: I acknowledge the Minister's interjection. In fact, what he was trying to say to the House was that he did not have to give anything away personally because he supported the duck bill. He has a right to do that as well. But what we see from this Government is dirty deals. I see a member of the Shooters and Fishers Party is in the Chamber. I am sure I have heard a bit of singing coming from two doors down, a bit of a theme song which goes something like, "If you're having trouble with the upper House, it's giving you the blues, keeps blocking all your dirty deals—

The Hon. Amanda Fazio: Dirty deeds—

The Hon. STEVE WHAN: "Dirty deeds done dirt cheap. Just give us a call, we're always home, make a social call."

The Hon. Matthew Mason-Cox: Point of order: The matters relating to Eddie Obeid are before the Independent Commission Against Corruption and we should not be reflecting on them in this way in the Chamber.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! The Hon. Steve Whan will speak, not sing, in the Chamber.

The Hon. STEVE WHAN: Of course, Mr Assistant-President. But that was a fairly disgraceful effort by the Parliamentary Secretary in taking a point of order. I am pretty sure we have heard the theme song as they wander down the corridors with a bit of a grin on their faces singing, "Dirty deeds done dirt cheap"—or dirty deals done dirt cheap—"Pick up the phone, we're always home, call us any time", and so on. I am a fan of AC/DC, as members may have noticed. Unfortunately, the Government is compromising its principles.

I acknowledge that the Minister said he supports the deal for the legislation, but we have on record the Premier telling the people of New South Wales before the election that there will be no deals with minor parties and that he was not going to turn New South Wales national parks into game parks. He was dishonest with the people of New South Wales and, yet again, today we see the result of a deal. I give credit to the Shooters and Fishers; they have got what they want, and that is what they are here to do. It is the Government I have a problem with. The Government is compromising the principles it told the people of New South Wales it had—more dirty deals done dirt cheap.

The Hon. PAUL GREEN [6.14 p.m.]: On behalf of the Christian Democratic Party I make a contribution to debate on the Ports Assets (Authorised Transactions) Bill 2012. The purpose of the bill is to authorise and facilitate the transfer of the State's ports assets at Port Botany and Port Kembla to the private sector. The ports are subject to a 99-year lease to the private sector, with the State retaining ownership over the land. Currently the State's port assets are vested in the State-owned Sydney Ports Corporation and the Port Kembla Port Corporation. The bill also has detailed provisions for dealing with the transfer of ports employees and their rights and entitlements on transfer.

I note that in the other place the Treasurer outlined the necessity of this bill to provide billions of dollars to help fund much-needed infrastructure across New South Wales. I note that some of that infrastructure is on the South Coast: the Princes Highway—particularly the Foxground to Berry section—and the third Shoalhaven bridge. Dr John Kaye commented earlier that the Christian Democratic Party does not like the South Coast. I can assure the House that this is very crucial infrastructure for supplying jobs and the future economic growth of that area. Without the infrastructure certainly there will be a loss of jobs, and it is already a high unemployment area for youth, from Ulladulla to further down south. I am sure that if one went down to Shoalhaven and down south and asked people if they want further investment in the Foxground to Berry link of the Princes Highway—never mind Bomaderry itself—one would get a big fat yes. The people of the South Coast have an interest in the leasing of Port Botany and Port Kembla.

It is important that the Government addresses funding for the South Coast because there is no doubt that this is like a rust spot in a car: either you deal with it now or you deal with it later; but if you deal with it later it will be a bigger job and far more expensive. It is my view, and the view of the Christian Democratic Party, that this deal is certainly a priority in addressing the pressing needs of the New South Wales economy and that it is a deal that needs to be made. It is a good deal for New South Wales and for the long-term interests of New South Wales families.

I will emphasise a number of clauses of interest in this bill, particularly in relation to the arrangements for the transfer of staff. Clause 14 provides for the transfer of an employee of a port State-owned corporation to the employment of another public sector agency. Clause 15 provides for the secondment of an employee of a port State-owned corporation to the service of another public sector agency or an employer in the private sector. Clause 16 provides for the transfer of an employee of a port State-owned corporation or a transaction entity to employment in the private sector, with a maximum two-year employment guarantee period. Clause 17 provides for the continuity of the employment entitlements of employees transferred under part 4 of the bill. Clause 18 provides for the making of transfer payments to employees of a port State-owned corporation whose employment is transferred to the private sector under part 4 of the bill or as a result of a transaction arrangement entered into for the purposes of an authorised transaction.

I also understand that a number of clauses will provide for the transfer of assets and functions. Clause 19 authorises the Treasurer to make vesting orders under schedule 4 for the purposes of an authorised transaction. Clause 20 provides for the severance of fixtures owned by a port State-owned corporation from land owned by a port State-owned corporation or another public sector agency. Clause 21 provides for the Treasurer to give directions for the grant of any relevant authorisation under various laws to a person who becomes or is proposed to become the new operator of ports assets pursuant to an authorised transaction. Clause 22 authorises the Ports Assets Ministerial Holding Corporation to acquire land for the purposes of an authorised transaction by

agreement or compulsory acquisition that the corporation determines to be land on which ports assets of a port State-owned corporation are situated or land used or occupied by a port State-owned corporation. Clause 23 provides for the adjustment of the objectives and functions of a port State-owned corporation to ensure that they remain appropriate following the transfer of ports assets pursuant to an authorised restructuring.

Many members have spoken of the representations they have received from stakeholder groups about airport traffic increases. They also mentioned the public interest in maintaining access to Molineux Point. We understand that access will be protected under the lease agreement. Another issue concerns whether public access to the port for fishing will also be maintained. I am concerned that increased container movements in conjunction with the Government's goal of increasing tourism by 7 per cent by 2020 may lead to the perfect storm if traffic and intermodal transfers are not dealt with. I have spoken to the Treasurer about my concerns and I am confident that the Government has a plan to manage the increased container movements at Port Botany and the intermodal freight terminal at Moorebank. Various stakeholders have raised concerns about increased truck movements, but I note that the Hon. Cate Faehrmann has comprehensively addressed that matter. The Christian Democratic Party has received many letters regarding infrastructure investment. During his second reading speech the Treasurer mentioned the infrastructure projects that would receive funding out of the proceeds from the sale of the port. He said:

The new operator will be required to make an annual contribution to improving road and rail landside logistics related to the port. As I mentioned earlier, the Government has announced also its support of WestConnex, an important long-term initiative to support the efficient movement of freight between Port Botany and logistics hubs in western and south-western Sydney. In particular, the widening of the M5 East to four lanes in each direction will help alleviate congestion in the area. My intention is that the port leases will include a number of important stewardship requirements to ensure the ports are managed and developed appropriately in the future. These stewardship requirements include obligations to use the land for port-related purposes only, to provide ongoing access for road and rail transport, to develop the port where feasible and to maintain the port in good working order.

People have been waiting for those projects and they want them completed. Earlier I heard a comment that the private sector will let the port become run down. My experience tells me that the private sector knows the importance of looking after its infrastructure in order to run efficient and profitable businesses. The Treasurer went on to say that the Government retains step-in rights and can terminate the lease if the lessee breaches key obligations. It is important that the people of New South Wales are aware that there are trigger points where the Government can step in if the lessee is not doing the right thing.

The Christian Democratic Party notes the concerns about price gouging from freight and utility stakeholders and some landowners in the area. That issue has been covered by other members. The case of Elgas was highlighted, in particular. It literally cannot pick up its infrastructure and move because its infrastructure is 130 metres underground. It is a fair comment to make that prices need to be managed. I asked the Treasurer about this issue. The response he gave in his second reading speech was:

As outlined in the bill, the Government will retain oversight of price monitoring of the ports. In accordance with principles adopted by the Council of Australian Governments, commercial outcomes should be promoted by establishing competitive market frameworks in preference to regulation, but where there is a need for regulatory oversight of prices, the introduction of price monitoring should be considered a first step. Port users tend to be large, sophisticated businesses with significant commercial bargaining power. Little or no asymmetry of market power would necessitate heavy-handed price regulation by the State. However, as part of the Government's price monitoring regime, all New South Wales ports, including the private port lessees, must give notice of any proposed change in its service charges, and provide a rationale for how the increase is calculated and why it is needed.

The port lessee also must provide an annual reporting of charges to the relevant Minister, and the Minister has the power to require information relating to port charges be supplied to the Government. If the port lessee's pricing behaviour is inappropriate, the Minister has the ability to refer the port to the Government's independent pricing watchdog, the Independent Pricing and Regulatory Tribunal [IPART], should this become necessary. In addition, a port user can always apply to the National Competition Council to have the asset declared as nationally significant infrastructure under Commonwealth legislation in the event of pricing disputes, but I am advised that to date this has not been necessary in respect to container ports in Australia. Our proposed pricing regime features more ongoing oversight than regulations put in place by the Queensland Labor Government when it recently leased the Port of Brisbane.

The bill gives the port lessee some ability to enforce compliance with its directions, such as powers to enter land or premises at the port for the purpose of determining compliance with directions.

The Shooters and Fishers Party posed some good questions to the Minister and we look forward to his reply. They are fair questions and the House deserves to have the answers recorded in *Hansard*. The Christian Democratic Party notes that the Treasurer went on to say:

I have previously indicated that the proceeds of the transactions will underpin increased investment in the Pacific Highway, the Princes Highway, WestConnex, and Bridges for the Bush. There is also \$100 million in new infrastructure spending in the Illawarra.

That is significant. The Illawarra economy needs stimulation. I remind the House that the Illawarra is comprised of five local government areas and I encourage the Minister to ensure that the \$100 million investment is not Wollongong-centric. The Oallen Ford Bridge upgrade is an example of a major project designed to stimulate the local economy. We submitted an application under the Federal Regional Development Program. Minister Simon Crean visited and said if local governments would come together and party with each other—

The Hon. Mick Veitch: Not party, partner.

The Hon. PAUL GREEN: Partner and party. It's Christmas.

The Hon. Sophie Cotsis: They do party.

The Hon. PAUL GREEN: They do. Minister Simon Crean said that local governments were more likely to secure funding if they partnered with each other. That happened down south. Seven local government areas came together to upgrade the Oallen Ford Bridge and the Shoalhaven put its hand up to join them because we know it is a strategic bridge. The bridge will allow transport and freight to come from out west, across the escarpment and up the Princes Highway to Port Kembla. It is a strategic piece of infrastructure and I cannot think of a better place to direct some of that \$100 million. I have taken that issue to the Minister and he is aware—

The Hon. Sophie Cotsis: Your wish list.

The Hon. PAUL GREEN: It is not my wish list; seven local governments in the area have already spoken to the Minister. Lifting that bridge and increasing its weight limit will be the gift that keeps on giving. It will stimulate the economy in the west and down the coast, and it is therefore not too hard to see why we want this sort of investment. Another needed project is upgrading the Princes Highway from Foxground to Bombaderry to four lanes. The number of lives we have lost on that road is not funny. One life is too many. We will not be apologetic if funds from the lease of the port are put towards making our roads safer so that families can be safely reunited over Christmas and the holidays. That is what the Christian Democratic Party is about and we are unapologetic for it.

Earlier in this House Dr John Kaye stated firmly that The Greens would move an amendment to set up an inquiry into this proposal. In Dr John Kaye's own words, he revealed the real agenda of the inquiry when he said, "The Greens will do all they can to stop it." Not even an inquiry will satisfy The Greens, who want to stop this transaction. While I appreciate The Greens have given reasons why the Port Kembla proposal should not proceed, I assure them that the people of the South Coast, the Far South Coast and the south-west of this State want their roads fixed. If this bill is the way the Government will fund fixing those roads, the people on the South Coast agree with this bill as one way of better roads becoming a reality.

The Hon. Mick Veitch is aware of what regional jobs mean to non-metropolitan people. Investment in ports infrastructure is crucial. The South Coast has been too long without necessary infrastructure. However, things are coming together for the South Coast, which is witnessing some investment. Since Labor lost government and the election of the current Government, investment has been happening. The current Government has committed to additional investment to ensure that the South Coast makes it over the finishing line, and the Christian Democratic Party unapologetically supports that. Dr John Kaye expressed concerns relating to the proceeds of sale. Some members of The Greens believe this transaction represents short-term gain for long-term pain, but I believe that we must protect the State's triple-A rating. A newspaper report states:

Treasurer Mike Baird said that without the transaction the state's AAA credit rating would be dead.

Basically, the State would be a dead duck. I am not a duck thief; but the shooters have a right to have their needs met. However, this bill is not about ducks. This bill is about the long-term security of our State. Whether we agree with the Government or not, the Government has a mandate to lead. If our State loses its triple-A credit rating, like South Australia and Tasmania did, times will be hard when a loss of confidence in investment occurs. If the State loses its triple-A rating and is reduced to a double-A rating and the State Government has to readjust its current loans, the State will be \$3.75 billion worse off.

Dr John Kaye: No, that is not true.

The Hon. PAUL GREEN: That is my understanding.

Dr John Kaye: It is wrong.

The Hon. PAUL GREEN: That is my understanding. At the end of the day, one has to ask: Is it worth retaining the State's triple-A credit rating, or do we want to make a decision that could downgrade New South Wales to a double-A rating? I do not think the people of New South Wales can afford to have a double-A credit rating; New South Wales needs a triple-A credit rating. When we see this bill for what it is and the Treasurer working towards retention of the State's triple-A credit rating, we genuinely believe that the Government is trying to protect the State's triple-A credit rating. The Government believes that this transaction will be a good long-term deal for New South Wales and has included safeguards in the transaction out of concern for the people of New South Wales.

During the debate the Hon. Greg Donnelly said there has to be an element of trust. Obviously the crossbenchers trust the Government. Trust is built by parties being faithful to projected outcomes. As members of the crossbench, the Christian Democratic Party believes that the Government will deliver the outcomes enunciated when this bill was introduced. Time will reveal whether we are wise and right or wrong in trusting the Government. The Christian Democratic Party commends the bill to the House.

[The Assistant-President left the chair at 6.34 p.m. The House resumed at 8.00 p.m.]

The Hon. LYNDA VOLTZ [8.00 p.m.]: Like my colleagues, I oppose the Ports Assets (Authorised Transactions) Bill 2012, which will allow for the sale of Port Botany. This bill will allow the transfer to the private sector of the State's port assets at Port Botany and Port Kembla. It is another broken promise in what is becoming an extensive list of broken promises from the O'Farrell Government. Before the last election the now Premier asserted, "Privatisation is not in our DNA." One can only assume at the time this was the talk of redundant genetic instructions of junk pre-election DNA. Following the election, that DNA code seems to have been switched off and the sell New South Wales DNA code switched on. Make no mistake: The sale of Port Botany and Port Kembla is part of the Coalition's privatisation DNA.

The Hon. Dr Peter Phelps: It is not a sale; it is a long-term lease.

The Hon. LYNDA VOLTZ: I will address that later. This Government has no problem with broken promises and the betrayal of the electorate. Where was the mandate to allow shooting in national parks? Where is its mandate to reduce ambulance officers in Cobar and Coonamble? Where is its mandate to cut Education and Health budgets, to cut school assistants for children with disabilities and to rip \$400 million out of the Department of Community Services? Time and again in this Parliament legislation has been rushed through the lower House with only 24 hours notice, sometimes less. It is carried through like so much of the O'Farrell Government legislation in a fire sale of State assets.

The Hon. Duncan Gay: This bill has been sitting on the table here for weeks.

The Hon. LYNDA VOLTZ: I wish the Minister would listen to what I said about the lower House. If he does not want to listen, he can keep interjecting. This is infrastructure that the people of New South Wales in other generations have invested to ensure the economic growth of our State. The expansion of the third terminal alone is worth \$1.1 billion. Where is the mandate from the people of New South Wales to sell assets? Where was the Government's announcement of asset sales before the election? Was it like its promises to Catherine Cusack over shooting in national parks? Is it one bag of tricks to sell to the electorate and another bag of tricks after the election?

The Government is going to sell this important source of revenue for the taxpayers of New South Wales for a quick cash grab and will not reinvest this money in revenue-generating assets which the Lambert report, the Government's own report, recommended that it do, but invest it in assets that will begin to depreciate the minute they are built. The legacy for future generations and any future New South Wales Treasurer is weaker budget outcomes as surplus revenue-producing assets are disposed of, reducing the State budget bottom line. This Government is selling off assets that raise between \$225 million and \$250 million every year.

That is a billion dollars over the term of a New South Wales government that it will no longer be available for future Treasurers. Not that this Treasurer is hoarding any surplus. This is a Treasurer who announced \$824 million in the 2012-13 financial year and a deficit of \$337 million in 2011-12. The Auditor-General had to indicate yet again—as the Auditor-General and the Parliamentary Budget Office did in

relation to the myth of the budget black hole—that he got it wrong. No wonder the Treasurer has had to ask the Auditor-General to help him with his next budget statement. The Treasurer said, "We need to improve financial reporting." Really, Sherlock? Of course, you do.

The question we have to ask this Government is: Where are the scoping studies announced by the New South Wales Treasurer before this transaction? Why will this Government not release them? Given the Treasurer's inability to put a financially literate budget together, the people of New South Wales must remain suspicious of any scoping study selling off their publicly owned assets, particularly any scoping study undertaken by Mike Baird and Barry O'Farrell which they refuse to release. What is the return to the people of New South Wales from this sale? Where are the cost benefits? These are all unknown and non-existent in this short-term grab for cash fire sale. We know that this sale will push up the cost of living for the people of New South Wales. This legislation proposes an extra levy to be imposed on truck and train operators, as well as cargo owners. It gives the owners of the port the unfettered right to charge whatever it wants. Where is the oversight, regulation or sign off by the Minister? There is none.

Already the industry has complained of the privatisation of the Port of Brisbane, which led to significant cost increases and empty container parks as a result of increases in land rentals. For container imports and exports in the Sydney region, there is no alternative to the Sydney and Port Kembla ports. Indeed, the O'Farrell Government, with no consideration of the impact on the surrounding area, has already lifted the 3.2 million cap on containers. There were no traffic studies undertaken on the impact of this eventual increase. The Government's Long Term Transport Master Plan shows more than an additional 20 persons per hectare in the Arncliffe area, the top of the scale for population growth.

Further, the Government's Long Term Transport Master Plan links more traffic directly to Arncliffe, which is already the subject of much congestion where the Port Botany traffic links to the M5. This proposal will take traffic directly from the M4 and put it into this congestion point. It will not—as previous transport master plans have proposed—build a dedicated underground link purpose-built for trucks, particularly B-doubles that are increasingly allowed on suburban streets. Indeed, the Treasurer noted there was only 1.8 per cent of traffic on the M5. I suggest the Treasurer has a different view of the traffic around Arncliffe than do I and the residents who live locally. Perhaps at about 5.00 p.m. on any afternoon he should try to drive down Forest Road, Arncliffe, or the Princes Highway and then add the traffic from trucks onto these routes. He may then take a very different view of the type of heavy vehicles that he believes are not having an impact on the region, and that is before he goldplated the sale of Port Botany by lifting the cap.

The Hon. Duncan Gay: What about the M5 East?

