LEGISLATIVE COUNCIL

Wednesday 17 September 2014

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

The President read the Prayers.

STANDING COMMITTEE ON PARLIAMENTARY PRIVILEGE AND ETHICS

Reference: Execution of Search Warrants of Members' Offices and Premises

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

Mr PRESIDENT

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

That:

(1) This House notes the revised draft Memorandum of Understanding on the execution of search warrants on the premises of Members of the New South Wales Parliament between the Commissioner of the Independent Commission Against Corruption, the President of the Legislative Council and the Speaker of the Legislative Assembly tabled by the Speaker on Wednesday 17 September 2014.

(2) The Standing Committee on Parliamentary Privilege and Ethics inquire into and report on the provisions of the revised draft Memorandum of Understanding.

(3) A message be sent to the Legislative Council informing it of the terms of reference agreed to by the House.

Legislative Assembly
17 September 2014

SHELLEY HANCOCK
Speaker

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

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 1971 outside the Order of Precedence objected to as being taken as formal business.

WEAR IT PURPLE DAY

Motion by the Hon. PENNY SHARPE agreed to:

(1) That this House notes that:

(a) Friday 29 August 2014 marked the fifth annual Wear It Purple Day;

(b) Wear It Purple Day is a grassroots campaign organised by young people for young people;

(c) Wear It Purple is a student-run not-for-profit organisation that exists to support young people who identify as sexuality and or gender diverse, queer or rainbow;

(d) Wear It Purple has a simple message to young people in our communities that they have the right to be proud of who they are;

(e) Wear it Purple seeks to raise awareness about the issues faced by these young people and the need to eradicate bullying based on sexuality and gender diversity; and

(f) this year Wear It Purple Day was the biggest ever with 250 registered events including 130 events held at schools, TAFEs and universities.

(2) That this House congratulates:

(a) the young people who have made Wear It Purple such a success; and

(b) the organisations including the NSW Police Force, the SES, Fire and Rescue NSW and New South Wales schools for their strong support.

ABLE SEAMAN WILLIAM "BILLY" WILLIAMS

Motion by the Hon. Dr PETER PHELPS, on behalf of the Hon. CHARLIE LYNN, agreed to:

(1) That this House notes that:

(a) 11 September 2014 marks the 100th anniversary of the death of Able Seaman William "Billy" Williams 294, the first Australian Serviceman serving in the Australian Armed Forces to be killed in World War I on Thursday 11 September 1914;

(b) AB Williams was serving in HMAS *Sydney* (I) during the operation to capture Germany Military Installations in and around Rabaul in then German East New Britain, Papua New Guinea;

(c) he and other members of the ship's company were ashore when he was wounded and he died of his wounds later that day; and

(d) a memorial service will be held at Bradley's Head today at 1030 hours in memory of the sacrifice made by AB Williams on that day in 1914 and others who served in HMAS *Sydney* (I) and the thousands of other Australians who would die during the next four years of the "War to end all Wars".

(2) That this House acknowledges and commends:

(a) the President of HMAS *Sydney* Association Mr John Byrne, Secretary of HMAS *Sydney* Association Mr Brian Yeo and members of the Executive Committee for their continued efforts in ensuring our fallen service men and women are forever remembered for the sacrifices that they made to our nation; and

(b) VIP guests including Mr Mike Colless, the son of the Able Seaman Alan Colless, who served in HMAS *Sydney* (I) between 1914 and 1918.

PAPUA NEW GUINEA ASSOCIATION OF AUSTRALIA 2014 COMMEMORATIVE CENTENARY DINNER

Motion by the Hon. Dr PETER PHELPS, on behalf of the Hon. CHARLIE LYNN, agreed to:

(1) That this House notes that:

(a) on Wednesday 17 September 2014 the Papua New Guinea Association of Australia [PNGAA] will hold its 2014 Commemorative Centenary Dinner with the Hon. Julie Bishop, MP, Foreign Minister as guest keynote speaker;

(b) the dinner will commemorate the Anzac Centenary and the centenary of Australia's relationship with what was then New Guinea, from Australia's first military engagement during World War I at Bitapaka and the loss of *AE1*, World War II, through to Papua New Guinea independence as well as contemporary and future relationships;

(c) the patron of PNGAA, our former Governor-General, Major General the Honourable Michael Jeffery, AC, AO [Mil], CVO, MC [Retd] will attend the dinner; and

(d) the PNGAA Symposium will be held the next day on 18 September 2014 in the theatrette to provide a unique opportunity to hear 20 amazing speakers from Australia and Papua New Guinea knowledgeable about Papua New Guinea in a variety of fields.

(2) That this House acknowledges and commends the President of PNGAA, Ms Andrea Williams, and the organising committee for their tremendous efforts ensuring such a significant period in our history is remembered and acknowledged.

FOSTER CARE

Motion by Ms JAN BARHAM agreed to:

(1) That this House notes that:

(a) September is National Foster Care Month, an annual celebration of the work of foster carers that began in 1990;

(b) the main aim of National Foster Care Month is to raise the profile of fostering in the community and to encourage recruitment of more foster carers;

(c) Foster Care Week is celebrated across New South Wales from 14 to 20 September 2014; and

(d) Foster Care Week events arranged by the Association of Children's Welfare Agencies will include carers lunches, family fun days and picnics and will be held across New South Wales during the week.

(2) That this House acknowledges that there are almost 19,000 children and young people in statutory out-of-home care in New South Wales, and that foster carers provide a safe and nurturing environment that is vital to the wellbeing of these children and young people.

(3) That this House thanks the many individuals and families across New South Wales who have chosen to become foster carers, and recognises the important contribution they make to the welfare of vulnerable children and young people.

BYRON BAY WRITERS FESTIVAL

Motion by Ms JAN BARHAM agreed to:

(1) That this House notes that the eighteenth Byron Bay Writers Festival was held from 1 to 3 August 2014, with some 2,500 people attending each day, following a week of school programs, travelling festival, and workshops.

(2) That this House acknowledges the Byron Bay Writers Festival as a prime example of an increasingly successful festival in a regional setting in that:

(a) its growth has been gradual and in response to demand;

(b) the 160 local volunteers provide a courteous and well-disciplined team to assist in the smooth running of the festival;

(c) the local community provides highly skilled facilitators and interviewers;

(d) all food and drink on site is sourced from local cafes and restaurants;

(e) the festival committee has founding members who have provided wisdom and consistency over the 18 years;

(f) it is a non-profit organisation that has forged partnerships with local and national entities, corporations and the local Southern Cross University to increase its financial viability;

(g) it has a culture of "putting back into the community"; and

(h) it has a growing reputation both at home and internationally.

(3) That this House recognises the economic, educational and social benefits of this festival, including that:

(a) it has a proud tradition of promoting local writers and features the opportunity for the launch and exposure of new writers;

(b) in 18 years, it has grown from an audience of approximately 200 people and some 50 writers to a daily gate of 2,500 people and almost 150 selected local, national and international writers of fiction, political commentary, biography, journalism, and, at times, cooking, music and travel;

(c) with core funding from Arts NSW, in addition to the three-day festival, it provides a program in schools in four local townships during the week building up to the festival, which this year reached over 200 primary school children from 51 regional schools, and almost 800 secondary students from 27 regional schools;

(d) with a special Australia Council grant, the festival bus tour took seven award-winning Australian writers on a five-day trip to communities from Coffs Harbour to the Queensland border;

(e) the festival mentoring program provides unique opportunities for local writers and budding writers to benefit from small master classes with famous international writers such as Jeanette Winterson;

(f) the 2014 festival raised, mainly by coin donation, over $6,000 to support the Indigenous Literary Foundation;

(g) the influx of tourists provides economic benefits to the businesses in the local town and surrounding villages, while being "low impact" for the residents; and

(h) Dymocks reported its highest level of sales yet for the 2014 festival, with the well-appreciated presenter Bob Brown's new book *Optimism* topping the sales for an individual book.