The Hon. LYNDIA VOLTZ: I acknowledge the comments by the Minister, who lifted the cap on container movements. Now he talks about the M5 East as if it is irrelevant to him lifting the cap. He lifted the cap and he is complaining. Put the cap back on. What of Port Kembla which directly and indirectly employs 3,500 people in the region? How does the sale of the port, a monopoly in the region, and the lifting of the cap impact on the people of the Illawarra? We do not know, because this Government refuses to release the scoping study, on which it spent \$14 million, outlining the impacts. What is the Government promising the people of the Illawarra? It is promising a cut of \$100 million to the Illawarra to compensate for selling an asset worth billions to the region and sending the money to build more toll roads in Sydney. If the people of the Illawarra think this is a promise they can take to the bank, they can add it to the other promised accounts such as Resources to Regions, which also have nothing in them.

There are some other questions I would like the Minister to address in his reply with regard to this sale. I would like him to note the number of ships calling into Port Jackson and Port Botany carrying hazardous materials on a daily basis. Can the Minister guarantee that Sydney Ports Corporation will continue to provide marine and emergency services as it currently does, inclusive of the ongoing maintenance of the two fire tugs *Ted Noffs* and *Shirley Smith*? Furthermore, can the Minister confirm what steps will be taken to ensure there will be no diminution of marine or emergency services provided by the Sydney Ports Corporation?

Will the Minister identify what guarantees the Government will provide to ensure ongoing funding to carry out these safety critical marining and emergency services? I turn to another point, because the Hon. Dr Peter Phelps has raised it again. He seems to have an obsession about referring to a sale as opposed to a lease. The reality is that 99-year leases go back to the history of land title in England, where there were specific leases to deal with life tenure. The Hon. Dr Peter Phelps always asks for a reference, and I know he likes old references in particular. The 1977 *American Journal of Legal History* states:

Once an estate was settled it tended to be bound by a chain of settlement and re-settlement approaching perpetuity ... settlement was designed to help preserve the power base of aristocracy ... Settlement was legally anachronistic. It embodied principles ...

and logically belonged to feudal society ... "wholly absurd" as rules for property in the nineteenth century. Their continued existence disordered the body of property law ... It built up as the generations passed a burden of debt upon estates under which they deteriorated.

Settlement was altered—

in the nineteenth century—

not through the entail but through the life tenancy.

That is where 99-year leases come from. The document further states:

A settlement of the Duke of Portland's estate in 1726 contained a power to lease building land for 99 years ... Early in the century powers to make building leases for 99 years and mining leases for 30 or 40 years became common ...

In 1855 Parliament turned its attention to powers of leasing and selling. By the Leases and Sales Act of the next year, it attempted to provide all tenants for life with those powers of leasing and selling that well-drawn settlements ... it granted the power to lease mines for up to 40 years and building land for up to 99 years. It also authorized the Court of Chancery to sanction sales.

In 1874 a book was developed, the *New Domesday Book*, which completed all holdings of land in Great Britain. At the time it showed that 80 per cent of the land in Great Britain was owned by fewer than 7,000 persons. The Settled Land Act was introduced in 1880. The document continues:

It proposed, in short, to put directly into the hands of the tenant for life the power to sell land for any reason.

The tenant for life had a 99-year lease. The Government has not pulled 99-year leases out of the cloud or invented them as a way to invest. Ninety-nine year leases are handed down through the laws, on which this country is built, as a way to sell land to deal with the aristocracy. The reality is that this legislation is about selling land. This legislation is about selling off the assets of New South Wales. I oppose the bill.

The Hon. SOPHIE COTSIS [8.12 p.m.]: I oppose the Ports Assets (Authorised Transactions) Bill 2012. If passed, this will be one of the worst government asset sell-offs that the people of New South Wales have ever seen. Port Botany and Port Kembla are important public assets owned by the people of New South Wales.

The Hon. Melinda Pavey: What would Michael Costa say?

The Hon. SOPHIE COTSIS: He does not agree with this. In a few hours time that will no longer be the case because of the deal the Government has cut with the minor parties. Port Botany and Port Kembla are important assets for the people of this State that are worth billions of dollars. The cost of the recent expansion of the third terminal at the port was \$1.1 billion, and the revenue to Sydney Ports Corporation is \$175 million a year from Port Botany and \$50 million a year from Port Kembla. This is a bad deal. How can we trust a government that cannot add up or count but allows a golden public asset to be sold? This sell-off is the antithesis of ports reform. The Government should continue the work of the former Labor Government and invest in ports, efficiencies and local roads; provide transport options; create good local jobs; coordinate a partnership between the Southern Sydney Regional Organisation of Councils and local industry; increase investment; and increase productive capacity to support jobs.

But no—the Government is not doing any of those things. If this is the easy option, it is the easy way out. There is no justification for selling off Port Botany or Port Kembla. There has been no proper case and no proper impact study. There is no strategic thinking about the future. There is a silo mentality. There is no coordination. There have not been any studies of the impact on consumers and businesses, prices, the effects of competition, and the broader economy. Selling off Port Botany and Port Kembla will create a massive monopoly. After the former Government spent more than \$1 billion of public funds to invest in ports infrastructure, private owners will go wild by setting their own prices and charging at every point. However, the merchant bankers of Martin Place got a good gig. They got \$10 million to write a report. And what did they say? We do not know what they said because the Government refuses to disclose that information. However, two years ago, when members opposite were campaigning, they released their document about transparency and openness. The Government is selling an asset that is worth billions of dollars.

The Hon. Dr Peter Phelps: How many billions?

The Hon. SOPHIE COTSIS: It is worth billions of dollars.

The Hon. Dr Peter Phelps: How many?

The Hon. SOPHIE COTSIS: Will the Hon. Dr Peter Phelps shut up? This is important but the member is treating this like a joke. He is a disgrace.

The Hon. Lynda Voltz: Point of order: Earlier the Hon. Rick Colless made the point that members should be heard in silence. I ask you to ask the Hon. Dr Peter Phelps to refrain from yelling at members across the Chamber.

DEPUTY-PRESIDENT (The Hon. Sarah Mitchell): Order! I uphold the point of order. There is too much noise and too many interjections from both sides of the Chamber. Members should remain silent while the Hon. Sophie Cotsis is speaking.

The Hon. SOPHIE COTSIS: There will be a new charge in New South Wales that has never existed. The private owner will increase existing charges, create new charges and impose additional charges on trucking operators, importers and exporters. The additional charges will increase prices and adversely affect consumers because of the barriers to trade and no competition; there will be extensive monopoly power and the Government will allow charging along the way. It will allow the clipping of a ticket on the supply of a good chain on exports. What is astounding is the unregulated price monitoring scheme. The Treasurer, Mike Baird, likes to talk about his price monitoring regime. That regime does nothing but require prices to be published on a website. In reality the Independent Pricing and Regulatory Tribunal will have no powers to regulate the privatised port operator.

We have seen price monitoring in the stevedoring sector for more than a decade, with the Australian Competition and Consumer Commission frequently reporting evidence of monopoly returns to the duopoly stevedoring industry. To date, no action has been taken to stop the gouging of truck operators through access fees from stevedores or enormous storage charges. Mike Baird's price monitoring scheme will see the same outcome with the private port operator having unfettered power to gouge high prices and new charges from industry. The gouging of consumers under this Government is enormous. We have already seen increased prices for goods and services, a high cost of living under the O'Farrell Government, and increases in electricity, water and council rates. And the poor consumer will bear the high price of food, petrol and basic services. That will increase because of this sell-off.

Selling the ports has not been thought out. As I said, there is no strategic thinking to the sell-off. This smacks of desperation. I am disappointed because the Government promoted the Treasurer as a fantastic financial wizard and a great merchant banker, and it had all these good people on its side. And what has the Government presented to us? It has presented us with no case, no evidence and no information at all for the public to examine the details, the consequences and how it will impact on local communities and on prices to consumers. Where is the ports Minister? He sits silently because he knows that this bill is bad for exporters from the bush. The Minister for Roads and Ports is silent also about increased costs to truck companies.

I am astounded that Government backbenchers with moderate ideological views who represent less privileged working class areas will allow this bill to be passed without proper scrutiny. Many of them, including those in the other Chamber, came to this place promising the world—to be transparent and "not like them". They promised to be different when in government and not be like the Labor Party. John Howard fondly refers to individual members of the Liberal Party and the wider Coalition as a broad church of people, yet not one of them has explained to the Treasurer and the finance Minister what the sale of the ports will mean to the broad New South Wales economy and how it will impact on the cost of living for country and regional communities.

The Treasurer and the finance Minister live in metropolitan Sydney and do not understand how the massive reverberations of this ports sale will affect country and regional communities. This spineless approach to politics by The Nationals and non-metro Liberals should not be surprising because their own leaders are not prepared to give one of them an economic portfolio. Not one member of the so-called party of individuals of supposed free thought has questioned the merit of the port sale. Should this bill pass through this House tonight, their constituents will suffer from higher fuel prices, which will affect the cost of living across the State. The Government has shown its lack of respect for parliamentary debate and its constituents and has ignored all the stakeholders, including those who live near the ports—the residents and business owners of the south-east and St George neighbourhoods and the Illawarra.

The Government has not consulted with those communities and has totally disregarded those whose daily lives are affected by what goes on at the ports. The Government would prefer to take the money from the

sale and run, without thought for lost revenue to the State over the next 99 years. But how much money is the Government expecting from the sale—in particular, the sale of Port Botany? That is the Premier's and the Treasurer's big secret. Originally they said they would be making \$2.5 billion from the sale of Port Botany and Port Kembla, but now we hear that it might be only \$2 billion. Whatever is the figure, it will never equal what the taxpayers could expect in dividends over the life of the 99-year lease that is on offer.

The Government receives around \$220 million in yearly dividends. How many of the 15,000 jobs being cut from the public service could be saved? How many extra teachers could be employed? How many extra nurses or beds could we put in our hospitals across the State or just at St George or Wollongong hospitals? The Government appears also not to have any concerns about the impact on our road systems and on the lives of residents as the new owners will have no obligations regarding the movement of containers to and from the ports under the Environmental Planning and Assessment Act.

Where was the Minister for the Environment or the Minister for Roads and Ports when this was being discussed in Cabinet? Perhaps they too were treated by the Premier and the Treasurer with the same contempt as the communities that will be affected by this decision. This Government does not care what local residents and business operators think about the impact of the sale of the people's assets and it has not shown any concern about the impact on those who use the ports. Many of my Labor colleagues and I have received letters from various organisations. The letter from the chairman of the New South Wales branch of the Australian Trucking Association details concerns about price gouging and expresses concern that the sale of the ports will give the new owners the potential to impose crippling fees on the industry.

Currently approximately 250 small to medium container carrying operators compete effectively at Port Botany and provide valuable employment to many people living in Sydney, particularly around the port in the south-east and St George areas. These operators state that they too have not been consulted on how the sale will impact on their industry, despite several attempts to convene meetings with the Government. They are concerned that potential major impacts on trucking operators should not be ignored by the Government. All operators work on tight competitive margins and therefore will not be able to pass on any additional fees and charges to their clients and remain competitive. This will result in some operators ceasing to operate, causing jobs to be lost and productivity at the port being reduced.

Not just trucking operators will be affected. We all will be affected because any new fees and charges imposed by a privatised port operator will be passed on without question to New South Wales families in higher prices for many commodities, especially fuel prices. Petrol and liquefied petroleum gas prices are expected to soar under this Government's ports privatisation plan. Let me be very clear: the O'Farrell ports sale will lead to high petrol prices for motorists. That means parents may have to stop driving their kids to sport or activities. This spiralling effect will drain the family budget. The Government's bill gives the new Port Kembla and Port Botany monopoly owners the power to impose infrastructure charges or, to put it without the public relations spin, impose unlimited rents and charges on companies responsible for importing, transporting and distributing petrol, gas and jet fuel from these ports.

I shall now discuss the current expansion at Port Botany and in particular the Bulk Liquids Berth 2 Project. This investment decision, along with the rest of the improvements at Port Kembla and Port Botany, was taken by the Labor Government to increase productive capacity and help businesses and consumers. These new taxpayer-owned assets are being sold off by this Coalition Government into private hands. In 2007 the former Iemma Government made the decision to allocate \$69 million for a new berth at Port Botany to handle the growing bulk liquids trade. The new berth would double the port's handling capacity of bulk liquids.

The original bulk liquids berth at Port Botany was constructed in 1979 by the Wran Government and is the only one of its kind in New South Wales. It is an open access, multiuser berth for the import and export of chemicals, liquefied petroleum gas and refined fuels. In 2007 the New South Wales economy was growing to such an extent that it was necessary to expand the port's capacity to satisfy the State's demand for petroleum, chemicals and gases, which was growing by almost 18 per cent—675,000 tonnes of bulk liquid moved through Port Botany in 2006-07. The expansion involves the construction of a steel pier berth, marine loading arms and firefighting equipment on short support facilities and pipelines from existing sites to the new berth as well as other infrastructure—all funded by the taxpayer. It is an important investment. In fact, so far taxpayers have invested over \$50 million in the new liquid fuels berth at Port Botany. Will construction continue as planned under a new private owner?

Originally the work was due to be completed in the second half of 2013. Will this still happen under a new owner? Who will pick up the remainder of the bill? The cost already has increased from the original \$69 million to \$83 million. We know that businesses involved in bulk liquid fuel storage at Port Botany are concerned—and rightly so. My colleague the member for Maroubra and shadow Treasurer has been advised by businesses involved in bulk liquid fuel storage and distribution at Port Botany—including Elgas, Origin Energy and Vopak—that if this bill is enacted it will result in long-term damage to the New South Wales economy. These very strong words should be heeded by us all when we vote on this bill. These businesses are concerned that the impact on storage and transport costs from a new owner increasing user charges will lead to higher prices for petrol, jet fuel and liquefied petroleum gas. Should leaseholders move their operations to other ports, including Melbourne, as a result of increased costs at the ports we all will suffer.

For example, presently Terminals Pty Ltd and Vopak own bulk storage facilities at Port Botany that are used by some of the largest independent service stations that sell us cheaper petrol through being able to beat the duopoly of Shell and Caltex. Similarly, airlines, including Qantas, use the same bulk storage facilities and would also be affected if these companies moved their operations away from Port Botany. If this bill is passed, no doubt petrol prices and airfares will rise, which will affect the average New South Wales family. What about the future of the Port Botany Landside Improvement Strategy [PBLIS] and the accompanying mandatory standards that currently apply at the port? The Australian Trucking Association [ATA] raised that issue in a letter it sent to me and to other members. This strategy was put in place to secure efficiency, consistency and transparency of the port's landside interface by reducing congestion and leading to a 24/7 supply chain at Port Botany's landside operations, which benefits the wider New South Wales economy. Not only did the Australian Trucking Association welcome the strategy when it was announced by the former Government but so did the shipping industry. In a media release, Shipping Australia Limited said:

We believe the regulations will result in a more efficient sea-land interface between the users of Port Botany for the benefit of the New South Wales economy.

This Government does not care about that. The future of the Bulk Liquids Berth 2 project and the Port Botany Landside Improvement Strategy is its big secret. There is also concern within the industry about the effect on energy security of a non-government port operator, especially with the pending closure of the Clyde and Kurnell refineries. The new owner of the port could well hold a monopoly on the main sea entry point into this State. What will it mean for New South Wales if there are no constraints or consideration of the interests of the people of this State? The industry will feel duded by this Government. It has always worked in good faith with the government of the day, especially in its ongoing support for the aims of the Port Botany Landside Improvement Strategy. Its importance has been ignored by the O'Farrell Government in its rush to flog off the assets of the people of New South Wales.

Whether we want to do business in New South Wales or just live here, we are all ignored by this Government. But we should get used to it because that is how the Government operates. Its members snub their noses at those who make this State tick—the businesses, the small business operators, the investors, the community and the service providers. No-one is singled out when it comes to being ignored by Mr O'Farrell and his team—we are all in the freezer. However, no group is ignored more than residents of communities around the ports and roads that carry the freight. For them, the Port Botany Landside Improvement Strategy has been a blessing. Efficient operation at the port means that life is better for those who live and work near it.

We know little about the future movement of freight from Port Botany, let alone on our rail system. There has been nothing from this Government about that since coming to office. In its 2009 and 2010 State plans Labor gave an undertaking to move 40 per cent of freight in this State by rail by 2016. I am advised that at the time of giving that undertaking 24 per cent of freight was moved out of Port Botany by rail. However, that has now dropped to just 14 per cent under the O'Farrell Government. It would be good to know what consideration was given by the Government to this aspect of freight movement at the port when it decided to sell it off. Probably not much, but who would know for sure? The Government has not given any stakeholders information about the impact of the change of ownership on their daily lives or their businesses.

The Opposition is totally opposed to the sale of these important State assets. The Government has not offered any justification for the sale; there has been no detail. No reasons have been given for depriving the State of the ongoing revenues it would have received over the 99-year life of the lease. I hope and trust that our colleagues on the crossbench will support the Opposition and vote to defeat this bill.

The Hon. AMANDA FAZIO [8.32 p.m.]: I support my colleagues in the Labor Party and other members in this Chamber who are opposed to the sale of Port Botany and therefore opposed to the Ports Assets

(Authorised Transactions) Bill 2012. I return to what the Government promised in the run-up to the 2011 State election. The document released by the Coalition—the Five Point Action Plan—is headed, "The Liberals and Nationals have a Five Point Action Plan." Point 3 is about renovating infrastructure. It states:

We will build the infrastructure that makes a difference to both our economy and our lives.

We will fast track road and rail projects and build the South-West and North-West rail links.

We will establish Infrastructure NSW to ensure projects are built where they are needed, on time and on budget.

Widen the M5 and commit \$100 million to reduce congestion on Western Sydney roads.

\$350 million is committed for a Hunter Infrastructure Fund to build the roads, trains, hospitals and schools for the future.

I had a good look through this document. It does not say anything about selling Port Botany and nowhere does it say that the other promises were predicated on the sale of Port Botany giving a Coalition government the money to deliver them. Yet on the same page as point 3, "Renovate infrastructure", we see point 4, "Restore accountability". The Liberal-Nationals promised that they would give people a real say on issues affecting their local community. Bad luck for the people of Port Botany. They said they would ensure better value for taxpayers. We do not know about that because the Government has not released any of the costings for the sale. Those opposite said they would be honest and accountable. They would be if they released the Goldman Sachs report, but they have not and so they are not.

The Coalition also said that it would raise standards of ministerial behaviour. I will let members ponder some of the things they have heard about those opposite in the past, including the recent report tabled in this House about the closure of the Cronulla fisheries research centre. Those opposite also said they would regulate lobbyists and ban success fees. They have certainly regulated lobbyists because they have promoted them to every office-bearing position in the New South Wales branch of the Liberal Party. The Government said other things in its report card on its first year in office. But if we look at what it did in its first year we can see that it has not ticked off any infrastructure projects. The Government said it would renovate infrastructure. I turned to page 5 of the document. There are ticks everywhere but there is no mention of selling off Port Botany. There is no mention that many other projects are predicated on the sale of Port Botany releasing the necessary funds. In light of what it promised in its Five Point Action Plan, the Coalition's report card on its first year in office is pretty disingenuous, at best.

I turn to a more detailed document, "NSW 2021: A Plan to Make NSW Number One". Section 19 on pages 38 and 39 refers to "Invest in critical infrastructure" and "Enhance rail freight movement". The Government has a policy to double the proportion of container freight movements by rail through New South Wales ports by 2020. It makes a whole lot of promises. How is going to do that with a privatised Port Botany? Those opposite have no explanation; it simply cannot be explained. Their plan to make New South Wales number one by 2021 is full of lots of words and very few facts. The people of New South Wales should bear that in mind when they hear what is happening in their local area, when they start to pay more for petrol because there is a monopoly at the liquid freight depot at Port Botany and when other issues arise out of that sale—a sale which those opposite claim disingenuously is not a sale but a 99-year lease.

Consider the port privatisation process at Port Botany and Port Kembla. I believe strongly there is no case for selling off our ports. The Government is proposing a fire sale of two of the most important infrastructure assets in New South Wales—profitable assets for the people of New South Wales—but it has made no public case for the sale. No study has been done of the impact on Australian importers and exporters, and there has been no examination of the cost of living impact for New South Wales families. Opposition members and the public of New South Wales are in the dark about how the sale will impact on families, consumers, businesses and the broader economy. As I said earlier, the Government has refused to release the pre-scoping study undertaken by Goldman Sachs—a study that I am reliably informed cost somewhere between \$10 million and \$11 million by the time we add legal fees. Some \$11 million was spent on a document justifying the sale of a port and the Government will not release it to the people of New South Wales.

If the Government had nothing to hide regarding this transaction it would have allowed community consultation, it would release the Goldman Sachs report, and it would not be rushing through this bill at the end of the parliamentary year after doing a deal with the Shooters and Fishers Party that will allow Australian fauna to be shot. I am most surprised by the people who talk about being concerned about conservation and the rural way of life but who are happy to sit back and let this happen. The same people who said they would not do deals in order to get legislation through Parliament have done a deal with the Shooters and Fishers Party to deliver port privatisation.

The Hon. Duncan Gay: I did not have to do a deal to get the duck thing through.

The Hon. AMANDA FAZIO: The Hon. Duncan says he did not have to do a deal to get the duck shooting bill through but the people of New South Wales can smell a dirty deal when one is put in front of them. They know that the port privatisation and duck shooting deal is bad for New South Wales. The Government chooses to ignore that during its term in office Labor made a massive public investment in ports. The Government now says, "That's good because we'll get more money for myriad road projects we promised during the election campaign." If we had a spend-o-meter linked to the sale of Port Botany it would cascade out the top like a volcano—it would make Mount Etna look like a pimple—because the Government has promised to spend the proceeds of the Port Botany sale 10 times over on a range of different projects. It is a disgrace.

I return to the infrastructure investment—using public money—that Labor made in New South Wales ports when it was in government. As I said earlier, our ports are in excellent condition because Labor invested massively in ports infrastructure when it was in government. Port Botany underwent a huge expansion, with a \$1 billion dollar investment in a new container terminal, a new \$80 million bulk liquids berth, truck marshalling yards, upgraded rail infrastructure and improved local roads. That is just at Port Botany. Port Kembla has also seen massive investment, including completion of a large inner harbour expansion, transfer of the car import trade and investment in outer harbour expansion. There has been major investment in better performance, with reforms introduced by Labor leading to more efficient ports and reduced truck queuing. The port assets are in good condition. They are profitable and will be able to handle a growing economy for decades to come.

The Hon. Dr Peter Phelps: They're not very profitable. Labor's own report said that.

The Hon. AMANDA FAZIO: The Government Whip claims that the private sector will achieve a better return than government could. At what stage will the Government declare that some industries and infrastructure in New South Wales is essential and should remain under government control? The ports are a case in point. The Government is looking to sell off these world-class assets to the private sector because ideologically it is bent on selling everything it can to the private sector. That view is reinforced by the fact that it has put former Premier Nick Greiner—Mr Sell Everything—in charge of Infrastructure NSW. Nick Greiner wants to sell everything in New South Wales. Consider the return to the people of New South Wales from the public-private partnerships that economic genius Nick Greiner put in place. Both Port Macquarie hospital and the airport rail link were absolute disasters that cost New South Wales taxpayers many times over. Government members can whinge and sigh all they want but this is the economic genius that the Government has put in charge of developing infrastructure for New South Wales.

Mr David Shoebridge: Point of order: The Government Whip keeps interjecting in order to disrupt the speaker. The interjections are not intended in any way to assist the debate but are designed to disrupt and put off the speaker.

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

The Hon. AMANDA FAZIO: The massive investment that I described by the former Labor Government in ports infrastructure in New South Wales will now deliver a massive private sector profit ratio. That is one of the disgraceful results of this bill. There will be an unregulated private monopoly that will only make things worse for industry and for consumers. Not only are the returns on that investment being privatised but the Government is handing over monopoly assets completely free from any form of regulation. Government members will say there are other ports in New South Wales, and, yes, there are. But do they seriously suggest that significant amounts of heavy freight will go through Eden or Coffs Harbour? I do not think so. The Government should be honest when it tells the community what it is doing.

The Hon. Duncan Gay: If they don't like Sydney they can go to Newcastle, Melbourne or Brisbane.

The Hon. AMANDA FAZIO: I acknowledge the interjection by the Minister. The Government completely ignores the additional costs for New South Wales consumers if port users go to Brisbane or Melbourne. Government members do not care about that. The Government is allowing one private company to bid for Port Botany, Port Kembla, Enfield intermodal terminal and the Cooks River rail yard. The operator will have unprecedented monopoly power over our key trade infrastructure, with the ability to dictate prices to truck operators, shipping lines, importers and exporters. At the end of the day New South Wales families and businesses will pay in the form of higher prices and a slower economy.

There will be a new tax on the haulage industry, importers and exporters. Not only is the Treasurer, Mike Baird, handing over unrestricted pricing powers to the private operator, he is also imposing a new tax on the haulage industry, importers and exporters. The new private operator will have the ability to levy a tax on the haulage industry, shipping lines and businesses to pay for any investment it chooses to make. There will be no opportunity for people to examine the pricing or the full costs of the infrastructure changes; they will just be sluggish with higher prices. It is completely unprecedented for a port authority to have unfettered power to levy charges and taxes on importers, exporters or haulage operators. This is a blatant attempt to fatten up the ports for sale. It will do nothing but drive haulage operators out of business, increase prices for consumers and put further pressure on manufacturing jobs and small business.

Need I remind the Government that small business is a key employment and economic driver in New South Wales? The Government is prepared to put this at risk. Mike Baird likes to talk about his "price monitoring regime". It is nothing but requiring prices to be published on a website. In reality, the Independent Pricing and Regulatory Tribunal will have no powers to regulate the privatised port operator. We have seen this sort of price monitoring in the stevedoring sector for more than a decade with the Australian Competition and Consumer Commission frequently reporting evidence of monopoly returns to the duopoly stevedoring industry. Yet this Government is happy to set up a monopoly operator of the major port infrastructure in New South Wales.

No action has been taken to date to stop the gouging of truck operators through access fees from stevedores or enormous storage charges. Mike Baird's price monitoring scheme will have the same outcome, with the private port owners having unfettered power to gouge higher prices and new charges from industry. The Government could not care less about the people of the Port Botany region because recently they have not chosen to elect a Liberal or Nationals member—even though a member of The Nationals lives in the area—to Parliament. The Government does not care that it is punishing the people of Port Botany with increased throughput at Port Botany. The Government has removed the cap on movements through the port, and consequently there will be more truck movements around Port Botany. The cap, imposed as a condition of consent for the expansion of the port, has been removed by the Government. The cap was introduced when weighing up the impact of the port expansion on the local community.

This goes to another of the key promises in that pathetic, useless piece of paper, the Five Point Action Plan, in which Barry O'Farrell promised to return planning to the community. This bill says it is okay simply to legislate for planning decisions while ignoring the impact on the local area and the legitimate concerns of the community. Removing the cap of 3.2 million containers per year will mean thousands more trucks on the roads around Port Botany every single day of the year. This change is being made without any consultation with the local community or any regard to how it will impact people. No new infrastructure is being committed to alleviate any traffic or congestion concerns in the Port Botany area. Removal of the cap from Port Botany has major implications for Newcastle, which is the third port in New South Wales.

A commitment was given in 2003 that Newcastle would be the location of the next major container facility once Port Botany reached its capacity of 3.2 million containers. It was part of the vision of the former Labor Government to diversify the port of Newcastle and the Hunter economy. A new container terminal at Newcastle would help to reduce costs for exporters operating from the Hunter. But Premier Barry O'Farrell has turned his back on that commitment, again failing to invest in the Hunter. All Liberals representing Hunter electorates should be worried about that decision, because it is another nail in their electoral coffins.

I conclude by saying that this bill is an indictment of the Treasurer. The Treasurer has not had much good news lately. The fact that the Auditor-General has been put in a position where he has to assist the Treasurer in his day-to-day duties of running the finances of New South Wales just shows that not all merchant bankers can be trusted to know how to add up. On the Treasurer's watch the Auditor-General found 37 instances where the Government had lost track of a total of a billion dollars. What is the answer from the Government? It says, "No, no, that did not happen." That is just like when the Parliamentary Budget Office had a look at the black hole and found there was not one.

Anyone who knows the form of this Government in relation to what it does to people who find out it has made mistakes economically will know that it either shifts them aside or, in the case of the Parliamentary Budget Office, abolishes it as a full-time position. In the case of the Auditor-General the Government has seconded him to help the Minister and now it claims the Auditor-General did not find all these mistakes. I am sorry, but if you have sufficient confidence in the Auditor-General to say he should be helping your lame-duck Treasurer you have to accept that he found those 37 mistakes totalling \$1 billion. You cannot have it both ways, but you are such a bunch of hypocrites that you probably will try to do that anyway.

The Minister for Roads and Ports also has failed to stand up for industry against this shameless grab for cash. One of the most interesting things I found in budget estimates this time is the extent to which portfolio Ministers are sidelined out of the decision-making process on major projects that impact on their portfolio. I know the Minister for Roads and Ports is not a member of the Cabinet subcommittee on infrastructure, which I think is a disgrace. We are entering a more connected and global age and our connection to the world through our ports is more important than ever. Members opposite are selling those connections on the cheap. Selling our ports today with unfettered powers to increase charges and introduce new taxes is nothing less than selling out the people of New South Wales.

It is in direct contradiction to this piece of garbage, the five-point action plan that they posted to every household in New South Wales, and in complete contradiction to what they put in their first-year report card. In no way, shape or form does it go anywhere near to matching the commitments they made in "NSW 2021: A plan to make NSW number one". Under this Government we have seen bumbling economics and fire sales of assets, not because the assets need to be sold but because the Government has an ideological commitment to selling public assets that goes beyond all bounds of common sense and probity. I urge members to vote against this bill.

Mr DAVID SHOEBRIDGE [8.52 p.m.]: I speak on behalf of The Greens and I commend the words of my colleague Dr John Kaye, who I thought made a careful and rigorous analysis of the failings in this bill, and my colleague the Hon. Cate Faehrmann, who set out in detail the impacts that will be seen in Sydney from the sale of Port Botany. It is very clear that this is a full privatisation of the ports. The Government hides behind the term "99-year lease" and says, "It's not a sale of the assets, it's just a 99-year lease." Everyone knows this is privatisation. It is privatisation by name and privatisation in reality. Anyone who has looked at the net present value of a 99-year lease knows it is exactly the same for all accountancy and business purposes as freehold. If you told anyone in the Australian Capital Territory that their property was not their own because they only had a 99-year lease they would laugh you out of their house, if they did not chase you out with a pitchfork.

This is the sale of the ports—Port Botany and Port Kembla. But perhaps one of the most remarkable things about this is that the Government is wandering around saying it is to protect the triple-A credit rating. It has not really provided any evidence to support that. The Government has failed utterly to convince the community, or even ask the community, about the merits of this sale. It did not take this plan to sell these two crucial assets of statewide economic significance to the election. The then Opposition was entirely silent about it. In fact, as the previous speaker made clear, one of the commitments that this Government took to the election was that it would be better at planning. It was going to return planning powers to the community. But one of the key provisions in this bill is to run roughshod over the current 3.2 million container cap in Port Botany that was imposed through planning controls. Why was it imposed through planning controls? It was because the local community insisted on it. The local community who are concerned about the expansion of Port Botany got at least some small comfort through a cap on container movements.

Did this Government return planning powers to the community as it said it would do pre-election? No, this Government is stripping away the one planning control that has had any teeth in terms of protecting the surrounding amenity for the residents around Port Botany. The Government says one thing and does another. Having not taken the plan to sell these two key assets to the electorate, the Government has been entirely silent about it. If members read that farrago of pious hopes that is the Contract with NSW that Barry O'Farrell signed they will not find one mention of privatisation.

It does not talk about the fact that this is a Government that is going to look for every single public asset it can find around the State. It will sell those that are not nailed down in the first six months and with those that are nailed down it will cut a grubby deal with the Shooters Party to flog them off in the balance of their term. That should have been one of the key terms in the Contract with NSW. This is a Government that promises to do every possible grubby deal with the Shooters Party in order to flog off every asset that is protected by legislation. It should have been signed by Barry O'Farrell, the putative Premier of New South Wales, because that is the program that has been delivered by this Government.

When the community has communicated with the Government about this proposal to flog off Port Botany and Port Kembla what has it said? It has roundly opposed it. There is not a single community group and not a single local council that has come forward to support this sale. The community is unanimously against the Government's proposal. The only community group you will find in support of this proposal is the Business Council of Australia. That is the only so-called community group. There is not a single genuine community group that would speak in support of the Government's proposal.

The Hon. Duncan Gay: Now you are defining it.

Mr DAVID SHOEBRIDGE: I have made it quite clear. To the extent that the Government thinks the Business Council of Australia might be a community group, and I do not doubt that that is what the Hon. Duncan Gay thinks is the community, the Business Council of Australia will give them a tick of approval; PricewaterhouseCoopers will give them a tick of approval. All the major donors to the Liberal Party from corporate New South Wales will give them a tick of approval, but the actual community members—the councils and the community groups—are unanimously against this. That is why the Government will not take it to an inquiry. Earlier today my colleague Dr John Kaye moved a motion to take the sale of Port Kembla to the public, have an inquiry and find out what the community thinks about this plan. What did the Government do? It shut it down. It did not want to hear what the community in Port Kembla had to say about the selling of the assets. It does not want to hear what a local council thinks. It does not want to hear what the South Coast Labour Council thinks.

The Hon. Duncan Gay: I met with the South Coast Labour Council. I met with the staff. Have you?

Mr DAVID SHOEBRIDGE: The Minister says he has met with them. What have they said to him? "Don't sell the ports, Minister."

The Hon. Duncan Gay: No, they didn't.

Mr DAVID SHOEBRIDGE: He says they did not. He is dead wrong. Even in his interjections he cannot keep to the truth. The community in the Illawarra is unanimously against this, and what does the Government do? Because it knows how strong the passion and feeling is in Port Kembla, because it knows there are families down there who can see this Government selling off one of the principal public assets, potentially to a monopoly provider who also owns Port Botany, and because it knows the community is so offended by that the Government will not have an inquiry. It will not even talk to the community through a public inquiry. That kind of hubris brought down the previous Government: ignoring what the community has to say.

The Hon. Robert Borsak: No; The Greens brought it down.

Mr DAVID SHOEBRIDGE: Cutting ugly deals is what brought down the former Government. But what does this Government do? It is having a bit of trouble getting clear passage for this legislation through the House, so it goes to its friends the Shooters party, the Guns and Moses coalition, and says, "What native animal can we kill to get this through? What part of the State can we open up to your pro-gun, pro-shooting lobby? What control on guns can we water down in order to get this piece of unrelated legislation through?"

The Hon. Scot MacDonald: Tell us about the feral animals.

Mr DAVID SHOEBRIDGE: I hear the interjection of the Hon. Scot MacDonald about feral animals.

The Hon. Duncan Gay: Point of order: Normally, members are allowed a little free range in their second reading speeches; in the case of The Greens, free range is the norm. Though I have looked at the overview and provisions of the bill, frankly I cannot find anything about ducks. The member has strayed well outside the leave of the bill, and I request that you bring him back to the leave of the bill.

Dr John Kaye: To the point of order: The point of order is entirely frivolous, and the Minister is being cute. This legislation was obtained by a deal. It is therefore relevant in the second reading debate to refer to the circumstances of the approval of this legislation by some members of this Parliament.

DEPUTY-PRESIDENT (The Hon. Sarah Mitchell): Order! I uphold the point of order. The member will speak to the bill before the House.

Mr DAVID SHOEBRIDGE: To get this piece of legislation through we find the Government having to corral the votes of the Shooters party and having to corral the votes of the Christian Democrats, and we see deals cut—

The Hon. Duncan Gay: Point of order: Madam Deputy-President, the member is trivialising your ruling.

Mr DAVID SHOEBRIDGE: To the point of order: Everybody in this Chamber knows that this legislation has the votes to get through this House because a deal has been cut with the Shooters party. If a member cannot speak on the politics that drive this bill, if a member cannot in this Chamber discuss the genuine politics that drive this legislation and will get it through the House then that would be extraordinary. It would be extraordinary to rule that a member cannot talk about the politics behind the bill, and cannot say why the bill has the numbers to get through.

DEPUTY-PRESIDENT (The Hon. Sarah Mitchell): Order! The member should confine his comments to the bill before the House.

Mr DAVID SHOEBRIDGE: The—

The Hon. Robert Borsak: You know all about grubby deals, don't you?

DEPUTY-PRESIDENT (The Hon. Sarah Mitchell): Order!

The Hon. Robert Borsak: You're getting very aggressive, David.

Mr DAVID SHOEBRIDGE: The repeated suggestion from the Shooters and Fishers Party and this Government that any deal was cut with the previous Government is utterly mistaken. They know a grubby deal. They survive in this Chamber on grubby deals with that lot.

DEPUTY-PRESIDENT (The Hon. Sarah Mitchell): Order! I call Mr David Shoebridge to order for the first time.

The Hon. Trevor Khan: Point of order: This is the third time this point has been raised. Madam Deputy-President, the member chooses to deliberately ignore your rulings and chooses to persist in the line of argument that you have twice ruled out of order. It is quite inappropriate for the member to constantly ignore the rulings of the House. It is shameful that he continues to behave in this way.

Dr John Kaye: To the point of order: Madam Deputy-President, your ruling was that the member was to address the second reading of the legislation. That is precisely what he was doing. Mr David Shoebridge was responding, as perhaps he should not do, to a totally disorderly interjection from a Shooter.

DEPUTY-PRESIDENT (The Hon. Sarah Mitchell): Order! For the third time, I rule that the member will confine his comments to the bill before the House. Interjections are disorderly at all times. The member will be heard in silence.

Mr DAVID SHOEBRIDGE: One of the genuinely ugly provisions of the bill is in clause 32, which provides that there will be no cargo throughput limits for Port Botany. It says:

A planning control is of no effect to the extent that it would operate to impose a cargo throughput limit for Port Botany.