(4) That this House expresses its support for regional communities pursuing small-to medium-sized annual specific festivals that provide benefits for the local community and, at the same time, avoid serious adverse repercussions such as excessive noise, alcohol-related violence and excessive parking and traffic problems for local communities.

DR CATHERINE HAMLIN

Motion by the Hon. MARIE FICARRA agreed to:

(1) That this House acknowledges the continuous exemplary work of Dr Catherine Hamlin in her fight against childbirth injury in Ethiopia.

(2) That this House notes that:

(a) Dr Hamlin is an Australian born obstetrician and gynaecologist, who grew up in the Sydney suburb of Ryde and married Dr Reginald Hamlin in 1950;

(b) since 1959, Dr Hamlin has spent most of her life abroad revolutionising the care of childbirth injury—obstetric fistula;

(c) Dr Hamlin is an extraordinary leader in the spheres of women's health, pioneering the development, treatment and recovery of obstetric fistula, a condition that was eradicated in developed nations over a century ago;

(d) obstetric fistula occurs when the baby gets stuck in the birth canal and there is no doctor or facilities to perform a caesarean section;

(e) approximately two million women suffer from fistulas, often killing the baby and leaving the woman incontinent, paralysed, and stigmatised by her local community, as a result of which she is often left to die;

(f) in Ethiopia, there is a population of 100 million, with only 2,000 trained midwives and less than 200 obstetricians and gynaecologists;

(g) there is a great need to improve the world's maternal care, and that the lack of medical care makes reproductive health in poor nations a human rights catastrophe, especially in countries like Ethiopia; and

(h) due to the hard work of Dr Catherine Hamlin, her late husband, Dr Reginald Hamlin, and Hamlin Fistula Ethiopia, an Australian charitable organisation, there have been many initiatives established aimed at improving the lives of Ethiopian women.

(3) That this House further notes:

(a) the vital importance of the Addis Ababa Fistula Hospital, opened in 1974, as it continues to serve Ethiopian women, accommodating 120 beds, a large operating theatre, a physiotherapy department and pathology services;

(b) the importance of the Hamlin Fistula Regional Centres, which provide much-needed services for women injured in childbirth in regional Ethiopia;

(c) the Hamlin College of Midwives, which provides an important step towards the development of a sustainable prevention strategy for women and girls of Ethiopia to avoid obstetric fistula; and

(d) the importance of Desta Mender, a farm on the outskirts of the capital providing women with an opportunity to recover before returning to their normal lives.

(4) That this House acknowledges and commends Dr Catherine Hamlin's dedication to the treatment of over 34,000 women for obstetric fistula and extends its best wishes on her ninetieth birthday.

JEANNIE FERRIS CANCER AUSTRALIA RECOGNITION AWARD

Motion by the Hon. MARIE FICARRA agreed to:

(1) That this House notes that:

(a) Cancer Australia announced Ms Kath Mazzella, OAM, and Professor David Bowtell as the 2014 recipients of the Jeannie Ferris Cancer Australia Recognition Award;

(b) Ms Mazzella won Category One of the Award, open to those with personal experience of gynaecological cancer either as a woman with a diagnosis of gynaecological cancer, as a community member, or family members or carers who have been directly involved in supporting a woman with gynaecological cancer; and

(c) Professor Bowtell won Category Two of the Award, which was open to health professionals or researchers, working in the area of gynaecological cancer.

(2) That this House further notes that:

(a) this award is named in honour of the late Jeannie Ferris, former Senator for South Australia who was passionately committed to raising awareness about gynaecological cancer in Australia; and

(b) Ms Ferris was diagnosed with ovarian cancer in October 2005 and passed away in April 2007.

(3) That this House acknowledges that:

(a) Ms Mazzella established the Gynaecological Awareness Information Network Inc. [GAIN], which has informed and supported thousands of women;

(b) Ms Mazzella is a powerful advocate for gynaecological and sexual health, personally inspiring women and arguing for institutional and social change that delivers better awareness, prevention, treatment and support;

(c) Ms Mazzella is an inspirational public speaker and the founder of the International Gynaecological Awareness Day; and

(d) in 2009, Ms Mazzella was awarded the Medal of the Order of Australia [OAM] for her outstanding service to the community through raising the profile of gynaecological health and was an inductee to the Hall of Fame—Our Bodies Ourselves Women's Health Heroes, Boston, United States, she was shortlisted for the Centre for Women in Leadership Award and Most Inspiring Woman of the Year—Momentum Women's Forum, she was conferred the Zonta International "Woman of Achievement Award" for Western Australia and she received an Executive Women's Forum Woman of the Year award.

(4) That this House also acknowledges that:

(a) Professor David Bowtell is the Head, Cancer Genomics and Genetics at the Peter MacCallum Cancer Centre, Melbourne, and was Director of Research at Peter MacCallum Cancer Centre, Melbourne, from 2000 to 2010;

(b) Professor Bowtell has recently returned to full-time research to lead the ovarian cancer arm of the National Health and Medical Research Council's [NHMRC] $27 million involvement in the International Cancer Genomics Consortium, a worldwide effort aimed at mapping all the significant mutations in common cancers;

(c) Professor Bowtell heads the Australian Ovarian Cancer Study [AOCS], a nationally collaborative project involving over 2,000 women with ovarian cancer and one of the largest cohort studies of ovarian cancer in the world;

(d) over the last decade, the AOCS has grown rapidly to become the largest molecular epidemiological study of ovarian cancer in the world, an unparalleled resource supporting over 70 ovarian cancer research projects in Australia, Canada, Japan, Norway, the United Kingdom and the United States, with the goal of identifying genetic and biochemical changes in ovarian cancers that dictate how a woman will respond to chemotherapy, and predict her overall survival;

(e) Professor Bowtell is a molecular biologist and his lab focuses on the genomic analysis of ovarian cancer, with a focus on primary and acquired drug resistance;

(f) Professor Bowtell's lab is funded by Cancer Australia and the United States Department of Defence to investigate high-risk BRCA mutations in women with ovarian cancer;

(g) Professor David Bowtell was honoured for his exceptional research in ovarian cancer; and

(h) Professor Bowtell has been honoured with an invitation as one of three researchers to give the esteemed Swerling Lecture at the Dana-Farber Cancer Institute in Boston and was one of 20 researchers worldwide, and one of two outside North America, invited to attend a special conference on defeating ovarian cancer hosted by James Watson, who won a Nobel Prize for discovering the structure of DNA.

(5) That this House acknowledges and commends the outstanding work of Ms Kath Mazzella, OAM, and Professor David Bowtell in gynaecological cancer education, research and patient care and extends its congratulations to them on winning the Jeannie Ferris Cancer Australia Recognition Awards.

AUSTRALIAN GOVERNMENT RESPONSE TO THE UKRAINIAN CRISIS

Motion by the Hon. MARIE FICARRA agreed to:

(1) That this House acknowledges:

(a) the work of the Federal Government in relation to the present crisis in the Ukraine and the welcome bipartisan support of the Federal Government's efforts to provide aid by training of members of the Ukrainian forces and also provide humanitarian assistance in the Ukraine;

(b) that people around the world are gravely concerned by Russia's actions in the Ukraine, supporting rebel soldiers to fight against Ukrainian forces and that Russia has increased its presence in the Ukraine with the stationing of Russian troops and tanks which have been attacking Ukrainian forces;

(c) that an Australian Embassy will be opened in the Ukrainian capital, Kiev, a significant milestone for Australian-Ukrainian relations and international relations;

(d) the Prime Minister, the Hon. Tony Abbott, MP, along with his Cabinet, will continue to review the sanctions that have been implemented against Russia, which include:

(i) banning the Russian President's top aide from travelling to Australia;

(ii) many economic sanctions banning Russian bankers from dealing in the Australian market and financial system;

(iii) Australian companies prohibited from supplying goods and services to the Russian oil industry; and

(e) the Australian Government's sanctions are in line with those imposed by the governments of the United States and European Union members.