A "cargo throughput limit" is defined in the broadest possible terms:

A cargo throughput limit for Port Botany is any direct or indirect limit or other restriction on the amount of cargo that can be received or handled at or transported from Port Botany and includes (without limitation) the following:

It then sets out an array of known limits in relation to Port Botany. It then says:

The following provisions apply to the operations of this section:

- (a) This section does not apply to a planning control until the planning control has been imposed, so that it limits the effect of the planning control once imposed but does not prevent the planning control from being imposed.

That is the sort of gobbledegook that says that even if something is put in place it cannot be used to stop the process but when you put a control in place the control is of no effect. Let us assume that the throughput in Port Botany is proposed to double, triple or quadruple, and that that will have appalling amenity impacts upon all of the surrounding suburbs, particularly in the inner west, but all the way through to the proposed new trans-modal at Moorebank; and let us assume that that will cause complete traffic gridlock on the road and rail networks. There will be no capacity in any future planning authority looking at a proposal to so expand Port Botany to put

any limits at all on it—none at all. Let us assume that the matter goes to the Government's Planning Assessment Commission, and the Planning Assessment Commission five years from now sees a proposal for a massive expansion of Port Botany to double the container throughput.

The Hon. Scot MacDonald: Hear, hear!

Mr DAVID SHOEBRIDGE: The Hon. Scot MacDonald probably does not know anyone who lives within cooee of Port Botany. The Planning Assessment Commission, in looking at a proposal to double throughput, may have before it compelling evidence that doubling the throughput at Port Botany will cause gridlock in surrounding streets and the rail network and will be an absolute disaster for any transport in that part of Sydney. Will the planning authority be able to do anything? No. The planning authority will be bound by this section in the Act. And if it imposes any controls those controls will have no effect. So the planning authority will be neutered. All future decisions about the port will be, for some unknown reason, artificially constrained. So the volume of goods travelling through the port cannot be controlled—even if there is a compelling case to do so; even if we know, as anyone who looks at the already constrained transport links to the port would know, that a doubling, tripling or quadrupling of movements through Port Botany will be disastrous for Sydney.

Just because the Government wants a marginal increase on the sale price, just because it wants when it goes out to tender to be able to say to its friends out there in industry, "By the way, boys, when you're buying this port don't you worry, there will never be a capacity to restrain your expansion. You can have unlimited expansion in the port, so don't you worry about that." The Government wants to put that on the tender documents so that when it flogs off Port Botany with a 99-year lease it will get a marginally increased return—blind to the amenity impacts and blind to the ongoing environmental impacts that would result from such an expansion.

The last point I make is that even if you took a narrow economic rationalist's view of this sale, even if you pulled out your Economics 101, you would never sign off on this deal because the government can always borrow at a lower rate than private industry. The government could use the collateral that it has in both these ports to borrow the money to provide genuine infrastructure. It could borrow money against these assets at a lower rate than private industry can borrow to purchase the assets. So when private industry is looking at this proposal it will insist upon a discount deal, because it knows its borrowing costs are significantly higher than the Government's borrowing costs. So it will insist on a significant discount on the true value of these assets when negotiating to acquire it. That is exactly what it is going to get. That is exactly what they are going to get. They are going to get a cut-price deal on both of these ports and, as a result, future generations will be robbed of the income that could be provided through these ports.

The Hon. Duncan Gay: How much is too little?

Mr DAVID SHOEBRIDGE: Whatever price you negotiate with them, I think we can say that. Whatever price the Government has a hand in negotiating will be too little. We will be guaranteed of that. We will be sure that future generations will be robbed of the ongoing income stream that could come from a publicly owned port. They will also be robbed of the ability to have some control over their future economy and they will be robbed of the ability to ensure that the port is working, and not just for the narrow interests of the private operators that we have seen with the disastrously privatised Sydney Airport, which everybody knows is a cash cow for the private operators who are blind to the interests of the travelling public and blind to the economy of New South Wales.

Anyone who has been slugged when buying a coffee or while waiting in a taxi queue at Sydney Airport knows that the private operators are gouging the travelling public to maximise their return and have no interest in the broader economics of the State or the broader public interest. We are going to see the same gouging by a monopoly provider of Botany and Port Kembla. Instead of gouging the broader public, they will be gouging the trucking companies and the shipping companies, firms that we hope will be driving some sort of export future for New South Wales. They will be doing it through a privately owned monopoly with no controls on their prices or, at best, with the Government amendment there is an utterly weak control—

The Hon. Dr Peter Phelps: The market will set the price.

Mr DAVID SHOEBRIDGE: I hear the Government Whip say, "The market will set the price." Imagine that you are an exporter in the Illawarra who has a bulky good to export who is considering where you might export it in the market. It would be out of Port Kembla, which is right next door. If you have a monopoly

provider, anyone who has an understanding of marketing in economics—and the Government Whip pretends to have an understanding—knows that you are dealing with a monopoly provider. When you are dealing with a monopoly provider it obtains rents over and above any fair value for the goods, and you get screwed. It is short and simple: you get screwed by the monopoly provider. We are going to see that in Port Kembla and we are going to see that in Port Botany. Why? Because the Government wants to get a few shekels this year, regardless of the public interest and regardless of the future. This bill is a disgrace.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [9.12 p.m.], in reply: I thank honourable members for their contributions to the debate. As odd and as interesting as some may have been, they were certainly delivered with a lot of passion and genuine belief. The purpose of the Ports Assets (Authorised Transactions) Bill 2012 is to enable the long-term lease of Port Botany and Port Kembla. It also allows for the lease of the Cooks River and Enfield logistics terminals, with some industrial land at Enfield to be sold to the private sector. Under the lease arrangement the Government would retain ownership of the land as well as a number of important maritime functions. It is important that honourable members who made impassioned speeches listen to this because it corrects some of the mistruths they told. The functions to be retained will be harbour master, marine pilots and emergency response obligations.

Dr John Kaye: I said this. I said all of this.

The Hon. DUNCAN GAY: It may have been one of the parts the member got right. Sydney Harbour wharves and cruise shipping functions, and, importantly, the Port Botany landside improvement strategy function will remain with the Government. I will say that once again because a number of Opposition members had it wrong. In fact, the words they used were almost exactly the same on each occasion. Some members on my side felt that they might have had a single speech that was circulated. Importantly, the Port Botany landside improvement strategy function will remain with the Government. We have consulted extensively with the industry and with other stakeholders about the benefits that Port Botany landside improvement strategy [PBLIS] has delivered. I have been generous in my comments. It is one of the few things that the previous Government got right: it has delivered for improved efficiency at Port Botany.

It is agreed that the continued Government oversight on this function is in the best interests of the port, the community and the State. That is laying it out as it is. A couple of members have mentioned the Australian Trucking Association concerns. I was moved by those comments to check with my office and also the Treasurer's office. I have a letter from the Australian Trucking Association signed by Mike Moylan and dated 19 October. If the inference was that I did not meet with him, I can assure members that Mike meets with my office quite often. Whilst concerns were expressed on the port assets, there was no request of me in that letter. I also have a letter to Mike Moylan from the Australian Trucking Association from the Treasurer, Mike Baird, which was signed by the Treasurer and sent on 7 November. Quite appropriately the Treasurer says in the penultimate paragraph:

Finally, I am unaware of meetings you have been attempting to arrange with Government since June 2012 but I would be happy to meet with you if you would like to provide this office with the relevant information.

So much for the stories peddled by the Opposition. They are the facts. In addition, a key term of the Port Botany lease is that the lessee will have to ensure free and unfettered public access to Molineux Point. This unfettered access would certainly preclude development on the south-east side of the point. You cannot guarantee unfettered public access and have development in the same area. Public access, of course, will be subject to normal safety and security considerations that are currently in place, thus there will be no change. The lessee is obliged to take proper and appropriate care of the amenity at Molineux Point and will maintain it accordingly at its own cost. I also thank the Hon. Robert Brown for his contribution to this debate. I will respond directly to the other questions that he posed. I note that many members of this House, including members of the Christian Democratic Party, are interested in the Government's response to those questions. In response to his first two questions, it is the intention of the Government that the port infrastructure charge will only be levied on those parties who will receive a benefit from that charge.

The Minister will only approve proposed projects whereby the party or parties paying the levy or charge are the party or parties receiving the benefit of the project. In response to the honourable member's third question, the pricing regime includes regular reporting obligations to the Minister and the ability for users of the port, both large and small, to engage with the Minister on any pricing concerns. The Government can then refer any price issues to the Independent Pricing and Regulatory Tribunal for a full and comprehensive review, including appropriate benchmarking of prices. Following the outcome of the review the Minister will maintain the discretion to take appropriate action, including price regulation. In response to the honourable member's

fourth question, I confirm that the Government will seriously consider any recommendations made by the Independent Pricing and Regulatory Tribunal regarding the ports and will, when necessary, actively ensure that fair prices are maintained.

Dr John Kaye: Serious consideration?

The Hon. DUNCAN GAY: I hear The Greens talk about serious consideration. It is not unheard of for governments to disagree with recommendations of the Independent Pricing and Regulatory Tribunal that governments sometimes see as being too tough on the users, and that includes former governments and the current Government. That is why that provision is in the bill. Not very often, but sometimes the Independent Pricing and Regulatory Tribunal will make a decision that we believe is too tough on the people that we are trying to help. The bill requires the net proceeds of the transaction to be paid into the Restart NSW Fund. The funds raised through these transactions will enable the Government to begin addressing an enormous backlog of critical infrastructure in this State. As noted by the Hon. Paul Green, the proceeds from the transaction will underpin increased investment in the Pacific Highway and Princes Highway, and the WestConnex project. The Illawarra, specifically, will benefit from a \$100 million commitment to new infrastructure on top of what is already underway.

In response to the assertion made by Dr John Kaye that the transactions contemplated by the bill will not provide value to the State, I advise the House that this bill is actually designed to maximise proceeds from the sale and exceed the retention values set for the assets. In response to his lengthy criticism of this Government's honourable commitment to maintaining its triple-A credit rating, I remind Dr John Kaye that losing the triple-A rating for 10 years would cost the State approximately \$3.75 billion. But The Greens do not care about that. That money could fund thousands of new nurses and teachers—two of the reasons why the Government maintains that keeping the triple-A rating is vital. Keeping the rating means that we can start to fix the dire financial situation we inherited from the former Labor Government and build the infrastructure this State needs so badly.

With respect to Dr John Kaye's assertions that Port Kembla would not be of benefit to the Illawarra after the lease of the port, it is common sense that a new lessee will invest in future growth and development of the port. No sensible party would sign a 99-year lease unless it was interested in expanding and developing the underlying asset. The same point can obviously be made in relation to Port Botany. The Government will retain oversight of all regulatory matters such as those relating to price, the environment and the handling of dangerous goods. The price-monitoring regime will ensure transparency on pricing outcomes, consistent with principles adopted by the Council of Australian Governments.

In response to the Hon. Adam Searle's claim that the Government is auctioning off an existing revenue stream for short-term gain, I advise that, in fact, the private sector will increase investment in these ports and will deliver proceeds and savings to the State by shifting capital obligations away from Government. This will allow the Government to focus on building the infrastructure that makes a difference to the economy and to people's lives. Further, I point out to the honourable member that the ports will remain under the normal planning framework, which provides for consideration of environmental impacts on the area. Additionally, in response to comments from the Hon. Cate Faehrmann, I assure the House that any further increase in the footprint of the ports will require planning approvals and an environmental impact statement.

A lot has been said about the removal of the cap on throughput. In response to comments from the Hon. Adam Searle, the Hon. Cate Faehrmann, Mr David Shoebridge and others regarding the Government's plan to remove the cap on throughput at Port Botany via this bill, I inform the House that it is absolutely clear, and it should be obvious even to the dumbest person on the other side, that the cap would have to be lifted regardless of any transaction. The former Labor Government's decision to expand Port Botany and to invest in it substantially almost doubled its capacity. The removal of the throughput limit enables Port Botany to reach its natural capacity and ensures that taxpayers receive value for the investment already made. In some quaint way the Deputy Leader of the Opposition and his colleagues from The Greens said that it was all right to invest a billion dollars and double the capacity of the port but not to lift the cap, which means we get no return from that billion dollar investment.

The Hon. Adam Searle: That is where Newcastle comes in.

The Hon. DUNCAN GAY: Here it is: voodoo economics from the left wing of the Labor Party. If the Deputy Leader of the Opposition believed that argument why did the former Labor Government invest a billion

dollars in doubling the size of the port? It is obvious that the Deputy Leader of the Opposition does not understand economics and that is why, thank goodness, those opposite are not in charge. The Government is committed to implementing various steps to improve traffic flow around Port Botany and to shift greater volumes of goods from road to rail. These steps include the announced Moorebank intermodal terminal, the development of the southern Sydney freight line and the Enfield logistics terminal, the Sydney Ports Landside Improvement Strategy and the recently opened Sydney ports truck marshalling yard at Port Botany. In addition, the Government is committed to delivering WestConnex, which will support freight movements between Port Botany and logistics hubs in western and south-western Sydney.

The long-term lease of Port Kembla is an important part of this transaction program due to its diversified revenue base and enormous potential for growth through the outer harbour development commenced by the New South Wales Government. We expect that the new lessee, having invested a substantial sum to acquire the lease, will continue to invest in its future growth and development. Port Kembla is naturally placed to accommodate Sydney's future container growth when Port Botany reaches capacity, due to its proximity to Sydney as well as existing and planned transport links, including several intermodal facilities planned for south-west Sydney. That view is supported by the Government's expert transport and infrastructure bodies—Transport for NSW and Infrastructure NSW.

Importing containers through the Port of Newcastle is less attractive than importing them through Port Botany or Port Kembla due to the landside transport infrastructure upgrades that would be required and the port's distance from Sydney's logistics centres, which are located primarily in the Botany industrial area and in south-west and western Sydney. Trucks would be travelling further and for longer. Those factors notwithstanding, the Port of Newcastle will continue to play an important role in the export of natural resources from the Hunter Valley and north-western New South Wales. The Government has embarked on a sensible program of releasing capital from the State's balance sheet. The proceeds generated from the Government's transaction program will provide the much-needed funds to enable the Government to fund the critical backlog of infrastructure we inherited and allow private sector capital to drive efficiency to grow our overall economy. I commend the bill to the House.

Question—That the amendment of Dr John Kaye be agreed to—put.

The House divided.

Ayes, 17

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

Noes, 20

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

Pairs

Mr Foley	Mr Ajaka
Mr Whan	Mrs Maclaren-Jones

Question resolved in the negative.

Amendment of Dr John Kaye negatived.

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

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

The House divided.

Ayes, 20

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

Noes, 17

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

Pairs

Mr Ajaka	Mr Foley
Mrs Maclaren-Jones	Mr Whan

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

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

Part 1 [Clauses 1 to 3] agreed to.

Dr JOHN KAYE [9.41 p.m.]: I move The Greens amendment No. 1 on sheet C2012-141A:

No. 1 Page 3, clause 4. Insert after line 16:

- (3) This Act does not authorise the transfer of ports assets to the private sector if any ports assets liability of a port SOC remains a liability of a public sector agency. A *ports assets liability* of a port SOC is any liability (including a future or contingent liability) of a port SOC arising in connection with any obligation of the port SOC to manage and operate port facilities and services at Port Botany or Port Kembla.

The amendment addresses an issue I raised during my contribution to the second reading debate with respect to the power that the bill confers upon the Treasurer to privatise the profit-making aspects of an undertaking but not the liabilities. It comes from part 1, clause 3, Interpretation—key definitions, where a ports asset includes a liability and part 2, clause 4 (1), where the Act authorises the transfer of ports assets, which of course would include a liability, to the private sector or to any public sector agency. By virtue of the structure of the legislation the Treasurer can transfer to the public sector any liability the Treasurer wishes while transferring the profit-making aspects to the private sector.

Before people leap up and down and say that would never happen I remind them that it is precisely what happened during the gentrader transaction. The then Treasurer transferred the profit-making aspects of

power stations to the private sector while keeping a large number of the risks, liabilities and costs in public hands. The availability liquidated damages and the risk and maintenance costs were kept in public hands. They are quite substantial risks which could run to hundreds of millions of dollars each year. The same provisions exist in this legislation and they would allow the same thing to happen.

As we pointed out, it is the written intention of the Government to maintain in public hands the cost of cleaning up environmental spills and safety matters of marine rescue. The expensive bits stay with the public while the profit-making bits go to the private sector. That is bad economics and it is entirely unfair to leave risks and liabilities in public hands while transferring the cash stream to the private sector. It works out okay for the Government because those risks and liabilities may or may not occur in the early years of the privatisation. However, if they show up in subsequent years it will convert what may have initially looked like a cash-positive outcome into a cash-negative outcome for the State. I commend The Greens amendment to the Committee.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [9.44 p.m.]: The Government opposes The Greens amendment No. 1. One of the primary aims of the Government's transaction program is firstly to remove taxpayer exposure to those commercial risks and liabilities that are best managed by the private sector. The Government will do that in the lease. As such, the lessee will take over the normal commercial risks associated with a landlord port operator from the time it takes possession of the lease. The Government will retain the risks and liabilities that belong with the maritime functions that will stay with the State.

In fact, in many of their contributions honourable members opposite begged the Government to ensure the safeguards were there. A responsible and appropriate approach will be taken to the transaction structure. The lease of the ports is unlike the previous Government's gentrader transactions where the State retained responsibility for operating and maintaining the power stations and in that active role had to take liability arising from the operation and maintenance of the plant. There is no equivalent of the State's gentrader role in the ports transaction and frankly no equivalent liability regime.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [9.46 p.m.]: The Opposition understands the intention behind The Greens amendment No. 1; however, the Opposition cannot support it at this time.

Dr JOHN KAYE [9.46 p.m.]: The Minister has said that it is not the intention of the Government to leave the commercial risks and liabilities with the public sector. I appreciate that promise—it is a nice thing to hear—but I make it absolutely clear that nobody knew about availability liquidated damages in the gentrader transaction until Kim Yeadon spilt the beans at a hearing of General Purpose Standing Committee No. 1. It was kept hidden and nobody knew it was in the contract. The contract was signed on 15 November and the hearing was on about 15 or 20 January. For two months nobody outside of a narrow group around the then Treasurer knew that had happened. It is not good enough to just have a promise from the Minister; we need it in legislation. The Greens commend the amendment to the Committee.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [9.48 p.m.]: In case it has been overlooked by Dr John Kaye, the Government has recently passed some national maritime legislation in which some of these roles that are being kept by the Government were contained.

Question—That The Greens amendment No. 1 [C2012-141A] be agreed to—put and resolved in the negative.

The Greens amendment No. 1 [C2012-141A] negatived.

Dr JOHN KAYE [9.48 p.m.]: I move The Greens amendment No. 2 on sheet C2012-141A:

No. 2 Page 3, clause 4. Insert after line 16:

- (3) This Act does not authorise the transfer to the private sector of land comprising the Botany Bay Tourist Lookout at Molineux Point or the Prince of Wales Tourist Drive. It is unlawful for the operator of a private port under the *Ports and Maritime Administration Act 1995* to prevent public access to (or charge a fee for public access to) that land.