(2) That this House:

(a) congratulates and commends the Prime Minister, the Hon. Tony Abbott, MP, the Minister for Foreign Affairs, the Hon. Julie Bishop, and the Federal Government on its efforts to respond to the tragic circumstances in the Ukraine and ensure safety and stability in the region;

(b) congratulates and commends the Federal Opposition leader, the Hon. Bill Shorten, MP, and the shadow Minister for Foreign Affairs, the Hon. Tanya Plibersek, for their bipartisan support of the Government's response to the current crisis in the Ukraine; and

(c) acknowledges and commends the courageous efforts of the Australian Defence Force and Australian Federal Police working alongside its international counterparts to assist with stopping the crisis within Ukraine.

STANDING COMMITTEE ON LAW AND JUSTICE

Report: Review of the Exercise of the Functions of the WorkCover Authority

The Hon. David Clarke, as Chair, tabled Report No. 54 of the Standing Committee on Law and Justice entitled "Review of the Exercise of the Functions of the WorkCover Authority", dated September 2014, together with transcripts of evidence, tabled documents, submissions, correspondence and answers to questions taken on notice.

Report ordered to be printed on motion by the Hon. David Clarke.

The Hon. DAVID CLARKE (Parliamentary Secretary) [11.08 a.m.]: I move:

That the House take note of the report.

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

BUSINESS OF THE HOUSE

Routine of Business

[*During the giving of notices of motions.*]

The PRESIDENT: Order! The giving of notices is not a time for debate.

SELECT COMMITTEE ON THE PLANNING PROCESS IN NEWCASTLE AND THE BROADER HUNTER REGION

Membership

The PRESIDENT: I inform the House that the Clerk has received the following nominations for membership of the Select Committee on the Planning Process in Newcastle and the Broader Hunter Region:

Government members: Ms Cusack
Mr Pearce

PRIVILEGES COMMITTEE

Reference: Execution of Search Warrants of Members' Offices and Premises

Motion by the Hon. Duncan Gay agreed to:

(1) that this House notes the revised draft "Memorandum of Understanding on the execution of search warrants on the premises of Members of the New South Wales Parliament between the Commissioner of the Independent Commission Against Corruption, the President of the Legislative Council and the Speaker of the Legislative Assembly"' tabled by the President on Tuesday 16 September 2014;

(2) that the Privileges Committee inquire into and report on the provisions of the revised draft Memorandum of Understanding;

(3) that the committee report by Thursday 6 November 2014; and

(4) that a message be forwarded to the Legislative Assembly informing it of the terms of reference agreed to by the House.

Message forwarded to the Legislative Assembly advising it of the resolution.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Motion by the Hon. Robert Borsak agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 1947 outside the Order of Precedence, relating to the City of Sydney Amendment (Elections) Bill 2014, be called on forthwith.

Order of Business

Motion by the Hon. Robert Borsak agreed to:

That Private Members' Business item No. 1947 outside the Order of Precedence be called on forthwith.

CITY OF SYDNEY AMENDMENT (ELECTIONS) BILL 2014

Second Reading

Debate resumed from 16 September 2014.

The Hon. WALT SECORD [11.19 a.m.]: My contribution will be brief, as the matter has been extensively canvassed by both sides of the Chamber. I place on record my opposition to the City of Sydney Amendment (Elections) Bill 2014 and to the dark and seedy motivation behind it. Each of us who seeks to put public interest first must reject this bill. One vote, one value is not a principle that we should play with lightly. It is a principle that must be defended. The bill does four things: Firstly, it gives every business that pays rates not one vote—as is currently the case—but two. Secondly, those two votes are not to be exercised voluntarily; they are to be made compulsory, with fines to apply to every rate-paying business in the State that does not exercise its votes.

Thirdly, the oversight of the non-residential roll will not reside with the independent NSW Electoral Commissioner. Instead, the bill transfers the responsibility to the general manager of the Sydney city council, giving him oversight of this gerrymander system. Fourthly, the Government has indicated that it could force this rorting of the voting system onto other councils across the State—without consultation and without notice. This is not just a City of Sydney issue; this is a State issue. This bill is not just undemocratic, it is blatantly so.

The four steps I have just outlined create a gerrymander system of voting to get the otherwise unelectable Liberals into Town Hall. It then cements the gerrymander in their control, with no oversight. It then allows them to extend it to every other council that they cannot get elected to. The Liberals are shameless about this. They cannot win by the rules, so they change the rules. Just like the English, who could not get Bradman out, the Liberals cannot get Clover out, so they change and rewrite the rules of the game. One can just imagine the Liberal Party officials—sitting in their Chesterfield armchairs, smoking cigars, surrounded by piles of undeclared cash from property developers—drafting these plans.

Mr Scot MacDonald: Don't forget the whisky.

The Hon. Dr Peter Phelps: If they were Cuban cigars, would that be okay?

The Hon. WALT SECORD: I acknowledge both those interjections. Labor accepts that businesses should have a vote on the Sydney city council. We are open to opportunities that will improve the system of enrolment for business—but not this rort. This is a blatant attempt by the Liberal-Nationals to stack the electoral roll with voters against Clover's agenda. This bill is a vendetta. It is not about expanding the electoral roll for the business community; it is a naked attempt to remove Clover Moore—a democratically elected official—from public office.

The Liberal-Nationals were unable to remove Clover Moore by the ballot box, so they want to cheat. The fact is that the vast majority of people who live in Sydney like Clover Moore and voted for her as Lord Mayor. She has been elected as Lord Mayor three times. I do not agree with the inconsistent policy positions of the Clover Moore administration but I recognise that she has been democratically elected. I am not a fan of Clover, but she has a mandate. Voters outside Sydney—whether or not they like Clover Moore—should be worried about this bill, because it is a trial run. The Baird Government has already admitted that it is looking at extending it to Newcastle, Parramatta and Wollongong councils. Every New South Wales council should be aware that its voting rights are under threat.

This bill will water down the voices of local residents, potentially across the State. Small businesses that make an outstanding contribution towards the State's prosperity will also lose their influence when big business and corporations rule the roost. Rather than attacking Clover Moore, the Liberal-Nationals should be challenging the massive cuts by the Abbott Government. New South Wales local council funding has been slashed by $288 million in financial assistance grants. That will directly affect services like road repairs, pothole repairs and local traffic safety initiatives. Instead of countering Tony Abbott, this Government's sole vision for local government is to find a way to rip the mayoral chains from Clover Moore's neck. If that alone were the goal it would be bad enough but to do it by vandalising the long-established Australian voting tradition adds disgrace to this bill. Accordingly, I will oppose it most strongly.

Finally, it is interesting to note that the Minister for Ageing, John Ajaka, last night led for the Government on this bill. The most recent list of ministerial representation shows that the Hon. Duncan Gay represents the Minister for Local Government. But this bill reeks and the Hon. Duncan Gay does not want the sentiment on his Italian suit, so he gave the hospital pass to John Ajaka. I thank the House for its consideration. I vehemently oppose the City of Sydney Amendment (Elections) Bill 2014.

Mr SCOT MacDONALD [11.25 a.m.]: I did not intend to speak, but after that Hollywood performance, how could I not say something in response? The City of Sydney is not a social experiment or a social laboratory to be run by the clique of Clover Moore and her motley lot. The City of Sydney is a functioning, commercial, mercantile success story and the people who make the City of Sydney financially capable and a powerhouse in the world should get a vote. They do not easily have a vote under the current circumstances. The City of Sydney Amendment (Elections) Bill 2014 is a sensible bill that will progress the City of Sydney into the decades ahead—bring it on. I support the bill.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [11.27 a.m.]: I make a brief contribution on the City of Sydney Amendment (Elections) Bill 2014. As previous speakers have outlined, the bill contains a number of curious and indeed unpleasant features. As has been well explored, rate-paying businesses will now get up to two votes in a single election; so, more property, obviously more votes. That is a giant step backwards from the democratic evolution we have been experiencing in this country over time.