The intention of this amendment is to ensure that Molineux Point and access to it along Prince of Wales Tourist Drive remains in public hands. Further, it provides that nothing can be done by a private port operator to prevent public access to or charge a fee for public access to that land. Molineux Point sits out on the peninsula.

The Hon. Duncan Gay: It is on the south-eastern end of Port Botany.

Dr JOHN KAYE: The south-eastern end.

The Hon. Duncan Gay: It faces the open ocean across the heads.

Dr JOHN KAYE: That is a good way to put it. It is on the south-eastern edge of the port land out to sea and faces towards the ocean. It has two great factors of significance: it is used by local fisher people and, as has been pointed out by the Hon. Robert Brown, it is one of the few safe rockfishing platforms in Sydney. It is on concrete slabs.

The Hon. Robert Brown: The fish don't know the difference.

Dr JOHN KAYE: The fish do not know the difference. The aesthetics are slightly different from being on sandstone compared with concrete pillars. Nonetheless, it is safe because it is not subject to the same freak waves that fisher folk who fish from other rock platforms between Coogee and Botany Bay on the ocean side experience. We have been discussed the tragedies that have occurred there. Molineux Point is a relatively safe platform that is easily accessible and one can drive almost to the point if one wants to go past the observation tower and out onto the rock platform and fish. The second significance of Molineux Point is that it is named for Molineux, master of the *Endeavour*. It is a place of national significance in terms of European settlement of Australia. It is the last known place where La Perouse landed and also where the *Endeavour* landed. It is an extremely significant historical point.

The point has been made by Lynda Newman, who is an activist for saving Molineux Point, that if this type of historical site were in the United States of America it would be given the highest protection possible. As I understand it, the Government says that it will ensure access to Molineux Point. Nonetheless, it is privatising a site of historical significance in relation to European settlement of Sydney. Further, the Government has promised no legislative protection for the site—

The Hon. Duncan Gay: No, we have done more than that.

Dr JOHN KAYE: I am told the Government has done more than that. I understand it will be included in the lease. However, we do not get to see the lease so we only have a promise that it will be in the lease. We do not have anything in writing that will be publicly available that secures the future of Molineux Point. It is therefore extremely important that Molineux Point is protected by legislation. There is nothing that impedes the privatisation of ports or the long-term leasing of the ports to keep Prince of Wales Drive and Molineux Point out of the privatisation. The port operators, the lessees, will still have access to Prince of Wales Drive. But this amendment guarantees the future of Molineux Point in public hands as a tourist destination, as a site of historical European settlement significance and as an opportunity for people to rockfish in a safe fashion. I commend The Greens amendment No. 2 to the Committee.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [9.53 p.m.]: The Government opposes The Greens amendment No. 2. Those members who appear to be listening to this debate on the proposed amendment would have noticed the inconsistency between The Greens amendment No. 2 and The Greens amendment No. 1. In amendment No. 1 The Greens suggested that the Government should not keep any liabilities to itself, yet in amendment No. 2 The Greens say that we should. There is a strange contradiction in those two amendments of The Greens. We believe that this amendment would result in a worse outcome for the State than would result from the Government's approach, which is to ensure as a key term of the Port Botany lease that the new lessee is obliged to ensure unfettered public access to Molineux Point, to take proper and appropriate care of the amenity at Molineux Point and to maintain it accordingly at its own cost. The Government will include in the lease that the cost of maintenance is borne by the lessee and does not revert to government. The Greens want to put it back to government, which is strangely at odds with their amendment No. 1. We oppose The Greens amendment No. 2.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [9.55 p.m.]: The Opposition supports The Greens amendment No. 2, which is the same as Opposition amendment No. 1. As the Hon. Robert Brown indicated, Molineux Point is not only a public lookout, it is also an excellent fishing spot. The Opposition has received numerous representations from fisher folk—as has, no doubt, the Shooters and Fishers Party—seeking a provision of this kind to be included in the legislation. It is important that Molineux Point remains in public hands and accessible to the public. It is also the case that nearby Simblist Road is often used as an overflow road when the queues outside the Patricks and DP World terminals become too congested.

The Hon. Duncan Gay: That was before the Port Botany Landside Improvement Strategy and the parking area.

The Hon. ADAM SEARLE: That may be so, but we do not want traffic in that area to become even more congested. The Opposition supports this amendment. We believe it is an important provision. Given that the Government and the Shooters and Fishers Party have indicated that this objective will be achieved through the leasing arrangements, there is no reason why it could not be included in the legislation. In doing so, it will put it beyond doubt and give everyone piece of mind.

The Hon. ROBERT BROWN [9.56 p.m.]: The Shooters and Fishers Party is confident that if the Government does what it says it will do the outcome sought by recreational fishers and others who want access to Molineux Point will be achieved. There is no guarantee that when these areas are held under government corporations, such as the port corporation, access will be maintained. During the term of the former Government the Shooters and Fishers Party had to make representations to Joe Tripodi to lean on the Port Kembla Port Corporation to retain access to the breakwall and Oilies wharf because the port corporation had decided in its wisdom to close off access. If the port were not privatised, there is no guarantee that the port corporation would not decide one fine day to shut off access. If it is written into the lease as a requirement it will maintain public access and the State or the council will not have to foot the bill for its maintenance.

Dr John Kaye: They can afford it.

The Hon. ROBERT BROWN: It is a road and a long groyne. The groyne needs occasional maintenance for a stated period of 99 years, which is a long time. The maintenance of public access will save lives and it is in the Government's interest to make sure that down the track it is not blamed for causing a death off Bear Island. For the reasons I have iterated, we oppose The Greens amendment.

Question—That The Greens amendment No. 2 [2012-141A] be agreed to—put.

The Greens amendment No. 2 [2012-141A] negatived.

Dr JOHN KAYE [9.58 p.m.]: I move The Greens amendment No. 1 on sheet 2012-157A:

No. 1 Page 3. Insert after line 16:

5 Continued right of public access to certain land

Any lease of Port Botany land for the purposes of an authorised transaction must be subject to a condition that ensures that the lessee will not prevent public access to (or charge a fee for public access to) the Botany Bay Tourist Lookout at Molineux Point or the Prince of Wales Tourist Drive.

The Greens new clause 5 will require that any lease of Port Botany land for the purpose of an authorised transaction must be subject to a condition that ensures that the lessee will not prevent public access to or charge a fee for public access to the Port Botany tourist drive lookout at Molineux Point or the Prince of Wales Tourist Drive. This is a test for the Government. The Government says that it will make it a condition of the lease that Molineux Point and the Prince of Wales Tourist Drive will be accessible. The Minister said that that will be the case in his reply speech and again in response to a remark I had made. In that case, the Government can have no objection to The Greens proposed new clause 5.

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

The Committee continued to sit.

Dr JOHN KAYE: The Greens amendment No. 1 on sheet C2012-157A is nothing more than putting into legislation what the Government said it would do. It is nothing more than a legislative commitment that translates exactly the words of the Minister at the table with respect to Molineux Point and the Prince of Wales Tourist Drive, but the amendment will put it into legislation. It will be interesting to see whether the Minister argues against this amendment. If he does he will be contradicting what he said earlier.

Reverend the Hon. Fred Nile: You don't need it.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [10.01 p.m.]: I thank Reverend the Hon. Fred Nile, who has summed it up: we do not need this amendment. The safeguard will be in the lease. The amendment is not necessary. If a member is in any doubt, Reverend the Hon. Fred Nile said it is not needed, and he has been around this Parliament longer than any member on the other side of the Chamber. A Minister's second reading speech is used to interpret bills such as this one. My words were very clear. In addition, as a key term of the Port Botany lease, the lessee will have to ensure free and unfettered public access to Molineux Point. There is nothing indecisive about that.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [10.02 p.m.]: For the reasons that the Opposition supported The Greens amendment No. 2, the Opposition will support this amendment, particularly as it appears to be on all fours with both the Government's and the Shooters and Fishers Party's understanding about what will be in the lease.

Dr JOHN KAYE [10.02 p.m.]: I am a bit mystified. The Minister said that the amendment reflects the Government's intention and, if people are worried, the Government's intention has been stated during his second reading speech. Surely then there can be no harm done by including the amendment in the legislation, thereby giving additional assurance by this provision being in the law. Surely there can be absolutely no harm associated with the amendment. The Minister has said the amendment is not necessary and so has Reverend the Hon. Fred Nile, by interjection, but neither of them said what damage would be done by this amendment being made part of the legislation and giving the local community in Port Botany the absolute security that access to Molineux Point would be protected.

The Hon. ROBERT BROWN [10.03 p.m.]: I do not think there is any need for me to repeat my earlier contribution to debate on the previous amendment, but my remarks may add some flavour to this debate. It is interesting how quickly technology takes over. I had not concluded my speech on the second reading debate by any more than an hour—and I was not very well when I made it—when the Australian Broadcasting Corporation suddenly reported that the Shooters and Fishers Party had sold out fishermen in regards to Molineux Point. Isn't technology marvellous? The Shooters and Fishers Party repeats its earlier contributions to the debate: This is a better deal for fishermen than what would occur by excising the area.

Question—That The Greens amendment No. 1 [C2012-157A] be agreed to—put.

The Committee divided.

Ayes, 18

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

Noes, 21

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

Pair

Mr Foley

Mrs Maclaren-Jones

Question resolved in the negative.

The Greens amendment No. 1 [C2012-157A] negatived.

Part 2 [Clauses 4 and 5] agreed to.

Part 3 [Clauses 6 to 13] agreed to.

Dr JOHN KAYE [10.12 p.m.]: I move The Greens amendment No. 3 on sheet C2012-141A:

No. 3 Page 11, clause 16 (6), lines 14 and 19. Omit "2 years" wherever occurring. Insert instead "4 years".

This amendment proposes to extend the employment guarantee period for permanent and temporary employees from a period of two years to four years. During the employment guarantee period the terms and conditions of those employees, who are coming from a State-owned corporation to a privately-owned corporation, cannot be varied and the employment of those transferred employees cannot be terminated by the new employer during that employment guarantee period, other than for serious misconduct, reasonable disciplinary procedures or by agreement with the employee. Under the current legislation the conditions and rights of those employees would only be perpetuated for two years. The Greens are of the view that that period is too short—in fact, it should be a period of 99 years. The Greens argue for a four-year employment guarantee by way of compromise. I commend The Greens amendment No. 3 to the Committee.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [10.14 p.m.]: The Government opposes The Greens amendment No. 3. The two-year employment guarantee is consistent with the various transactions and is appropriate in the circumstances.

The Hon. Robert Brown: Point of order—

The CHAIR (The Hon. Jennifer Gardiner): Order! There is too much audible conversation in the Chamber. I am having difficulty in hearing the Minister. If members wish to engage in private conversations they should do so in the members' lounge.

The Hon. DUNCAN GAY: I will start again. The Government opposes The Greens amendment No. 3. The two-year employment guarantee is consistent with the various transactions and appropriate in the circumstances. The ports transaction is quite different from the electricity generation transaction. Firstly, the assets will be leased, not sold. Secondly, enterprise agreement employees will have the choice of transferring to the private sector or remaining with the public sector. The Government has been very clear about this choice. When we met with the employees of Port Kembla Port Corporation the Treasurer used those words, and they have gone across to each of the areas.

The Hon. ROBERT BROWN [10.15 p.m.]: Ordinarily the Shooters and Fishers Party would support an amendment such as this.

The Hon. Jeremy Buckingham: But you have done a deal.

The Hon. ROBERT BROWN: The Hon. Jeremy Buckingham is correct. The Shooters and Fishers Party has done a deal with the Maritime Union of Australia. We specifically arranged a meeting with Unions NSW and the Maritime Union of Australia to ask whether they wanted the Shooters and Fishers Party to help them obtain a better deal on the transfer package—as we did with the electricity generator workers. The young gentleman from the Maritime Union of Australia, who I thought handled himself brilliantly, said, "Mr Brown, thank you very much. I do not mean to be rude but the Maritime Union probably does not need your help. We are happy with the deal we have got. We negotiated our deal with the Treasurer three months ago." The Shooters and Fishers Party cannot support this amendment because it does not know from where it has come.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [10.16 p.m.]: The Opposition supports The Greens amendment No. 3 because it proposes to increase workers' security and support.

Question—That The Greens amendment No. 3 [C2012-141A] be agreed to—put and resolved in the negative.

The Greens amendment No. 3 [C2012-141A] negatived.

Part 4 [Clauses 14 to 18] agreed to.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [10.18 p.m.]: I move Opposition amendment No. 2 on sheet C2012-143F:

No. 2 Page 17, clause 23 (2), lines 11 and 12. Omit all words on those lines.

This amendment addresses clause 23, which provides that "the Treasurer may by direction in writing to a port SOC adjust the objectives and functions of the port SOC in such manner as the Treasurer considers appropriate." However, clause 23 (2) says that "the objectives and functions of a port SOC may be adjusted under this section by being limited or dispensed with but not by being broadened". The State Executive can narrow down the focus of a port State-owned corporation and dispense with a number of the objectives provided for in legislation simply by direction in writing, but it cannot increase or broaden those objectives. It seems to be a remarkable form of a Henry VIII clause to allow the Executive to manipulate the legislation enacted by Parliament in a way that seems to be not only undesirable but also most unsatisfactory from a public policy perspective to dispense with matters that have been decided on by Parliament. We do not think this facility should be available to the Executive generally, but particularly not in this context. I urge the Committee to embrace Opposition amendment No. 2.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [10.20 p.m.]: The Government does not support Opposition amendment No. 2 simply because the words that the Opposition wishes to omit cannot be omitted. They exist in order to recognise that the port State-owned corporation post-transaction will be a scaled down entity with a smaller range of residual functions.

Dr JOHN KAYE [10.20 p.m.]: The Greens support this amendment even though I do not think it does what the Deputy Leader of the Opposition claims that it does. Removing subclause (2) of clause 23 will enable the Treasurer to broaden the scope of the objectives and functions of a port State-owned corporation but it does not require him to broaden the scope of the objectives and functions. It is unlikely that the Treasurer would do so, therefore there is no harm in deleting subclause (2). I do not think it would have any material impact on what the Treasurer will do. Treasury can still narrow the objectives and functions of a port State-owned corporation even without subclause (2). We would be removing a barrier against this Treasurer doing something that would not be in his nature to do. However, that being said, there is no harm in removing that subclause. The Greens support the amendment.

Question—That Opposition amendment No. 2 [C2012-143F] be agreed to—put and resolved in the negative.

Opposition amendment No. 2 [C2012-143F] negatived.

Part 5 [Clauses 19 to 23] agreed to.

The Hon. CATE FAEHRMANN [10.23 p.m.]: I move The Greens amendment No. 1 on sheet C2012-145:

No. 1 Pages 22 and 23, clause 32, line 34 on page 22 to line 38 on page 23. Omit all words on those lines.

This amendment essentially will remove clause 32, which provides for no cargo throughput limits for Port Botany. A number of members spoke to this provision in the second reading debate. Essentially this clause makes it illegal for any planning Minister in the future to implement a planning control that would impose a cargo throughput limit at Port Botany. During the second reading debate I mentioned that one of the conditions of consent on the Port Botany expansion in 2005 that was signed by the Minister for Planning, Frank Sartor, related to the port throughput capacity limit A1.4 that states:

Port capacity generated by operations in accordance with this consent shall be consistent with the limits specified in the EIS, that is a maximum throughput capacity at the terminal of 1.6 million TEUs per annum and a total throughput at Port Botany of 3.2 million TEUs. These limits may not be exceeded by the development without further environmental assessment and approval. Sydney Ports Corporation shall prepare or have prepared on its behalf such further environmental assessment for the determination of the Minister.

The Government lifted the port cap, which is in contradiction to the conditions of approval at the time. The Government lifted the cap without any environmental assessment and it has not referred in detail to any caps or congestion around the port. The Government included a provision in this bill that will make it impossible for a future government to impose any cargo throughput limit on Port Botany. No-one—not even the Minister who replied to debate on the second reading—explained that issue. We know that this Government will increase the

sale price but we do not know by how much. How much would a no throughput limit clause in this bill be worth to the sale price? Residents in Port Botany have been talking to me and to my office about what this will mean for their community. I urge all members to support the omission of this clause. It was short-sighted and selfish of this Government to include a clause that will make it impossible for a future government to impose a throughput limit of 20-foot equivalent units.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [10.27 p.m.]: This amendment is the same as Opposition amendment No. 3. I addressed this matter in my contribution to the second reading debate. We do not think that the banning of a cargo throughput limit for Port Botany is a good public policy outcome. There has not been adequate consultation with Port Botany residents. For a Government that claims be committed to returning local planning decisions to local communities this seems to be a most draconian reactionary provision and one that does not sit easily with its stated policy in this area. In addition, the removal of the cap on cargo throughput is a retrograde step. The Opposition support this amendment.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [10.29 p.m.]: The Government opposes the amendment moved by The Greens which is similar to Opposition amendment No. 3. The former Labor Government proudly told us that it spent \$1 billion to double the output of Port Botany. One would not spend that amount of money to double the output and not ensure that it occurred; it would be better to spend that money on a new port. These voodoo economics still permeate the Opposition. The Greens, once again, say that we have done this only to kick off the sale. It is self-evident that the cap had to be lifted to accommodate the extra capacity at Port Botany. If we did not lift the cap we would have had to spend an extra \$1 billion somewhere else.

That is the illogicality of it. The Greens ignored the fact that the previous Government considered lifting the cap. Indeed, even before the decision had been made to lease Port Botany, the Sydney Ports Corporation was looking at lifting the cap for the obvious reason that governments do not spend \$1 billion and not expect to get a return. Members opposite—the Labor Government did not deliver the Sydney metro; it spent \$500 million but not one rail was laid—should understand about spending huge amounts of taxpayers' money and not getting a return. They are lazy and incompetent. They have not learnt their lessons. That is why they are still sitting on the losers lounge.

Dr JOHN KAYE [10.30 p.m.]: Leaving aside the Minister's political invective, save for one comment I would have been convinced by what he said. I say convinced—

The Hon. Duncan Gay: What? Losers lounge?

Dr JOHN KAYE: No. I said leaving aside the political sledging in which the Minister engaged, the first part of his contribution would have persuaded me save for one thing. There is a difference between increasing a cap and removing a cap entirely. It is simple logic but it seems to have eluded the Government.

The Hon. Cate Faehrmann: You can never be too simple for Duncan.

Dr JOHN KAYE: I will take that guidance from The Greens spokesperson on ports.

The Hon. Duncan Gay: I didn't say a word.

Dr JOHN KAYE: When the Minister and the Hon. Cate Faehrmann finish their conversation I will continue.

The CHAIR (The Hon. Jennifer Gardiner): Order! Dr John Kaye has the call.