It has not been explained why these business ratepayers should be getting two votes when ordinary persons who are on the roll get only one. It is a curiosity that has been explained only in part by you, Mr Assistant President, that if a household has two people in it, they get two votes and therefore, why not companies? That does not really explain why the Government is supporting this legislation. I call upon the Minister, in his reply speech, to set out—

The Hon. John Ajaka: I am not doing the reply. It's not my bill.

The Hon. ADAM SEARLE: Whether it is the Hon. John Ajaka's bill or somebody else's, I look forward to somebody giving an explanation.

Mr David Shoebridge: The Government's bill.

The Hon. ADAM SEARLE: I acknowledge that interjection. It may not formally be a Government bill but members on the other side of the House are the Government of this State—at least until next March. The fact is, they have to explain why they are supporting a situation where a corporate rate-paying landowner will get more votes than a natural person—a resident, living in the City of Sydney. It is not just a curiosity; it is undemocratic. It is, unfortunately, one of the measures in this bill which is designed to stack the electoral roll. At the same time, this bill disenfranchises many small business operators who at present can enrol, and many of whom do, perhaps not in the numbers that others in this Chamber would like. But the fact is that they can enrol and many of them do. Under this legislation they will be cut out, unless they actually own the land. That is a step backwards from business representation which those opposite claim to care about.

What is interesting about the two votes, of course, is that none of the peak business groups is, in fact, pressing for this reform. When they are asked about it, there is a combination of a shrug of shoulders and, indeed, some embarrassment. They understand that the proposition that a corporate body, which is not a person, should get two votes, when a person gets only one, is indefensible. It also forces business ratepayers to enrol, even if they have no intention to do so. Reverend the Hon. Fred Nile says that we have compulsory voting in this country. We have compulsory attendance, once a person enrols, but natural persons are not forced to enrol in the way in which businesses under this legislation will be forced to do. This is the second measure that creates an attempt to stack the electoral roll with persons that those supporting this bill believe will vote how they wish: against the current Lord Mayor and her regime.

To pick up on a point raised last night by Dr John Kaye, not only is this a get Clover bill, it is the second get Clover bill being supported in this place. The first was to drive her out of Parliament by banning members of Parliament from holding council positions. This new measure is trying to have her voted out of council. I am not a particular fan of the Lord Mayor or her regime, but the fact is that successive governments in this State have been obsessed with the City of Sydney and the need to control it. Over time, various institutional arrangements have been made to try to achieve that end. This is but the latest one. Ultimately, it will be as doomed to failure as were those other attempts.

Obviously, the real vice with this bill is that most of the debate has centred on its impact in the City of Sydney. We understand that that is what it is directed to. The Hon. Dr Peter Phelps, the Government Whip, said, "Well, Sydney is like London; it's a commercial and financial centre." I believe Mr Scot MacDonald made similar comments in his contribution. The fact is that the last page of this bill contains a provision that enables the government of the day by regulation to impose this unfair and undemocratic system on any council area in any part of the State without any restriction, without any trigger being needed and without any explanation. If one considers other councils, such as Parramatta City Council, which, of course, has a business centre, it has also many well-established suburban areas surrounding it, such as Wentworthville, Granville and other places—

Mr David Shoebridge: North Parramatta.

The Hon. ADAM SEARLE: And North Parramatta, which are not commercial areas and are substantially residential areas. The flawed and meretricious rationale advanced in support of this legislation in connection with the City of Sydney simply does not apply to any other local government area in this State. The Hon. Walt Secord mentioned that while the ministerial responsibility in this House for local government rests with the Leader of the Government in this place, he gave it by hospital pass to the Hon. John Ajaka.

The Hon. John Ajaka: I volunteered.

The Hon. ADAM SEARLE: I acknowledge that interjection, but also acknowledge the earlier comment of the Minister protesting that it was not his bill—

The Hon. John Ajaka: I wasn't protesting.

The Hon. ADAM SEARLE: —and that in fact it was someone else's bill and he would be handing it back. Of course, that highlights the most obvious and glaring feature of this debate: we have not had a single contribution from The Nationals. The Nationals are embarrassed and ashamed that they will be called upon to support this legislation because of their substantial interests in local government across this State. By supporting this bill, which enables the Government to roll this out across the State, including in areas of their substantial political interests, The Nationals know they would not be able to sell it.

The Hon. Dr Peter Phelps: The mercantile metropolis that is Queanbeyan City Council.

The Hon. ADAM SEARLE: I acknowledge that interjection because this is not limited to Sydney City Council. Read the bill. If enacted in this form, this bill will enable the Government to take this model and impose it on any other local government area. If that is not the intention, remove it from the bill.

The Hon. Rick Colless: It is not. That is nonsense.

The Hon. ADAM SEARLE: I acknowledge that interjection. If it is not the Government's intention, it must remove it from the bill. Why else would that tool be included?

The Hon. John Ajaka: We may just do that.

The Hon. ADAM SEARLE: I look forward to that.

The Hon. John Ajaka: I am listening to your great argument.

The Hon. ADAM SEARLE: I hope Government members do listen to the argument because it is completely inexplicable why that provision is in the bill unless it is a piece of elaborate misdirection: "All the attention is on Sydney Town Hall, but don't look over here because it's coming to a precinct near you." We have heard a lot about the Melbourne model and that it should be implemented here. Of course, we know from the report of former Federal Liberal member of Parliament Petro Georgiou that those south of the border want the Sydney model. They do not want the Melbourne model.

This bill's proposal is highly flawed and undemocratic not only because it forces businesses to enrol whether or not they wish to but also because it gives them two votes. Giving businesses two votes is wholly inexplicable when an ordinary resident gets only one vote. The more money and more property one owns should not mean more votes in an election. That is just indefensible and inexplicable and should not be part of any legislation passed by this House.

The Hon. SHAOQUETT MOSELMANE [11.35 a.m.]: I shall make a brief contribution to the debate on the City of Sydney Amendment (Elections) Bill 2014. At the outset I make clear that I also oppose the bill. Let us be further clear: This bill is about this Government being hell-bent on getting rid of Clover Moore. The Government tried to achieve that by changing the law through a previous bill to prevent members of Parliament holding other public office, thus forcing Mayor Moore to choose between State and council representation.

The Hon. Dr Peter Phelps: Which was a good move.

The Hon. SHAOQUETT MOSELMANE: She chose council. Premier O'Farrell and his Government successfully got rid of her from State Parliament because she was a thorn in his backside. Now the Baird Government, O'Farrell's successor, has moved to get rid of her from politics altogether by proposing to give business owners a double vote at elections. The clear intention is to unseat the Lord Mayor, Clover Moore, at the 2016 council elections. In response, Clover Moore said:

> They had to change the law to get rid of me in State Parliament and now they want to do it again. It's not fair or democratic to give businesses two votes and residents just one.

The Hon. Robert Borsak: They changed the law to get her in there.

The Hon. Dr Peter Phelps: Who increased the boundaries to include South Sydney? That's right, the Labor Party.

The Hon. SHAOQUETT MOSELMANE: Who could argue against Clover Moore? She makes a valid, legitimate and absolutely correct call.

The Hon. Robert Borsak: You know what they say.

The Hon. John Ajaka: You don't believe what you are saying.

The Hon. SHAOQUETT MOSELMANE: I am flabbergasted by all the interjections. This bill seeks to amend the City of Sydney Act to ensure compulsory enrolment of around 40,000 businesses in the Sydney

local government area so as to dramatically influence the outcome of the popular vote. In a not entirely truthful statement, Premier Mike Baird said that this change is an opportunity for greater democracy as business was disenfranchised under the current system—

The Hon. Dr Peter Phelps: Which they are.

The Hon. SHAOQUETT MOSELMANE: —and wants a voice. They are not. He said:

> That is something that no-one can oppose.

We oppose it because it is not true. Business owners already have the right to vote, but not to have two votes. Businesses were not forced to enrol, but now they will be forced to enrol and forced to vote. Where is the democracy in that proposal? The existing system has a non-residential roll for business owners living outside the Sydney City Council area to register to vote before each election. In 2012, 1,700 businesses registered and 1,700 businesses voted. They chose to enrol and vote, exercising their opportunity to have a say. Others did not, which was their choice. In addition to the Premier's comment, the Minister for Local Government, Paul Toole, notes that the new system is "fair" to business, which contributes nearly 80 per cent of Sydney's rate base. Is the question of fairness based on one's financial contribution? Is democracy for sale? Are we saying pay more, vote more? Is this what the honourable Minister is saying? Where is the democracy?

If a company or a business owner contributes $10,000 and we give that company or business owner two votes, is it not fair and proper, following the Minister's argument, to give 10 votes to a business owner that contributes $100,000 in rates? These are irrational and illogical arguments. If we are proposing to give people democracy, this is not the proper democratic representation they deserve. Clover Moore is right to fight back. As she says, this is not democracy, it is the Government's attempt "to manipulate democracy and take control of the city." This Government is going to great lengths to ensure that it knocks Clover out in round one and it is seeking to stack the votes against her. The overview of the bill clearly states the Government's intention. The message cannot be any clearer that this bill was concocted by the Government to get rid of Clover. It is a gerrymander process that has been built on the Victorian model, yet the Victorians are seeking to end the same practice. I will end my speech with Clover Moore's comment:

> The Liberal Party might like to think that manipulating how people can vote will threaten my support as Lord Mayor but I have every confidence in my relationship with city businesses and the work we've done to support them ...

I oppose the bill.

The Hon. RICK COLLESS [11.41 a.m.]: I refute the accusations made by the Hon. Adam Searle.

The Hon. Dr Peter Phelps: Outrageous accusations.

The Hon. RICK COLLESS: They are outrageous accusations. I suggest that Opposition members read the title of the bill, which is "City of Sydney Amendment (Elections) Bill 2014". This bill will apply only to the City of Sydney. Most of the other regional councils in New South Wales—certainly the regions that I have lived and worked in throughout my career—and their elections are covered under the Local Government Act. In virtually all of the regional council areas, such as Inverell where I was mayor, the people who operate businesses are also residents of the shire. Even though their businesses are in town they get a vote as a resident of the shire. That does not happen in the City of Sydney.

If business owners in the City of Sydney live in Baulkham Hills, Hawkesbury or other council areas in Sydney they do not get a vote in the City of Sydney because they are not residents of the City of Sydney. That is a major difference to regional councils. The Opposition continually shows its ignorance about the operation of regional councils. The Minister for Local Government has taken that into consideration in supporting this bill. There is no member in this Parliament who knows more about local government than the Minister for Local Government. As a former mayor of Bathurst Regional Council and an executive member of the Local Government Association, the Minister for Local Government knows what he is talking about, unlike the instant experts opposite who have not got a clue. I support the bill.

The Hon. LYNDA VOLTZ [11.43 a.m.]: I note the comments of the Hon. Rick Colless in his contribution to debate on the City of Sydney Amendment (Elections) Bill 2014 that the legislation applies only to the City of Sydney. I refer the member to page 11 of the bill. New section 25 (1) of division 5 states:

> Regulations made under the Principal Act may apply one or more of the provisions of this Part, or any regulations made under this Part, (with any specified modifications) to elections for such other local government areas as may be specified in those regulations.

The bill states that regulations may apply provisions of this part to other councils. It is not just about the City of Sydney Council; it is about every council across the State. That is the point the Hon. Adam Searle was making when he asked for The Nationals' view on this bill. If their view is that this bill applies only to the City of Sydney Council then they are wrong. I will return to that point. I worked in the electorate office of the member for Port Jackson for eight years when she had coverage of the central business district. Not once in those eight years did businesspeople approach us about voting in the City of Sydney Council elections. We regularly met with members of the chamber of commerce from the electorate, particularly in The Rocks and the central business district.

The Hon. Dr Peter Phelps: Any particular businesses in The Rocks?

The Hon. LYNDA VOLTZ: For the clarification of the Government Whip, who is obviously listening to my speech, it was The Rocks Chamber of Commerce. Not once did the chambers of commerce say to us that their major concern is that business owners do not have two votes in the City of Sydney Council election. The Minister, when he spoke on behalf of the Government, clarified that point. He said:

> At the 2004 council elections there were 2,059 non-residential enrolments. By the 2008 election that had dropped to 396. Ahead of the 2012 election the council had spent $243,242 on its campaign to encourage non-residential electors to enrol. The campaign yielded only 1,709 enrolments and only 1,498 of them voted.

The figures poignantly represent the view of the business community in the City of Sydney. They have never raised the issue of having two votes. Members of the business community have a right to vote, but they do not turn up to vote. If they wanted to they could. The Government says that businesses are asking for two votes. They are not. The bill is asking for that, and there appears to be no reason for it. I will not enter into debate about the mayor or who wants to get who. Over the eight decades of the City of Sydney Council there has always been toing and froing about the structure and membership of the council.

As the Labor Party learnt to its detriment, people who muck around with the system tend to create martyrs, and once martyrs are created people do not get what they want. The electorate is a beast of its own and it will vote according to what it believes. When one creates a martyr, the likely outcome is that one entrenches that person in a position. That has been the experience during the term of this Government. I refer to the second point mentioned by the Hon. Rick Colless, which was also raised by the Minister in his speech. The Minister said:

> As I previously noted, the Joint Standing Committee on Electoral Matters also recommended that the Government consider applying the Melbourne/Sydney model to other council areas covering significant economic centres such as Newcastle, Wollongong and Parramatta.

What is the rationale behind that proposal? When we go through the list of the 50 largest cities and towns by population in Australia we start with Sydney, then Melbourne, Brisbane, Perth and Adelaide. Number six is the Gold Coast-Tweed, not Wollongong, Parramatta or Newcastle. Number eight is Canberra-Queanbeyan. The Government Whip asked the question, "Should we include Queanbeyan?" According to the list of the 50 largest cities, this model could be extended to Queanbeyan, which together with Canberra rates at number eight.

The next stand-alone area, at number nine, is the Central Coast. Wollongong is there, but not Parramatta or Newcastle. The list includes areas along the east coast that are experiencing a huge population growth. Where is the logic in the Government saying that the model must be extended to Newcastle and Parramatta? When we look at productivity and growth, it is not in those regions. Parramatta's productivity has always been good, but there is no evidence to suggest that Parramatta City Council is being held back from population or productivity growth because of its voting system in relation to businesses.

Parramatta City Council has a voting block of 180,000 people and over the next 20 years or so that number is expected to increase by another 50,000. It has been said that the Parramatta central business district must have an impact on voting, but let us look at the big industries in the area. Manufacturing, which is carried out in the industrial areas of Granville, Woodville and Clyde, accounts for 12 per cent of the Parramatta economy; health care and social assistance accounts for 11 per cent, which is hardly a surprise given that the largest hospital in the State is located at Westmead; and public administration and safety accounts for 13 per cent. The financial and insurance service is the biggest industry and that very mobile sector, which can move anywhere, has chosen to go to Parramatta. Indeed, there is absolutely no evidence that productivity and growth are being held back because businesses do not have two votes.

What do councils in the Parramatta local government area provide? They obviously do not hold back productivity and growth. They provide, amongst other things, sporting facilities, roads, sewerage services and garbage collection for a large population. That is what councils are about. Councils are not supposed to be economic managers for this State; that is the responsibility of the State and Federal governments. Councils are responsible for looking after the people in their local government area, and they do that well. Perhaps we should look more closely at the cost shifting to local governments and how local government in turn shifts those costs to ratepayers rather than providing much-needed grassroots facilities.