Dr JOHN KAYE: The Minister said that the output of Port Botany had doubled because of investments made by the previous Government. That might be an argument for doubling the cap, but it is not what clause 32 does. Clause 32 states that there will be no cap between now and 2111—for the next 99 years there will be no cap. The Minister has not argued why there should be no cap. He has only argued why the existing cap should be increased. He cleverly used the word "lifted", which can mean both increase and remove entirely. So either he has played a game with words or he does not understand the subtlety of what is happening. The subtlety is clear: clause 32 states that a cap cannot be imposed until I am 156 years old. It will be a long time until there is another cap. Indeed, it is forever; it goes beyond the 99-year lease period. There is a

difference. If the Government was of the view that the cap needed to be increased it could amend the planning instruments that maintain the cap. However, the clause states that no-one—not the State Government or local government—can impose a cap. There are no protections for local residents around Port Botany.

The Hon. Dr Peter Phelps: It's freedom, John.

Dr JOHN KAYE: Freedom is just another word for having a series of large trucks rumble past one's front door all day and all night. The Hon. Dr Peter Phelps might call it freedom but the residents of Botany call it a living hell. The legislation condemns the residents of Botany to ever-escalating local noise and attacks on their amenity. I commend The Greens amendment to the Committee.

Question—That The Greens amendment No. 1 [C2012-145] be agreed to—put.

The Committee divided.

Ayes, 18

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

Noes, 21

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

Question resolved in the negative.

The Greens amendment No. 1 [C2012-145] negatived.

Part 6 [Clause 24 to 32] agreed to.

Part 7 [Clauses 33 to 39] agreed to.

Schedules 1 to 5 agreed to.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [10.43 p.m.]: I move Opposition amendment No. 4 on sheet C2012-143F:

No. 4 Page 50, schedule 6 [5]. Insert after line 18:

Division 4 Miscellaneous

40H Social responsibility obligations of port operator

The port operator of a private port is to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate these when able to do so.

This amendment replicates part of section 9 in the Ports and Maritime Administration Act 1995 regarding the principal objectives of port corporations to ensure that their social responsibilities obligations are also imposed on any private operator or lessee of the Port Kembla and Port Botany ports. The Opposition believes this is a sound and necessary step to ensure consistency of corporate outlook in the New South Wales ports industries.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [10.44 p.m.]: The Government disagrees with the amendment. Laudable as it may be, it is ineffectual in its purpose. We believe the lease will impose better stewardship obligations on the port operator as to the manner in which it is required to operate the port than this amendment proposes.

Dr JOHN KAYE [10.44 p.m.]: The Greens do not oppose the amendment. It highlights one of The Greens' key concerns about the bill: that the private port operators will not have a sense of social responsibility, will not have regard to the interests of the community and will not endeavour to accommodate community needs. On the contrary, by definition, constitution and culture, a private corporation will operate to maximise its profits.

The Hon. Dr Peter Phelps: Hear, hear!

Dr JOHN KAYE: I take the enthusiastic support of the Government Whip as a statement of fact. The reality is that corporations behaving in that fashion will not conform to the needs and interests of the community. This amendment would not have a great impact if it were passed because it would be difficult to assess. It appears that it will not be passed, but it is worthwhile putting on the record that this is one of our key concerns about ports privatisation. I commend the amendment to the Committee.

Question—That Opposition amendment No. 4 [C2012-143F] be agreed to—put and resolved in the negative.

Opposition amendment No. 4 [C2012-143F] negated.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [10.46 p.m.], by leave: I move Opposition amendments Nos 5, 6 and 7 on sheet C2012-143F in globo:

No. 5 Page 54, schedule 6 [18], proposed clause 66C. Insert after line 17:

- (2) A port infrastructure charge may only be fixed with the approval of the Minister.
- (3) Before giving approval under this section, the Minister must refer the matter to the Independent Pricing and Regulatory Tribunal for investigation and report under section 12A of the *Independent Pricing and Regulatory Tribunal Act 1992*.

No. 6 Page 55, schedule 6 [21]. Insert after line 22:

80 Charges and rent require approval of Minister

- (1) The port operator of a port to which this Part applies cannot impose a service charge or change the port operator's service charges (whether the change is a variation of an existing charge, the imposition of a new charge or the removal of an existing charge) without the approval of the Minister.
- (2) Rent payable under a lease or licence granted by the port operator of a port to which this Part applies is subject to the approval of the Minister (and cannot be charged without that approval) if the rent:
 - (a) is payable under a lease or licence entered into after the commencement of this section, or
 - (b) is payable pursuant to a variation after the commencement of this section of the rent payable under a lease or licence entered into before or after the commencement of this section, except where the amount of the variation (or the method of its calculation) has been agreed to by the parties.
- (3) Before giving approval under this section, the Minister must refer the matter to the Independent Pricing and Regulatory Tribunal for investigation and report under section 12A of the *Independent Pricing and Regulatory Tribunal Act 1992*.
- (4) The Minister's approval under this section must not be unreasonably withheld.

No. 7 Page 59, schedule 6 [21], proposed clause 84, line 2. Omit "may". Insert instead "must".

Amendment No. 5 amends the bill at page 54, which deals with the fixing of port infrastructure charges by the relevant port authority. Amendment No. 6 deals with service charges and rents. Both amendments similarly subject the fixing of charges by requiring the Minister's approval but, additionally, also provide that before any approval is given under the relevant sections the Minister must refer the matter to the Independent Pricing and Regulatory Tribunal for investigation and report under section 12A of the Independent Pricing and Regulatory Tribunal Act.

Amendment No. 7 deals with the publication of these charges under new section 84 "Reports and statements by Minister." The amendment changes the wording that the Minister "may from time to time publish reports and statements, based on information provided or obtained under this Part, about the service charges ..." to require the Minister to do so. Together, the amendments form a consistent whole. This is the core part of our major concern about the bill: the ability of the private operator to price gouge to impose charges and the like without any oversight or scrutiny.

The CHAIR (The Hon. Jennifer Gardiner): Order! I remind the Hon. Sophie Cotsis that she is on two calls to order.

The Hon. ADAM SEARLE: We believe the appropriate oversight and scrutiny is through the Independent Pricing and Regulatory Tribunal process coupled with the ultimate requirement that any price fixed must be approved by the Minister from time to time. That simply ensures some kind of democratic accountability or, indeed, some accountability to someone because this is a monopoly, although at the moment a public one, with governance requirements through the State's agencies. If privatised, albeit through a 99-year lease, there will be no scrutiny or oversight when there should be. It is no good saying after the fact, "Oh, shock, horror! There has been some terrible price gouging." These people cannot just pick up sticks and move to Brisbane, because they do business here in New South Wales.

In addition, any subsequent action by the State, whether through reregulation for new legislation, for example of the kind that we have spoken about, may well affect the valuable property rights of the private lessee and cause the State potentially to be exposed to compensation payments, or at least an expensive argument about whether they should flow. If we build it into the regulatory framework before the lease is entered into that problem or difficulty for the State—even if it is a straw man—is removed from consideration. This is a prudent measure, a democratic governance measure and one that should be embraced as a matter of financial prudence, if for no other reason. As I have indicated in my second reading contribution and here, there are very sound public policy reasons why this amendment should be adopted.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [10.50 p.m.]: I thank the honourable member for moving the amendments in globo. His consideration of the Committee at this hour is welcomed. In regard to amendments Nos 5 and 6, I believe I addressed them in detail in reply as far as they related to the questions raised by the Hon. Robert Brown in his contribution, but in addition and in response to amendment No. 5: the lease will require the Minister to approve any project which would be subject to a port infrastructure charge. All port charges will be subject to the price monitoring regime to ensure that those charges are reasonable. The Minister has the ability to refer any charges deemed to be unreasonable to the Independent Pricing and Regulatory Tribunal for review, and certainly that is something we would not hesitate to do. There was debate on that matter earlier.

We do not agree with amendment No. 6. Rental terms are determined between two private parties and government under contract law. The Government has no role in setting these terms. Port charges and prices certainly will be subject to a rigorous and transparent pricing regime. The Government can refer any pricing concerns to the Independent Pricing and Regulatory Tribunal for a full review. We also do not agree with amendment No. 7. The bill requires the port operator to publish relevant information on its website. The discretion provided to the Minister avoids potential duplication of reporting and allows information provided to the Minister, which may be commercially sensitive, to be withheld appropriately.

Question—That Opposition amendments Nos 5 to 7 [C2012-143F] be agreed to—put.

The Committee divided.

Ayes, 18

Ms Barham
Mr Buckingham
Ms Cotsis
Mr Donnelly
Ms Faehrmann
Dr Kaye
Mr Moselmane

Mr Primrose
Mr Roozendaal
Mr Searle
Mr Secord
Ms Sharpe
Mr Shoebridge
Mr Veitch

Ms Westwood
Mr Whan

Tellers,
Ms Fazio
Ms Voltz

Noes, 21

Mr Ajaka
Mr Blair
Mr Borsak
Mr Brown
Mr Clarke
Ms Cusack
Ms Ficarra
Mr Gallacher

Mr Gay
Mr Green
Mr Harwin
Mr Khan
Mr Lynn
Mr MacDonald
Mr Mason-Cox
Mrs Mitchell

Reverend Nile
Mrs Pavey
Mr Pearce

Tellers,
Mr Colless
Dr Phelps

Pair

Mr Foley

Mrs Maclaren-Jones

Question resolved in the negative.

Opposition amendments Nos 5 to 7 [C2012-143F] negatived.

Schedule 6 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Duncan Gay agreed to:

That the report be adopted.

Reported adopted.

Third Reading

Motion by 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.

SAINT JOHN'S COLLEGE AMENDMENT BILL 2012**Second Reading**

The Hon. MARIE FICARRA (Parliamentary Secretary) [11.02 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.

We are all aware of the recent problems facing the community of the Saint John's College within the University of Sydney. Adding to these problems, a large number of the fellows of the governing council of the college have now resigned so that a quorum of the council no longer exists. The lack of a quorum means that governance of the college is now in limbo. The Saint John's College Amendment Bill being introduced today has been prepared following a request for assistance from the University of Sydney and the Roman Catholic Archbishop of Sydney. The bill deals with the immediate problems facing Saint John's College by providing for an alternative process for appointment of fellows of the Council in these unusual circumstances.

Like other residential colleges within the University of Sydney that were established in the mid-nineteenth century, Saint John's College was created by a Private Act of the New South Wales Parliament. The Saint John's College Act 1857 establishes the

college's governing council as a corporate entity and contains a basic governance framework. The Act provides for the college to be governed by a council consisting of 18 fellows—of which six are to be priests and 12 are to be laymen—and a rector, appointed by the fellows. The Act also provides that the Roman Catholic Archbishop of Sydney is the "visitor" of the college. As the visitor, the archbishop has limited oversight functions but is not authorised to appoint members of the council when unexpected mass vacancies arise. Section 13 of the Act provides that the council must have at least one clerical and two lay members for a quorum to exist. To deal with the need to restore and maintain a quorum of the council, the bill provides that where there are no clerical fellows and/or no more than one lay fellow, then all fellow positions become vacant.

The bill also provides that in these circumstances the archbishop is to appoint 18 new clerical and lay fellows of the council for terms of up to three years. The archbishop's appointments must be done in consultation with the Vice Chancellor of the University of Sydney. This consultative approach will ensure that the broader interests of the university community are considered under the new arrangements. Where there is a vacancy in the office of a fellow appointed by the archbishop, then the archbishop may also appoint another fellow for the remainder of the term of the fellow vacating the office. The university and the archbishop have asked the Government to urgently address the issue of the appointment of fellows of the council of Saint John's College and it has done so by introducing this bill. I commend the bill to the House.

The Hon. PENNY SHARPE [11.03 p.m.]: I speak for the Opposition in debate on the Saint John's College Amendment Bill 2012. The Opposition does not oppose this bill. It has arisen as a result of the council of Saint John's College being rendered inoperative as a result of the lack of a quorum following the resignation of its fellows. The object of this bill is to amend the Saint John's College Act 1857 to enable the Archbishop of Sydney, in consultation with the Vice-Chancellor of the University of Sydney, to appoint clerical and lay persons to fill the resultant vacancies on the council for terms of up to three years, to enable the council to govern the college.

The Hon. Robert Brown: Point of order: I cannot hear a word the speaker is saying.

The PRESIDENT: Order! Members who wish to engage in private conversations will do so quietly or move into the members' lounge.

The Hon. PENNY SHARPE: Members will be aware that Saint John's College has been beset by problems due to poor student behaviour and a culture that has developed over time that is nothing less than ugly. Student initiation practices have resulted in students being hospitalised and the college has received widespread negative media attention. The college has been governed by a council that comprises 18 fellows, of which six are priests. The archbishop is the visitor of the college with his own powers set out in the bylaws. The council cannot meet without at least one priest attending. Recently, as a result of the unresolved troubles at the college Cardinal Pell had all the priests resign from the council. All other fellows bar one have also resigned and the council is now inoperative.

It would appear that the council has become dysfunctional with some members unwilling, and others unable, to address the culture and behaviour issues at the college. The college, in a sense, is in limbo without being empowered to deal with the significant issues found at the college. The introduction of this legislation has the support of Cardinal Pell and the vice-chancellor of Sydney university, Michael Spence. The legislation will enable the cardinal to remove the remaining fellow and appoint a new council for three years. After that time the process of filling council positions will revert to what is set out in the bylaws. This bill addresses the immediate problem that there is currently no governing body for the college, making it difficult to put in place the necessary reforms to change the college culture and ensure students' welfare, which is paramount. The university and Cardinal Pell are keen to have the issue addressed before the start of the 2013 university year.

As my colleague the shadow Minister for Education said in the other place, the Opposition supports this legislation. The Opposition believes it is only a first step. The community will expect more to be done to address the problems at the college. The Opposition believes there must be clear policies and mechanisms to stamp out bullying, sexual harassment and initiation ceremonies and there must be effective complaints handling procedures. Those residents and former residents who place tradition above the welfare of the current students must understand that this has no place in a modern contemporary residential college. Other colleges have experienced similar problems from time to time.

College life is an important experience for undergraduates. Parents entrust these colleges to create a safe environment for their children. From recent reports it is clear that those colleges are letting children and their parents down. The Opposition makes it clear that it expects further action as a result of the review from Sydney university. The Opposition understands that this will require further legislative reform and it intends to continue to monitor this process. Should further action not be forthcoming in a timely way the Opposition will have no hesitation in bringing forward legislation of its own. The Opposition recognises the necessity of this bill but indicates that it views the bill as a first step. The Opposition supports the bill.

Dr JOHN KAYE [11.08 p.m.]: I speak on behalf of The Greens in debate on the Saint John's College Amendment Bill 2012. The Greens do not oppose the bill and will not be voting against it. The Greens have a number of amendments to move. This legislation is seen by The Greens as a lost opportunity to begin the process of addressing the substantial and well known problems at Saint John's College. It is clear that an elitist culture has emerged at Saint John's College that has produced an environment of bullying, harassment, sexism and hazing. It is an environment which has compromised the welfare not only of some of the students at Saint John's College but also other students at Sydney university and is undermining the reputation of Sydney university. When these allegations were made public some parents and former residents of the college closed ranks and attempted to protect the college and the culture of the college against modernisation.

It is very clear that there needs to be substantial change in the way the college is governed. We are dealing with a piece of legislation from 1857 that has only one substantial change to it. The council of the college is a self-perpetuating body in which the majority of fellows appoint themselves and replicate themselves. Such institutions have no place in the twenty-first century. The council of the college has failed dismally to support the current rector in his attempts to reform the college. Without a council that will stand behind the rector and help the rector transform the college and stop the environment of bullying, harassment and hazing and the deeply sexist culture that has emerged at St John's there will be no changes.

There is nothing in this legislation that is worth opposing. It simply allows the visitor, the Catholic Archbishop of Sydney, in consultation with the Vice-Chancellor of the University of Sydney, to reappoint the council, which is now no longer in existence because of the resignation of a number of its members and the forced resignations of the priests on the council. The bill does nothing other than restart what is clearly a non-functional system. We will be moving amendments to address that non-functionality, which we hope the Committee will consider. However, The Greens will not oppose the legislation. We express our disappointment at the failure of the Government, the archbishop and the University of Sydney to at least make a start on a very important reform process that we recognise needs to go beyond St John's College and take in all the other exclusive colleges at the University of Sydney.

Reverend the Hon. FRED NILE [11.11 p.m.]: On behalf of the Christian Democratic Party I support the Saint John's College Amendment Bill 2012. The bill will assist the Catholic Archbishop of Sydney, Cardinal George Pell, to appoint a governing council to the troubled St John's College at the University of Sydney. All but one of the members of the college's governing council resigned last week following weeks of reports that the 150-year-old Catholic college council had been plagued by widespread vandalism and other bad behaviour. Clearly, strong action needs to be taken to rectify that. There was perhaps some exaggeration in media reports, but there needs to be a process of reform in the college and I believe that will be done by the council to be appointed by Cardinal Pell.

The reports of bad behaviour prompted Cardinal Pell to ask the priests on the council to resign as the council had lost his confidence. The resignations meant the council was unable to make decisions relating to the college and fulfil its legal obligations as it did not have a quorum. This included the council being unable to address more than 35 complaints by students and others against the college rector, Michael Bongers. Under existing legislation that created St John's in 1857, Cardinal Pell is classified as the "visitor", a position that gives him certain powers. The visitor has some oversight powers but is not able to appoint members of the governing council when unexpected mass vacancies arise. The existing legislation states that the council must have at least one clerical and two lay members to achieve a quorum. These appointments must now be undertaken in consultation with the vice-chancellor. Where there is a subsequent vacancy, the archbishop may also appoint another council member for the remainder of the term. I congratulate the Government on its prompt action in assisting St John's to function with a reinstalled college council.

As members will know, the College of St John the Evangelist was founded on 1 July 1858 with the proclamation of the Saint John's College Act. It was one of the first Acts passed by the Parliament; the Legislative Assembly was only formed in 1856. Its founder, Archbishop Polding, named it after the author of the fourth Gospel. The symbol of the college is therefore the eagle, the traditional symbol of St John, denoting a high-flying perspective of the world. The college began life with a Benedictine foundation and its buildings reflect that tradition. To a large extent that tradition still exists there today. Sadly, the misbehaviour that has been reported is contrary to the whole purpose of St John's. The college admits students in the hope that they will develop in personal growth and discernment of their place in and contribution to the world. A profound sense of citizenship, generosity to the underprivileged and the cultivation of the gospel values in daily life and business are virtues it seeks to promote. These are the aims of St John's College but there has clearly been a breakdown in transmitting those values to the current students.

However, the college admit students of all faith commitments—not all the students are Catholic—because it accepts the ecumenical spirit that students from other religious traditions will contribute and complement the distinctly Christian and Catholic character of the college. I cannot say that the misbehaviour was by the non-Catholics or by the Catholics; I do not have that information. It does mean there is a mixed group of people in the college. St John's is the oldest Catholic tertiary college institution in Australia. It seems likely that it was the first Catholic college to be established in a pre-existing non-Catholic university in the English-speaking world since the Reformation, which makes it quite a historical college. We support the bill.

The Hon. CATHERINE CUSACK [11.16 p.m.]: I understand members' concerns about St John's College, which has had a battering in the media. I speak as a parent of one of the first-year students at St John's who has allegedly been victimised and terrorised. I simply state for the record that for my son and for many other children that has not been their experience at St John's. In fact, as parents we have read with amazement the media coverage of the college being out of control and there being a culture of elitism. I can only speak from my own perspective: My son has absolutely thrived. He was a 17-year-old country kid coming to Sydney. We were so desperate for him to get that pastoral care in Sydney and we only just got him into the college after a last-minute cancellation. He has a job two days a week as do most other students at the college. My experience of those young people is that they are absolutely outstanding. In fact, they stun me with their conversation and knowledge, and their work in the community, which is all part of the admissions process at St John's.

The young people I have encountered are wonderful and I really feel for them because of the stigma that a lot of this media coverage will have attracted. On the other hand, I have not been at all happy about the brawl that has gone on between the adults—between the governing council and the rector. Again, speaking not as a member but as a parent, I look to the rector of the college for the welfare of my son and I expect he needs the authority to discipline students and enforce a regime. I certainly would hold him accountable for that. The role of the governing council in trying to micro-manage discipline in the college triggered this whole problem in the first place. I do not think it has done any good for the students who were in trouble initially. It is a pity they were not allowed to serve their punishment, show remorse and move on. The role of the governing council in coming in over the top has just been disastrous.

I thank the Premier and I thank Cardinal Pell. I also thank the rector and the people behind the Saint John's College Amendment Bill 2012. I simply state for the record that the picture of the students that has been conveyed in the media has not been our experience. St John's College has been a marvellous institution for Catholics at a time when we were not able to obtain education and similar privileges. Many esteemed and respected people in this country have spent time at St John's College, and the smear on the college is disproportionate and unfortunate. Governance issues are being addressed, and with goodwill the college will be able to move forward.

The Hon. MARIE FICARRA (Parliamentary Secretary) [11.19 p.m.], in reply: I thank the Hon. Penny Sharpe, Dr John Kaye, Reverend the Hon. Fred Nile and the Hon. Catherine Cusack for their contributions to this debate. They all brought different perspectives to it, and I thank them for that. Reverend the Hon. Fred Nile reminded us of the historical past of St John's College. The Hon. Catherine Cusack spoke from the personal perspective of a parent. I thank them for their support for the Saint John's College Amendment Bill 2012. The bill has been prepared following a request for assistance from the University of Sydney and the Roman Catholic Archbishop of Sydney to address the current situation which, following the resignation of a number of fellows of the Council of St John's College, has left the council without a quorum. This bill will amend the St John's College Act to provide for an alternative process for appointment of fellows of the council of the college where a quorum of the council no longer exists.

The bill provides that in those circumstances the Roman Catholic Archbishop of Sydney, in consultation with the Vice-Chancellor of the University of Sydney, is to appoint the fellows of the council. The Government has acted quickly, but it also recognises that the bill does not of itself address the wider issues of the college that we have heard so much about recently in the media. In response to some of the concerns that were raised in the second reading speeches, I point out that the university has advised that there is a longer-term general review of the relationship between the University of Sydney and the council being undertaken by the Vice-Chancellor of the University of Sydney. This review of the legislation governing the colleges is being initiated by the vice-chancellor in consultation with the heads of the various colleges. It is the opinion of the Government that that review should be allowed to proceed. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 and 2 agreed to.

Dr JOHN KAYE [11.23 p.m.], by leave: I move The Greens amendments Nos 1 to 6 in globo on sheet C2012-165A:

No. 1 Page 3, schedule 1 [5], line 22. Omit "visitor". Insert instead "Minister for Education".

No. 2 Page 3, schedule 1 [5]. Insert after line 26:

(3) Of those appointed fellows:

- (a) at least 50% are to be women, and
- (b) at least 50% are to be persons who together have expertise in the following areas:
 - (i) dealing with bullying behaviour and institutionalised bullying,
 - (ii) gender equality and dealing with sexual discrimination in institutions,
 - (iii) dealing with the dangerous consumption of alcohol,
 - (iv) the prevention of, and dealing with, delinquent and violent behaviour,
 - (v) developing strategies for dealing with the victims of bullying and harassment.

No. 3 Page 4, schedule 1 [5], line 1. Omit "visitor". Insert instead "Minister for Education".

No. 4 Page 4, schedule 1 [5], line 5. Omit "visitor". Insert instead "Minister for Education".

No. 5 Page 4, schedule 1 [5], line 8. Omit "visitor". Insert instead "Minister for Education".

No. 6 Page 4, schedule 1 [5], line 11. Omit "visitor". Insert instead "Minister for Education".

In proposing these amendments to the bill I appreciate the contribution of the Hon. Catherine Cusack, who reported that her son has had no difficulties with the reported bullying, harassment or hazing. I am genuinely pleased that that is the case. However, there is evidence that this behaviour is going on, and it is important that it be addressed. I acknowledge the statement of the Parliamentary Secretary that a review is underway, and that is a good thing. I understand that review captures more than just St John's College. However, in the meantime, the issues at St John's College continue. The rector is effectively isolated. The council itself is now no longer in existence. When it was in existence it comprehensively failed to support the rector, the parents and former residents—the old boys, or the old Johnsmen as they are called—continued to rally round a culture that can only be described as offensive by the most modern thinking people in New South Wales.

I think this legislation is a lost opportunity to at least begin the process of addressing some of those issues—not in any way to forestall or undermine the review, but at least to make a step forward. The amendments that I have put forward tonight are simply an attempt to do that. Amendment No. 1 replaces the "visitor". Amendments Nos. 1, 3, 4, 5 and 6 omit the word "visitor" and replace it with the words "Minister for Education". Effectively, that means that it is the Minister for Education who makes the appointment of the new council, not the Catholic Archbishop of Sydney. The Archbishop of Sydney has been associated with the previous council, although eventually when the public became aware of the problem and it became an issue in the media the Archbishop pulled the plug by withdrawing the remainder of his priests who were on that council, thereby making it inquorate and non-functional and thereby precipitating the crisis that the bill will address.

I am glad that the Archbishop did that because the previous council was appalling. The Roman Catholic Archbishop had an opportunity to do that for the past decade but had not acted. This matter has gone beyond the competency of the Catholic Church to deal with. This is a matter that should now be dealt with by somebody outside the existing problems. To that extent, we are saying that it should no longer be the visitor, that is, the Archbishop, but instead should be the Minister for Education. Amendment No. 2 acknowledges the fact that the council in the past has not shown adequate diversity in understanding the problems of running an institution such as St John's College, has made no attempts to break down the elitism, has made no attempts to break down the culture of entitlement, the culture of harassment, the culture of sexism, the culture of hazing and the culture of bullying.

To that extent, we need a new look at that council; and our amendment No. 2 attempts to create a council that would do that—first of all by saying that at least 50 per cent of that council has to be female, and

because it is an odd-numbered council it means that about 53 per cent of the council has to be female; and, secondly, to recognise that there is a significant problem with councils that are dominated by men. The second part of new subsection (3) requires that at least 50 per cent of the people who have been appointed to the council have expertise in dealing with the nature of the problems confronted at St John's College: bullying behaviour and institutionalised bullying, gender equality issues and dealing with sexual discrimination, dealing with the dangerous consumption of alcohol, the prevention of and dealing with delinquent and violent behaviour, and developing strategies for dealing with the victims of bullying and harassment.

Those are key tasks ahead of the new council. This council needs to have those qualifications. It needs to be comprised fully by people who have modern understandings of the causes of these kinds of problems and the way they are addressed, so that the consequences of past behaviours are addressed amongst those who have been the victims of them. This is not an attempt to undermine the legislation. It is an attempt to strengthen the legislation, to allow a new council to be appointed, one that is capable, competent, willing and focused on addressing the institutionalised problems of St John's College. I commend the amendments to the Committee.

The Hon. MARIE FICARRA (Parliamentary Secretary) [11.29 p.m.]: The Government does not support The Greens amendments Nos 1, 3, 4, 5 and 6: namely, that the Minister for Education rather than the visitor—that is, the Catholic archbishop—have the role in consultation with the vice-chancellor to remove remaining fellows or new fellows, fill fellow vacancies and convene the first meeting of council. The Saint John's College Act 1857 is one of a number of nineteenth century Acts that have passed through the Parliament as a private Act. The private Acts are not allocated to the administration of any particular Minister, nor are the private institutions they establish responsible to a Minister.

The Act regulates the affairs of a private institution: St John's College. The college was established by the Catholic archdiocese, whose representative is the archbishop, and it continues to be a Catholic college where students receive religious instruction and observe the doctrines of the Catholic Church. Given these historical and continuing links and oversight, it is appropriate that the Catholic archdiocese, through the archbishop, has an instrumental role in these ways set out in the proposed sections. It is also consistent with the current provisions of the Saint John's College Act that provide that the archbishop appoints six of the 18 fellows of the council in regular circumstances.

The Government considers that institutions and their stakeholders are best placed to make decisions about who serves on their boards. In this case it is the archbishop and the vice-chancellor, and that is why we proposed the Universities Governing Bodies Act 2011 where the ministerial involvement in the governance of the public universities was decreased. Ministerial appointments were reduced from six to possibly two governing body members if the universities chose to adopt the new governance model set out in that Act. As a Government we wanted to roll back red tape and give more power to the institutions. Accordingly, the Government does not support these amendments.

The Greens amendment No. 2 is a prescriptive membership of the governing body. The Government does not support this amendment. The bill contains amendments that have been requested by the university and by the college. As the Premier said today in that other place, this bill is about addressing the immediate issues facing the council of St John's College—that is, that a quorum of the council no longer exists. The Government considers that institutions and their stakeholders are best placed to make decisions about who serves on their governing bodies. The governing bodies need a broad range of expertise, ranging from financial expertise, legal expertise, people experienced in education, the arts, youth, and so on. This range should include people who are knowledgeable in bullying and harassment and the strategies to address these serious issues. It should also include women.

However, the proposed prescription in these amendments is too restrictive. The Government recognises that the bill does not address the wider issues regarding the college that we have read about in the media recently. The university has advised that it takes a serious longer-term general review of the relationship between the University of Sydney and the various colleges. This review of the legislation governing the colleges is being initiated and undertaken by the vice-chancellor in consultation with the heads of the colleges. That review should be allowed to proceed. Accordingly, the Government does not support The Greens amendment No. 2.

The Hon. PENNY SHARPE [11.33 p.m.]: The Opposition does not support the amendments moved by The Greens. We do not believe it is the role of the Government to appoint the council for St John's College. To do so at this point, with no consultation with the university and the college, is an overreach. While we have

some sympathy with respect to trying to shape what the new council should look like, we believe what is set out in the amendments is too prescriptive. The Opposition has consulted with both the university and the archdiocese in respect of this bill. The bill we have before us is their preferred way forward.

As I indicated during the second reading debate, this is the first step. We will be monitoring very closely the ongoing development of the review and how these issues are tackled not just at St John's College but across all the colleges at the University of Sydney. Whilst we believe The Greens have moved these amendments in good faith, it is late in the day—we have not been in a position to consult with the university or the archdiocese at this late hour. We have some sympathy with 50 per cent of the board being women. We will look closely at it, but at this stage we will not support the amendments.

Reverend the Hon. FRED NILE [11.35 p.m.]: The Christian Democratic Party does not support the amendments moved by The Greens. It would be a very high-handed action to replace the Catholic archbishop in charge of a Catholic institution with the Minister for Education. I believe the status quo should be maintained. I have great confidence in the archbishop and the people he will appoint to ensure that there will be correct Catholic behaviour and discipline at St John's College from now on.

Question—That The Greens amendments Nos 1 to 6 [C2012-165A] be agreed to—put and resolved in the negative.

The Greens amendments Nos 1 to 6 [C2012-165A] negatived.

Schedule 1 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Marie Ficarra, on behalf of the Hon. Michael Gallacher, agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Marie Ficarra, on behalf of the Hon. Michael Gallacher, agreed to:

That this bill be now read a third time.

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

ADJOURNMENT

The Hon. DUNCAN GAY (Minister for Roads and Ports) [11.38 p.m.]: I move:

That this House do now adjourn.

NATIONAL BIG STEPS DAY

The Hon. HELEN WESTWOOD [11.38 p.m.]: Last Saturday, 17 November, was the National Big Steps Day. This event was organised by the childcare union, United Voice, and was an outstanding success, with 13,000 childcare educators, parents, supporters, families and the clients of the services—the little ones—gathering Australia-wide in support of the event. I was proud to be part of this gathering. Approximately 3,000 United Voice members and families attended the Sydney event, which was held in Hyde Park. We all made a spectacular display when we turned out dressed in red. It was inspiring to see the fabulous turnout in the other States reported on the news. Melbourne attracted 2,000; Adelaide, 4,000; Brisbane, Cairns, Gladstone,

Mackay and Townsville, 1,500—despite a cyclone—Canberra, 700; Perth, 600; Hobart, 900; and Darwin, 200. What a great show of union strength. United Voice is a proudly diverse union with a long history striving for a better deal for workers in many industries—childcare being one of them.

Earlier this month I was invited to visit Goodstart at Hassall Grove where I spoke to the director, Jonelle Kuiper, the educators and parents about the crisis in early childhood education care and the huge pay inequity. It was explained that a centre director, responsible for staff and 40 to 59 children, could be paid as little as \$27 per hour. This is outrageous. Last Saturday we turned out in great numbers to celebrate all the hard work our early childhood educators do in a sector that quite rightly demands quality in education and care. Our early childhood educators are striving to take big steps to achieve quality of education and equity in pay. We need to pay our workers according to their professional skills and ability, and not suppress wages because the sector is predominately women workers.

The statistics are appalling and people should recognise that 97 per cent of workers in early childhood education and care are women; that a certificate 3 qualified educator is paid as little as \$18.58 an hour under the award, or \$650 per week gross for a 35-hour week; and that certificate 3 qualified tradespeople are regularly paid \$10 an hour more than that, and gross over \$1,000 per week. This pay inequity is not acceptable and it is not viable. It is not viable for the workers or for the businesses and it will not provide a stable future for quality outcomes in early childhood education and care. Every child has a right to quality education and care and every parent has a right to access quality education and child care at a reasonable cost. New South Wales Secretary of United Voice, Mark Boyd, addressed the crowd in Sydney and said:

We know quality is important, that is why the childcare union United Voice fought for years to have the national quality framework implemented. However, despite quality standards, the sector is not delivering consistent quality in wages and conditions. We have a fundamental disconnect because early childhood education and care services cannot afford to pay higher wages and parents cannot afford to pay higher fees. The system itself cannot fix the problem—it requires Government intervention. The time has come for the federal Government to fund professional wages in early childhood education and care. Big steps activists in our union having been working to win professional wages: the work you do in early childhood education and care is critical to our union and critical to all of us. It is critical to our nation and our children's future. As a union, we celebrate today the huge efforts you have put in. We know we have to keep making noise to make the Government hear us.

The union is correct. Unfortunately, the neo-Liberal system of fee relief for child care that we inherited from the Howard years is not working and needs an overhaul. According to Eva Cox, Tony Abbott's announced Productivity Commission does not go far enough. She said:

If you run a business, small or large, you decide your costs, prices and quality of product as part of your sales pitch. You set the fees at the level the market will bear which maximises profits. As most of those running child care services now want and need to make a profit, costs rise and [the] services [thus] provided [are available only] to those who can [afford to] pay. The results were problems with quality of care and costs, but also mal-distribution of services and places. The standardised rebate paid the same for babies so it made little commercial sense to offer places. Extra hours pushed up costs, so flexible hours went and many parents found it very hard to find affordable accessible care where needed.

I applaud United Voice for taking up the challenge on behalf of its members and the industry. What a spectacular way to stage a protest that draws so much positive media attention, together with member and community participation. The Hon. Penny Sharpe attended, and the Hon. Linda Burney and I performed *I'm a Little Teapot*, with actions, in support of those workers. It is important for us all to remember that in the past 200 years all the gains that have been made by workers in wages and conditions and workplace safety have been achieved through their unions. Power to them.

WASTE LEVY

The Hon. CATHERINE CUSACK [11.43 p.m.]: On 1 July this year Queensland Premier Campbell Newman made good his election promise to scrap Queensland's \$35 levy on each tonne of waste going to landfill. On that same day the New South Wales waste levy for the Sydney metropolitan area increased from \$82.20 to \$95.20 per tonne. In the Hunter and the Illawarra the waste levy went up from \$78.60 to \$93. In the regional regulated areas it increased a whopping 36.3 per cent from \$31.10 to \$42.40. This meant that on 30 June this year it was \$47 cheaper to landfill a tonne of waste in Queensland compared with Sydney. At the stroke of midnight, Queensland became \$95.20 cheaper per tonne. For the rural regulated areas, including Ballina Shire, sending landfill to Queensland went from being \$3.90 more costly to \$42.20 cheaper.

The waste industry is super competitive, so when two State governments pursue totally opposite policies that blow the regulated financial settings to pieces, the market responds instantly. Queensland is now a vortex sucking in New South Wales waste. The financial incentive to transport waste to Queensland is so

compelling that hundreds of tonnes of contaminated waste from Barangaroo is now being trucked to Queensland landfills. Members should do the maths. Our B-doubles can legally carry 40 tonnes per load. Sydney Waste Contractors save \$3,808 per truck by driving to Queensland and the contractor further profits from cheaper gate prices at Queensland landfills. I will give two examples of how the regulatory burden in New South Wales increases landfill costs while accomplishing nothing for the environment. The North East Waste Forum, representing five far north councils, including Ballina, writes:

(Our) environmental protection licence(s) requires Council to place a minimum 150 cm of clean cover onto the waste filling face each day. Council must pay the waste levy on this clean cover material that is brought onto the site. Charging the waste levy at the gate is having the effect of driving this material away.

The result is that soon Councils will have to pay to win and cart material to the site and then charge itself the waste levy to meet requirements for covering waste ... there is no valid reason as to why clean cover material that is an operational requirement from one arm of the NSW Government is then being levied by another.

Shoalhaven City Council fell foul of the levy when it built a muster area for customers entering the landfill site to manoeuvre vehicles to transfer waste. Building a compliant, safe and hygienic muster area involved filling boggy land with 1,000 tonnes of crushed material, which was compacted and then sealed. Shoalhaven City Council has had to pay \$100,000 in landfill levies for the base material used in the muster area. This has to be recovered through increased consumer charges. I am utterly astonished by this bizarre application of the levy.

What is wrong with sending our waste to Queensland? It costs New South Wales taxpayers a fortune in foregone revenue. Every 1,000 tonnes of waste lost to New South Wales landfill is a \$95,000 loss to taxpayers. The landfill levy yielded \$433 million in the 2012 year and is supposed to raise \$460 million this year. These are threatened revenues that the State needs to protect to pay for services. It is an anti-environment measure to dispatch fleets of B-double trucks full of rubbish from Sydney to Queensland. It thwarts the very intention of the policy, which is to promote recycling, and it has led to a massive increase in illegal dumping.