Those opposite are misguided if they think this bill will change council performance for the better; it will not. Councils must look after the people within their local area. It is good to have a sense of egalitarianism and one vote for everyone. Labor rightly opposes this legislation. It is not supported by data. People understand that the City of Sydney is the economic powerhouse of Australia but there have been no mass calls for this type of legislation. Councils should be left to do what they do best, namely, look after local people without inhibiting productivity and economic growth.

The Hon. HELEN WESTWOOD [11.52 a.m.]: I speak to the City of Sydney Amendment (Elections) Bill 2014. My contribution will be brief because other members have covered almost all the relevant aspects of the bill. I will not be as entertaining as some of the previous speakers, in particular the Hon. Walt Secord who outdid us all in the entertainment stakes. If this bill is passed bad law will result because its motivation is not about public good. This bill does not come from any position of need. None of the stakeholders in the City of Sydney or the local government sector has lobbied for it, nor have businesses, residents or the local government sector demanded it. This bill is motivated to achieve the political outcome of getting rid of a progressive council.

It is well known that conservatives dislike progressive governments at any level and they particularly detest progressive women. I refer, for example, to the repeated attempts to get rid of the Lord Mayor of Sydney in her various positions, including as the member for Sydney. This bill is also motivated by a hatred of progressive women. Those opposite cannot stand to see powerful women in positions where they can make significant changes for the good of their community. The Government wants to get rid of a successful and competent leader of her local community. What is being proposed is absolutely undemocratic. The City of Sydney is a successful council. It is a leader in planning and many great environmental initiatives. The Council of the City of Sydney sets the benchmark in many aspects for which local government is responsible.

The City of Sydney Council has a great community engagement program. No-one can criticise the wonderful range of activities it sponsors and funds to bring life to this city—for example, its various arts programs, the Festival of Sydney and all the other festivals that bring people to this city. No-one can be critical of that, especially the Liberal councillors who have their photographs taken at the many successful events run by the City of Sydney Council. The council is led by a very progressive team. I, like many others in this place, have had a range of experience in local government. I served on a council for more than 12 years, I was an executive of the Local Government Association and I was a mayor. I too agree that local government needs reform. Indeed, many changes have been made around local government and there is currently a proposal for amalgamations.

If the Government was serious about real reform to bring about changes for the benefit of the sector and communities in this State, it should implement a proper consultation process to look at all reforms in local government. It should not just pick off the City of Sydney Council because it suits the political agenda of those opposite. The Government is being absolutely undemocratic and there is no transparency. The president of Local Government NSW said:

> Not a single NSW council has been consulted on the "secretive" Shooters and Fishers Party Bill … While the current Bill is … aimed at the City of Sydney, Local Government NSW [LGNSW] is deeply concerned about the lack of transparency and non-existent consultation on the proposed legislation, and the potential for these new voting rules to be rolled out to all NSW councils.

The Government is willing to support a private member's bill that has serious implications for communities all around this State as well as the local government sector without having consulted one council or the organisation that represents local government in this State. That is not transparency. Indeed, that clearly demonstrates that the bill is about achieving a political end to get rid of progressive councils that bring about change. Those opposite do not want to see progressive outcomes. They should hang themselves—hang their heads in shame.

The Hon. Dr Peter Phelps: Hang ourselves?

The Hon. HELEN WESTWOOD: I acknowledge the interjection of the Hon. Dr Peter Phelps. The truth is—

The Hon. Lynda Voltz: Point of order: It is impossible for the Hon. Helen Westwood to continue her contribution while the Government Whip continues to interject. I ask that the Government Whip be called to order.

The Hon. Dr Peter Phelps: To the point of order: The Hon. Helen Westwood suggested that I commit suicide. I feel I am justified in responding to that suggestion.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! The member will be heard in silence.

The Hon. HELEN WESTWOOD: As I was about to say before the point of order was taken, I acknowledge the interjection by the Hon. Dr Peter Phelps because I agree—give them enough rope and they will hang themselves. That is exactly what will happen here. The people of New South Wales will see through this legislation. They know what it is about: It is about taking away the right of residents throughout New South Wales to have a vote of equal value to those people who happen to be landowners or who happen to be businesspeople. This is about taking away control of local communities from the residents who live there and giving it to the business sector, who are there to make a profit. That is what this is about.

[*Interruption*]

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! The Hon. Dr Peter Phelps will cease interjecting. This is not an opportunity for him to make a speech.

The Hon. HELEN WESTWOOD: I do not want any of those interjections to be acknowledged. One of the reasons why this is such a bad idea is that where such a model has been in place, in the City of Melbourne, there has been a review. Many other members have referred to this review. Indeed the review was headed by former Federal Liberal member of Parliament Petro Georgiou. He said, "A corporation is a legal individual and it should be treated as an individual and that means one vote." That comes from a former Liberal member of Parliament who has reviewed the City of Melbourne model and recommended change.

Mr David Shoebridge: The "Melbourne mistake", he calls it.

The Hon. HELEN WESTWOOD: I acknowledge that interjection from Mr David Shoebridge—it has been called the "Melbourne mistake". We should not be making the same mistake in New South Wales. The people of Sydney deserve better. I urge all honourable members to oppose this bill.

Ms JAN BARHAM [12.02 p.m.]: I speak in opposition to the City of Sydney Amendment (Elections) Bill 2014. Like many other members in the House, I have long experience of being an elected representative on local government. I served for 13 years on Byron Shire Council and was honoured to be a popularly elected mayor for nine years—a popularly re-elected mayor. I have grave concerns about this bill, particularly about it going against the principle of one person, one vote. I am shocked that this bill—which, as many have spoken about, appears to be a "Get Clover bill"—has the potential to be applied across the State. This matter has not been conveyed to those councils concerned.

I have heard members refer to the fact that there was inquiry by the Joint Standing Committee on Electoral Matters. My understanding is that that inquiry focused on the City of Sydney Council. It did not convey to the other 152 councils that they may be brought under a bill that would come forward and that they too could have this provision applied to them where votes would be awarded to businesses unfairly over local residents. Some members have spoken already about Antony Green's election blog, and the shadow Minister for Local Government referred to it at length. Antony Green goes into the background of the City of Sydney Council. History has been repeated over and over again—successive governments seem to want to change the nature of the City of Sydney Council. I recall that in the early 1990s the Hon. Frank Sartor was at odds with the Government and there were attacks on him. More recently we have seen attacks on the Independent Lord Mayor, Clover Moore.

I quote from Antony Green's election blog and a post-dated 5 September 2014. He refers to some of the history surrounding the City of Sydney Council and how changes have been made over time by successive governments to change the outcome of elections for the City of Sydney Council. He says:

> The electoral system has switched back and forth between single member, multi-member winner-takes-all and proportional representation. The non-resident roll has been expanded and contracted and the position of Lord Mayor has sometimes been by popular election and at other times elected by the Council.

He goes on to say:

> Given this history, I think it is entirely right to take a jaundiced view on the latest wheezing cry to change the City of Sydney's electoral system. No one has actually cried to be rid of this meddlesome Lord Mayor, but the current proposals appear designed with malice towards Independent Clover Moore's continuance in office.

It is a very strange situation to see legislation coming forward in this way. I think it is fair to point out, as other members have, that there has not been a proper process to bring about this legislation—there has not been an overwhelming outcry from the residents and citizens of the City of Sydney demanding that their system be changed. We have not seen a report, a review or an independent analysis of what has gone on. I acknowledge that there was a report done by the Joint Standing Committee on Electoral Matters. It was a committee with a Government majority. Evidence was sought. I am not sure that people were aware that this inquiry was taking evidence about whether they were happy with the current situation—their local council elections, the electoral process and who they elect.

Democracy serves us well in that we know whether a community is happy with the people it elects because if it is then it re-elects them. I was popularly elected as a mayor in 2004, and I admit it was a very close election. Many said that was a terrible thing and that the community had made a terrible mistake electing a Green mayor. They said, "The community has made a terrible mistake and it will be corrected at the next election." In 2008 there was outcry from the business community. Business does not conform to the charter and principles of local government. Local government has a charter. Under the Local Government Act there are points about what the charter of a council is, and one of the important things is for a council to have regard to the long-term and cumulative effects of its decisions.

This might sound jaundiced but my view from experience, and the view of many other people, is that what often happens with a business perspective is that they are looking after their business and they are looking after their short-term return and their profit margin. It is not necessarily about long-term decisions and taking into account cumulative impacts. It could well be that they are looking for a short-term return and will then move on to something else. In local government there is a long-term perspective and a cumulative effect, and it is about the broader community interests—not individual interests. I am not decrying the fact that people are in business. I have been in business myself. It is a perfectly legitimate position to take—to look after your own interests and those of your shareholders, and to find a way to get a return.

The Hon. Lynda Voltz: Point of order: I appreciate that members feel passionately about the bill but they should not yell across the Chamber while the member is making her contribution.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! Interjections are disorderly at all times. The Hon. Dr Peter Phelps will restrain himself.

Ms JAN BARHAM: The Local Government Charter under the Act makes clear the role of local government and that is why the current process works so well. The role of council is perfectly defined to be about looking after the interests of the whole community, not only one sector. Very often a community might have concerns about a council but it knows that it has the right to be heard and if it does not like the council's decisions it can vote differently at the next election. I have not heard great concerns expressed about what has happened in the City of Sydney.

The Hon. Dr Peter Phelps: You're kidding? You haven't read the *Telegraph* in the past 10 years?

Ms JAN BARHAM: I have seen some of the issues raised in the *Daily Telegraph* but I do not hear them echoed in the community. I attend community events and I have seen how Lord Mayor Clover Moore is welcomed and warmly received by her community. Interestingly, I have heard a number of conversations about the fact that a non-resident property franchise only exists at the local government level and people would be

outraged to think that business could take over State or Federal government. It exists at local government level. I think everyone accepts that there is a place for business to vote. As currently legislated there is no impediment to business doing so.

When some members of the business community in my local area felt that they were hard done by and not getting the support they deserved the chamber of commerce undertook a proactive campaign telling businesses to get on the roll and vote. That was despite the rest of the community wanting a more balanced approach and supporting the council's position. Opportunities are available for businesses to vote. That is not being disputed. This bill is seeking to expand those opportunities by giving more power and more votes to non-resident and property interests. As Antony Green said in his blog:

> The two votes idea is completely at odds with Australia history, and with democracy as understood in most western countries. It can only be viewed as a stalking horse for the real intent of the legislation, which is an expansion on the non-resident roll and the introduction of some form of compulsion in business enrolment and voting.

I believe that it is a wrong move to consider this bill because it is wrong in the way it seeks to change the democracy in which we live and how local government operates. We have all heard about the Melbourne mistake and are aware of the recent review of the Melbourne model, which so many put forward as the model that should be reflected here because it is operating in another great Australian city. I am not sure people expected the review to happen, and that it would basically find that the Melbourne model was a mistake and is not working well.

The Hon. Robert Borsak: It does not say that.

Ms JAN BARHAM: The recommendations in the report clearly state:

1. The voter franchise for Victorian local government elections be broadened to bring it into closer alignment with the 'local community' as defined in the *Local Government Act 1989*.

2. To give effect to the revised statewide franchise, the following eligibility criteria be implemented through a revision to the *Local Government Act 1989*:

    a) aged 18 and above ...

Many people would dispute whether 18 is the age at which people should be allowed to vote. Why do we not think about lowering the age requirement if we want to give people greater responsibilities? That is one point of view and I think it is The Greens policy position. That suggestion is not being brought forward in this debate. The report goes on to recommend that, to give effect to the revised statewide franchise, the eligibility criteria should include citizens or permanent residents living in the municipality.

The inquiry into the Melbourne experience found that it does not work well for democracy so why is it being rolled out here without any justification? This is not a good bill for the City of Sydney or New South Wales. I note that a number of councillors have moved motions objecting to this bill because of division 5, which relates to the application of provisions of part 3 to other councils. Division 5 provides that regulations may apply the provisions of that part to other councils. That is a big surprise. Since when was it decided that this process would be rolled out?

There has been no consultation. To find out one day that there is a bill before the Legislative Council to change the way local government operates goes against the principles of local government that it should be heard, consulted and engaged with to play its part in long-term planning and in participatory democracy. It is unfair and unreasonable. It could substantially change the way that local government operates and affect the ability of citizens, who have made a long-term commitment to their council areas, to have a fair say in their future.

I do not know about the experiences of every local council but I can speak about my personal experience. Many of the businesspeople in my local community are new arrivals and non-residents who were attracted to my shire because of its economic viability. It is a lucrative place. It is interesting that 20 years ago businesspeople, the chambers of commerce and developers said that they hated the community because it was anti-business. They said the community wanted people to go back to the caves and back to eating berries in the bush. Interestingly enough, it was a community that was forward thinking and progressive about protecting the environment and farmland, and enhancing our diverse and rich cultural life, which created an area that is loved throughout the world.

The Hon. Robert Borsak: That is Byron Bay, not Sydney.

Ms JAN BARHAM: I am talking about a similar situation that is at work across shires. I have spoken to the people of Gloucester, who also have a wonderful community that is rich in resilience, agriculture and tourism. That community is to be congratulated on seeking to protect and preserve the things of real value that give the area its strength as a sustainable community. It is not always business that knows what is best for the long term and what is best for everyone else. My point is that the level of the fairness in the current situation is accepted as being fine. This bill will take away the rights of resident citizens.

The Hon. Dr Peter Phelps: It will not take them away.

Ms JAN BARHAM: It will take away rights by creating an imbalance in which votes of non-residents and property owners have more weight and value than votes of citizens and residents. I agree with the reasons my colleague Mr David Shoebridge eloquently stated as to why The Greens oppose this bill. I thought it important to put on record the situations where citizens are bound by the charter and committed to electing people who care about the broad interests of the community. I also thought it important to bring to the attention of members the wonderful piece by Antony Green that gives the broad history and background to the Melbourne situation.

The Hon. Robert Borsak: Antony Green showing his left-leaning malice again.

Ms JAN BARHAM: I have never thought that Antony Green is left, and I still do not. I think he is putting forward a point of view. I note that Reverend the Hon. Fred Nile raised an issue about rates and taxes and who pays and who does not. Mr Antony Green makes this point:

> The logic here is trying to tap into the argument of the American revolution about no taxation without representation. Yet it is distorting this argument into one that says those who pay more taxes should get more votes.

That distortion supports very unfair representation. I make the point that the business community has a lot of opportunities to be involved in the affairs of local government and is consulted.

The Hon. Robert Borsak: They are there to be taxed, but not represented. That is the name of the game.

Ms JAN BARHAM: The interjections relate to businesses being there to be taxed, but they are also there to benefit. They benefit greatly from the wellbeing, the cultural life and the excitement of a city that has festivals, events and a lifestyle and that is regarded internationally as a place to visit. In regard to the bikeways, my experience of talking to taxi drivers and local people is that they advocate getting rid of the cars—having more bikeways, more public transport and going the way of London.

The Hon. Dr Peter Phelps: You think taxi drivers would have an interest in getting rid of private vehicles, do you? Do you think there might be a slight conflict of interest there?

Ms JAN BARHAM: The idea is that this is a great city. It is being well looked after. It is regarded highly around the world, and that is because of the representation. I applaud the Lord Mayor, Clover Moore, and all the councillors. I find this bill abhorrent to the idea of democracy and the citizens of New South Wales.

The Hon. STEVE WHAN [12.21 p.m.]: I support the excellent speech made by our shadow Minister, Sophie Cotsis, last night in this place on the City of Sydney Amendment (Elections) Bill 2014. She put such a strong and cogent case as to why the Government should not be backing this legislation. I understand that the Shooters and Fishers Party and the Lord Mayor of Sydney probably do not see eye to eye on very much.