It is also a terrible thing to add thousands more truck trips on the Pacific Highway. In 2006 I encountered a shocking accident on the Pacific Motorway at Yatala in Queensland. A north-bound truckie had lost control of his vehicle, struck the median strip, became airborne and flew into four lanes of oncoming traffic. He landed on top of a ute and skidded north for 100 metres, ploughing through south-bound traffic. I drove past a scene of utter horror and could do nothing but pray for the victims. There was rubbish everywhere. I prayed that it was not Ballina rubbish, but it was. Ballina rubbish, my rubbish, destined for cheap Queensland landfill, spewed across the motorway, cloaking death, wreckage and mayhem. Trucking garbage to Queensland is beyond bizarre, it is dangerously stupid. It is textbook, regulatory perversity and it will not self-correct.

In January this year the Minister for the Environment announced a review of the waste levy. On behalf of stakeholders, I urge her to conclude this very lengthy review and to deliver an outcome. She is aware of the issue because the Environment Protection Authority tracks the interstate movement of waste. I urge the Deputy Premier, who established the Cross-Border Commissioner, to examine the issue. I met him last April and warned of the looming debacle. However, in his listening tour report he cited 500 issues that were raised; he was clearly swamped with issues. The Minister for the North Coast could assist because the current clause will destroy recycling incentives on the North Coast. I also ask the Treasurer to recognise the costs to the State and the need to protect State revenue. In seven months the levy will again increase and the problem will significantly worsen. I appeal to my Government to prioritise a solution.

ISRAELI-PALESTINIAN CONFLICT

The Hon. WALT SECORD [11.48 p.m.]: On Sunday 18 November 2012 I had the honour of being the official New South Wales Labor speaker at a rally held at Bondi's Mizrahi Synagogue in support of Israel in light of the rocket attacks from Gaza. Similar rallies were held in Melbourne and Canberra. The Sydney rally was sponsored by the State Zionist Council of New South Wales and was chaired by its president, Mr Richard Balkin. Members of this Chamber are well aware of my support for Israel. I am the deputy chair of the New South Wales Parliamentary Friends of Israel and a former journalist at the *Australian Jewish News* and I have had a lifelong personal connection with the Jewish community. I am a nominal Christian who supports and believes in Zionism. I shared the weekend platform with my parliamentary colleague the member for Vacluse, Mrs Gabrielle Upton, who is the chair of the New South Wales Parliamentary Friends of Israel.

The rally was attended by more than 1,000 people. I will briefly canvas some aspects of my speech from the weekend and add comments for the benefit of the Chamber. I have been a supporter of Israel and the Jewish community since my childhood. This must seem unusual for a person raised in rural Canada. However,

I can only describe my experience with Judaism and Israel as life-changing. It has bonded me to Judaism and the cause of Israel throughout my career. That was why I attended a similar rally almost 22 years ago in January 1991 as a reporter with the *Australian Jewish News*. That was during the first Gulf War as Iraqi scud missiles rained down on Tel Aviv and Haifa.

At that time, the Jewish community came together to express its solidarity with Israel. Almost 22 years later we are in a similar situation. I am a person who unequivocally supports Israel's right to defend herself. I also condemn the repeated rocket and mortar attacks on Israel from Gaza and I call on Hamas to cease those attacks immediately. So far this year more than 1,000 rockets have been fired into Israel from Gaza and for the first time in decades rockets have reached Tel Aviv and Jerusalem. No nation and its citizens should have to face such indiscriminate and unrelenting attacks. I know that Israel has to defend herself, but she does so with great and profound sadness.

In Sydney the sounds of air raid sirens are to us just the sounds of news bulletins, but to the Jewish community they are the sounds of real terror. I make these observations as someone who has perhaps gained a brief insight. In January I stood on a small hill at Sderot in the western Negev overlooking Gaza. I travelled to Sderot to see it firsthand, to be there and to understand what the briefings and news clips never tell you. Not only could I see the proximity of Gaza to Sderot but also I could feel it. I understood why people do not wear seatbelts in Sderot. It is because it is a mere 840 metres from Gaza and if there is an air raid an Israeli has 15 seconds to seek shelter.

But the most chilling recollection of my Sderot trip was a visit to a children's playground. It looks just like any suburban playground in Sydney, except for the giant caterpillar that snakes through it. As friendly as he looks, he is concrete and he is a bomb shelter. As a parent I found that a truly chilling experience. It is a morning I will never forget but it is one that I am grateful for because it was the greatest education a parliamentarian could have about Israel and its security concerns. I am looking forward to visiting Israel again in about seven weeks as part of the New South Wales Jewish Board of Deputies assisted study tour to Israel with my parliamentary colleagues.

Since Sunday I have been party to further developments on this important community concern. This afternoon I attended a meeting of the New South Wales Parliamentary Friends of Israel during which we officially welcomed the newly elected member for Heffron, Mr Ron Hoenig, as the newest member of the group. This morning State Labor had the benefit of a face-to-face briefing with the Canberra-based Deputy Chief of Mission, Mr Meir Itzhaki, on the current situation regarding the rocket attacks from Gaza. It was attended by the Leader of the Opposition, Mr John Robertson, the Leader of the Opposition in the upper House, the Hon. Luke Foley, and me. My interest in this issue is both political and humanitarian. It is professional and personal. In conclusion, I support Israel and I pray that, despite the current attacks, a two-State solution and reconciliation is possible between Israelis and Palestinians. But the attacks must stop first. That is non-negotiable. I thank the House for its consideration.

OPERATION MASCOT

Mr DAVID SHOEBRIDGE [11.52 p.m.]: In 2000 the internal affairs unit of the NSW Police Force was undertaking Operation Mascot into alleged police corruption. The NSW Police Force was working together with the NSW Crime Commission and the Police Integrity Commission under memorandums of understanding, managing a now notorious informer, who became known as M5. On 14 September 2000 Operation Mascot obtained a listening devices warrant from the Supreme Court. That application was made ex parte, which means in the absence of anyone other than the Operation Mascot officers and the judge.

Remarkably, that warrant contained the names of 114 people, when the affidavit in support put forward evidence in relation to only 66 people. In other words, 48 people—lawyers, journalists and serving police, many now senior police—had a listening device warrant issued against them, had their phones tapped and had their privacy breached by a secret police operation without any supporting evidence being put before the court. How on earth a judge let this happen has never been explained. What the NSW Police Force told the judge to obtain this warrant also has never been explained. In an internal police memorandum of 13 April 2002 then Acting Commander Burn gave an explanation as to why so many people were on the warrant but were not referred to in the affidavit.

The bizarre explanation given by Ms Burn was that many of them would come in contact with people who were legitimate targets and, therefore, may have their conversations recorded. Putting to one side the fact

that this has never been accepted as a proper basis for obtaining a listening device warrant against someone, there is a fundamental factual problem with this explanation. Thirty of the people on the list were said to be legitimately included by Ms Burn because they were on the "King send-off list", that is, they would be going to the function for the send-off of former Detective Sergeant King. However, that function was held on 30 June 2000, more than two months before the warrant was issued. I have seen a statutory declaration to that effect. On the same day as Ms Burn issued her memorandum, former Commissioner Ryan was interviewed by *60 Minutes*. He was asked why so many police had been included on this warrant. He said:

... it's in relation to an investigation that's going on through the Integrity Commission at the moment with an operative called M5. What happens is an undercover agent has a tape recorder. We must obtain a warrant for that tape recorder to be used in the presence of another person. From what I can gather, the officer was going to a function at which a lot of other people would be present.

The interviewer said, "Oh, I see." Commissioner Ryan continued:

And therefore, he may be talking to 100 people, all of whom had to be named in the warrant.

On 30 June 2003 then Superintendent Burn was interviewed by police in an electronic interview of a suspect person [ERISP]. She was asked:

Q6: O.K. All right, O.K. In relation to the listening device warrants, were you aware of the comments made by former Commissioner of Police Ryan on 60 Minutes, can you recall that?

A: 60 Minutes?

Q7: Yes, can you recall those?

A: No.

Q8: He states that the warrant related to a function ...

A: O.K.

Q177: ... that all persons would be attending.

A: Ah hmm.

Q9: Have you any comment to make about that statement that he has made?

A: I have no idea why he said it, I'd say he wasn't briefed.

Q10: Well, is that statement true?

A: No.

Q11: Why would he make a statement such as that?

A: I don't know, you'd have to ask him.

Q12: Do you know who briefed him in relation to ...

A: I have no idea.

This is the woman who drafted the memorandum on the same day as Commissioner Ryan's *60 Minutes* interview. In 2003-04 an investigation under the name of Strike Force Emblems was undertaken in relation to Operation Mascot and its obtaining of a listening device warrant on 14 September 2000. That report was scathing of the explanation given by Ms Burn, as repeated by former Commissioner Ryan. In relation to the explanation that named persons were on a warrant, Strike Force Emblems found persons on the warrant did not attend any function during the period of the warrant or with other persons named on the warrant. They were not in a position to contact M5 or others during the periods of the subject warrants, which is confirmed by respective duty book entries. In relation to the conduct of Operation Mascot in obtaining the warrants, Strike Force Emblems found:

It is the opinion of strike force investigators based on limited material reviewed and those persons interviewed, that there is an overwhelming inference to indicate criminal allegations in that the subject affidavit may contain false information and there has been an abuse of due process. The warrant was not in the '*spirit*' of the legislation. There is certainly a large amount of doubt as to the operational activities of M5 and the legalities of how the informant was deployed. This raises serious questions impacting on the propriety of the affidavit/s.

I sought to ask Deputy Commissioner Burn questions about this in budget estimates, but the matter was deferred to obtain legal advice. Just this week the Government teamed up with the Shooters and Fishers Party to shut down any further questioning of Deputy Commissioner Burn. Ms Burn, as Deputy Commissioner, holds the second most senior rank of any police officer in this State. Instead of holding a public inquiry the Government referred the matter to the Ombudsman for inquiry—what will now be a secret hearing under new statutory secrecy provisions that the Government put on the statute book today.

This matter will not go away. Deputy Commissioner Burn owes the public an explanation for how on oath, in an explanation given to internal police investigators, she denied any knowledge of how it was that the then police commissioner had given the very explanation she provided in a memorandum to police to *60 Minutes* and to the public. To date the only explanation that the public has been given about how this extraordinary warrant was obtained is that of former Commissioner Ryan. We now see that that was founded on a memorandum provided by Deputy Commissioner Burn but she denied any knowledge of it under oath which is extraordinary. [*Time expired.*]

BATTLE OF EL ALAMEIN SEVENTIETH ANNIVERSARY

Reverend the Hon. FRED NILE [11.57 p.m.]: In this seventieth anniversary year of the Battle of El Alamein I draw the attention of the House to the crucial allied victory in North Africa at El Alamein on 4 November 1942 in which Australian soldiers played a major role. If this battle had been won by the German army led by Field Marshall Erwin Rommel, the history of Palestine as it was known then—it is now Israel—would have been very different. The three major battles that occurred around El Alamein between July and November 1942 were the turning point of the war in North Africa. The Australian 9th Division, led by Lieutenant General Leslie Morshead, played a key role in two of those battles, enhancing its reputation earned defending Tobruk in 1941.

The struggle for North Africa saw the pendulum swing sharply in favour of the Axis from January 1942. The Axis forces comprised German and Italian troops and were known as Panzerarmee Afrika, led by Field Marshal Erwin Rommel, the "Desert Fox". Opposing him was the British Eighth Army which comprised British, Australian, New Zealand, South African and Indian troops. By the end of June Rommel had forced the Allies back deep into Egypt and the capture of Cairo and the Suez Canal seemed a real possibility. From August until the end of October the Allied army grew steadily in strength with the arrival of more troops and equipment. The Axis forces, on the other hand, were weakening, with their supply lines strangled by Allied air and naval attacks. A change in command of the Eighth Army occurred in mid-August when Auchinleck was replaced by General Bernard Montgomery. "Monty", as he was universally known, set about making positive changes in the Eighth Army, training it and preparing it for the battles to come.

On the night of 23 October 1942, a massive artillery barrage heralded the great Allied offensive, led by Monty. The infantry successfully captured most of its objectives; however, the tanks were unable to follow through and continue the thrust. With the Axis forces stubbornly holding their lines intact, Montgomery worried that his offensive was becoming bogged down. Changing tactics from the drive westwards, he ordered the Australians of the 9th Division to switch their attack northward. What followed was a week of extremely fierce fighting, with the Australians grinding their way forward over well-defended enemy positions. As had happened in July, their gains so worried Rommel that he again diverted his strongest units to stop them. With Rommel's attention firmly on the Australians in the north, naturally this left his line weakened farther south, and on 2 November 1942 the British tanks struck a decisive blow there. The Panzerarmee had suffered crippling losses. Rommel was forced to order a general withdrawal, or face total annihilation. His army now began a headlong retreat that would soon see it ejected from Africa altogether.

Between July and November 1942, the Australian 9th Division suffered almost 6,000 casualties. Although the price was fearfully high it had without doubt played a crucial role in ensuring an Allied victory in North Africa. Australian historian Kelvin Crombie takes up the story, and here is a little known fact. He states:

Had the German-led forces won at El Alamein in 1942 there is a strong likelihood that the Nazi regime would have brought the Holocaust into the Middle East and attempted to murder some 600,000 Jewish people living in Egypt and the land of Israel (British Mandated Palestine at the time). There was an official German plan to attach a specialised murder squad to Rommel's Panzer Army Africa.

Author Kelvin Crombie, who lived in Israel for almost 25 years, reveals in his new book, *El Alamein: Halting a Possible Holocaust in the Middle East*, the relationship between the various battles in the Eastern Mediterranean

from 1940 to 1942 and the welfare of the Jewish people. The book had its initial launch in Jerusalem on 5 November 2012. The British launch was in the House of Lords on 7 November 2012 at a function hosted by Viscount David Montgomery, who is the son of the illustrious British Commander of the Eighth Army, Field Marshal Bernard Montgomery. The Australian launch will be at New South Wales Parliament House on 26 November 2012 to which all are invited.

During Kelvin Crombie's 25 years in Israel, he served as a staff member of the Anglican Christ Church in Jerusalem. Having lived in Israel for such a long time, he has an extensive knowledge of Israel. I believe anyone who attends the Australian launch of his book on 26 November 2012, to which all are invited, will be very impressed by his knowledge as well as his zeal.

TRIBUTE TO GEORGE PACIULLO, OAM

The Hon. MARIE FICARRA (Parliamentary Secretary) [12.02 a.m.]: I am honoured to pay tribute to the life and legacy of the road safety campaigner and former New South Wales parliamentarian, Mr George Paciullo, OAM, following his passing on 9 October 2012 at the Liverpool Hospital at the age of 78. George Paciullo always will be remembered for being courageous enough, against much opposition at the time to random breath testing, to drive through this societal reform that has saved tens of thousands of lives in New South Wales and has been adopted throughout Australia. It was as Chairman of the parliamentary Joint Standing Committee on Road Safety from 1981 to 1983 that George championed random breath testing.

This week we commemorate the thirtieth anniversary of random breath testing with the Minister for Police and Emergency Services, Mike Gallacher, launching Operation Paciullo, which is the Government's summer random breath testing campaign. As a result of public pressure backing George Paciullo's stand on the matter, random breath testing was introduced in New South Wales in December 1982. The law was intensively enforced and extensively advertised, and the rest is history. All responsible individuals now understand the harmful effects of drink-driving as well as to the health and safety of their passengers. Having designated drivers on a night out, or relying on lifts from mates who are non-drinkers along with a reliable taxi ride home becoming the norm, George Paciullo left his remarkable legacy forever and a day.

The percentage of alcohol-related fatalities on New South Wales roads has dropped more than 40 per cent as a result of random breath testing initiatives. It is estimated that in this State the NSW Police Force has conducted more than 85 million random breath tests since their introduction and saved more than 7,000 lives, countless injuries and disabilities. The high visibility and presence of the random breath testing units on the State's roads has sent a strong message to motorists that drink-driving not only is dangerous; they also are likely to get caught for breaking the law.

George Paciullo was born on 20 February 1934 in Sydney to Italo-Australian market gardeners, Sisto and Immacolata Paciullo. The Paciullo family immigrated to Australia during the Great Depression from Calabria, Italy. George was proud of his Italian heritage. He was much respected in the Italian Australian community in New South Wales but particularly so in his beloved Liverpool region, which he served so well over many years in this Parliament and also as a member of Liverpool City Council. It was fitting that his funeral had a ceremonial police escort, including representatives of the Italian Carabinieri Association who were in full official dress.

In 1964 George married his wife, Janette, and they raised a son, Murray. Janette died in 2000 and George now shares her grave. Some of George's many achievements include his service in the Citizens Military Forces in 1952 and his election to Liverpool City Council in 1958, where he served as councillor before entering State politics in 1971 as the member for Liverpool. In 1999 George received the Medal of the Order of Australia and in 2003 he was the recipient of the Centenary Medal. In 2000 he was appointed to the board of the NRMA. George served as a member of the New South Wales Parliament from 1971 to 1989. In that time he held many portfolios, including the portfolios of Police and Emergency Services, Roads, Industry and Consumer Affairs. He was respected for his professional and caring handling of those portfolios, his knowledge of issues and his people management skills. When Nick Greiner was elected Premier in 1988 he appointed George as a consultant on road safety to the Roads and Traffic Authority in recognition of his achievements. At that time he said:

The issue of road safety is not a party political matter—people's lives are above politics.

In 1990 he was appointed chairman of the Australian Wine and Brandy Corporation, where he was a strong advocate of moderate and responsible alcohol consumption. Following his career as a State parliamentarian, he

re-entered local politics from 1994 until 2003, when he retired. George advocated fiercely for Liverpool Hospital to be rebuilt and to become the teaching hospital that it is today.

George Paciullo was a loyal and an honourable man. As a parliamentarian he had a genuine interest in representing his local constituency and the people of New South Wales. He was respected by all sides of politics and was an ambassador for road safety in this country. He remains a role model in multicultural Australia and, in particular, in the Italo-Australian community. He made an exemplary contribution to society as a son of Italian migrants who worked hard to make a living and raised their much-loved son to be a decent and well-respected member of the Liverpool community. George Paciullo was a loving son, husband, father, family man and community leader. The impact he has had on lives of many across this State will never be forgotten. Thank you, George. May you rest in peace.

TRIBUTE TO CASEY STONER

The Hon. NIALL BLAIR [12.07 a.m.]: Tonight I pay tribute to Casey Stoner on his retirement from MotoGP racing. At the end of October this year I had much pleasure in witnessing Casey win his sixth Australian MotoCP championship at Phillip Island. Casey is a country boy from the Hunter. He moved to Europe with his family when he was a teenager to pursue his career. He learnt his skills by riding motocross, a talent that took him to the top of his sport. Casey is a world-renowned sportsman. His achievements are probably a little underrated in Australia but the skills I witnessed in his last race are proof of his talent. Casey Stoner is an example of how someone from a regional community can grow up to conquer the world. I wish him and his family all the best for the future.

[Time for debate expired.]

Question—That this House do now adjourn—put and resolved in the affirmative.

Motion agreed to.

The House adjourned at 12.08 a.m. on Thursday 22 November 2012 until 9.30 a.m. on the same day.