The Hon. Robert Borsak: We do not see eye to eye on anything.

The Hon. STEVE WHAN: Indeed. There are some areas in which I would not see eye to eye with her either, but that does not mean that I would be willing to support legislation that is trying to skew the democratic process and get rid of her by using this Parliament's power rather than the voters' right under a democracy. I agree with the Lord Mayor's efforts to get more cycleways in Sydney; they are a positive thing for this city. A couple of points I will make go to some of the comments that have been made during the debate. We have had a fair bit of debate about the idea in the legislation of giving businesses two votes.

This is an example of gross hypocrisy on the part of the Government. We saw it abolish the livestock health and pest authorities [LHPAs] and the catchment management authorities [CMAs]—a system in which landholders had a vote for each person who was on the electoral roll for an area—and replace it with each landholder under Local Land Services [LLS] getting only a single vote. Even if there is a family of eligible voters in a household, as is often the case—for example, a husband and wife—they have to choose which one of them will get to vote. For the Government to have rolled that out and to now seek to be completely inconsistent in relation to the City of Sydney and give businesses two votes is hypocritical. This Government and its members should hang their heads in shame over this because it is an example of them manipulating voting systems to try to give themselves an advantage.

I know that today in the public gallery we have quite a few people who I suspect would have been interested in the LLS votes and the debacle of an election in which this Government overturned the old rolls and put in place only one vote per property. It is ridiculous for the Government to say in this debate that in the City of Sydney there should be two votes per business. Members who preceded me in this debate spoke about why this legislation would not apply to rural councils. The fact is that the legislation as it stands allows the Government to roll it out to other councils by regulation. That is a very dangerous situation. The Government has spoken about some of the bigger city councils, so let us examine what might happen if this legislation is rolled out to a council such as the Snowy River Shire Council, which has a large number of absentee business landholders in Jindabyne. If they were able to get two votes, we would never again see a representative of the rural landholders being elected to the Snowy River Shire Council because they would be overwhelmed by business votes from that single community.

This is dangerous legislation. It is being put in place because this Government has shown us on several occasions that it is willing to use the forms of the Parliament and its numbers in Parliament to pass laws to damage its political opponents. This is the second time we have seen this Government trying to pass laws to attack the Lord Mayor of Sydney. We saw this Government using its numbers to pass laws that it hoped would damage the structure of the Labor Party—that was its way of trying to make sure that the Labor Party structures, which had been in place for more than 100 years, would be damaged by its legislation. That was overturned in the High Court. The hypocrisy of this Government is apparent because, at exactly the same time as moving legislation to try to damage the Labor Party structures, the Government's party organisation was rorting the existing electoral laws and taking illegal donations. What a bunch of hypocrites.

I again endorse the great speech made by the shadow Minister last night. As a Greek descendant in this House, she even told us about the roots of democracy. I expected her to tell us about the benefits of Windex as well, but she did not get to that part of the treatise on the roots of democracy. She did an excellent job. I fully endorse the shadow Minister's comments in opposing this legislation.

The Hon. PETER PRIMROSE [12.26 p.m.]: I will briefly add my voice to the opposition to the City of Sydney Amendment (Elections) Bill 2014. I want it to be well recorded that I am on the right side of history in relation to how I vote on this bill. I also wish to say how well the shadow Minister, the Hon. Sophie Cotsis, presented the case. I thoroughly endorse all the points she made last night during her contribution to the debate. As a member of the Committee on Electoral Matters that inquired into issues under its terms of reference, I know that no witness presented evidence to the committee calling for this change. No organisation came to the committee and said, "We want this change to occur not only in the City of Sydney …", nor did anyone else. The majority of the committee chose to approach the Lord Mayor of Melbourne and say, "How do you operate? How does this run?" That person then came to the committee and gave evidence, and we took evidence from the Victorian Electoral Commission.

The point I make is that this legislation arose from an initiative within the majority of the Committee on Electoral Matters. No citizen of New South Wales came to the committee. No person in this Chamber and no council said to the committee, "We're looking at this. Something is wrong in Sydney. Something is wrong in Wollongong. We want something to be altered in the electoral system somewhere in New South Wales." This was not an initiative that arose out of the evidence before the committee. The majority on the committee proposed the idea, saw it through and made a recommendation. If there was a mischief that needed to be corrected in New South Wales, I would have expected, at the very least, someone such as the Electoral Commissioner, someone from Local Government NSW or someone from local government in New South Wales to have raised it with the committee. No-one did.

My simple point is that there was no demand within the community of New South Wales and no demand within the business community of New South Wales that presented evidence to the committee. This

initiative is coming from the Government. I appreciate that this is not the Government's bill, but the Government is supporting it. The people who are driving this—and, with due respect to the mover of the resolution, it is the Government members—will decide whether this legislation gets through this place or not. The Government is placing its support behind the bill. This is an initiative that is coming from the Government and not from the community.

We should not be talking only about the City of Sydney. Others have made it clear—and I want to make it clear—that this was also mentioned by the majority during the inquiry. This is all public. I am not revealing anything confidential. The committee was not discussing the City of Sydney only. Wollongong, Newcastle and Parramatta were all mentioned as places to which this voting system could be extended. If this bill is passed in relation to the City of Sydney, it will not stop there but will be expanded exponentially to all local government areas in New South Wales. The Liberal-Nationals are attempting to manipulate the voting system where they believe it is in their best interests to do so.

On 13 August, Local Government NSW issued a media release regarding this bill under the heading "Councils not privy to 'secretive' Bill on compulsory business voting in Local Government elections". The president of Local Government NSW said that he was "outraged at the NSW Government's support of this Bill" and stated: "Not a single NSW council has been consulted ..." The statement continues:

> While the current Bill is solely aimed at the City of Sydney, Local Government NSW (LGNSW) is deeply concerned about the lack of transparency and non-existent consultation on the proposed legislation, and the potential for these new voting rules to be rolled out to all NSW councils.

As I have said, it was already mentioned in the committee that these changes would be rolled out to other local government areas. If the Government believes it is in its interest to do so, it will roll them out. Before introducing changes that are opposed by local government, an inquiry should be held. We should say to Local Government NSW, "If you believe this is not a good idea, come and argue the case." But the Government is scared to do that. It will not allow this issue to be ventilated before an inquiry. This House has always said, "If you believe you have a case, go and argue it." Why are we not allowing people who are going to be adversely affected by this to present their case before an inquiry? The Government wants to ram the bill through.

The spokespeople for those who are going to be adversely affected by these changes are asking to be given the opportunity to argue their case. The matter was simply thought up and rammed through the Joint Standing Committee on Electoral Matters without consultation. No-one in New South Wales was asked for their opinion. I note the comments of ABC election analyst Antony Green. On 5 September 2014 in his blog he laid out his reasons for opposing the bill:

> The logic here is trying to tap into the argument of the American revolution about no taxation without representation. Yet it is distorting this argument into one that says those who pay more taxes should get more votes.

He goes on to say:

> The two votes idea is completely at odds with Australian history, and with democracy as understood in most western countries. It can only be viewed as a stalking horse for the real intent of the legislation, which is an expansion on the non-resident roll and the introduction of some form of compulsion in business enrolment and voting.

We need to have that discussion in a committee where those people can come and present their arguments. If one believes that business should be entitled to extra votes and that if one pays taxes one should get a vote, what about non-citizens? People who are non-citizens in this country but who pay taxes in the City of Sydney do not get a vote at the local election.

Mr David Shoebridge: They do in Melbourne.

The Hon. PETER PRIMROSE: They do in Melbourne. What about the State election? Why should these changes be expected to apply only to local government elections?

The Hon. Robert Borsak: It is a long bow.

The Hon. PETER PRIMROSE: The member says it is a long bow.

The Hon. Robert Borsak: You didn't read the bill.

The Hon. PETER PRIMROSE: The member is suggesting that a long bow is being drawn because the argument is that if one is a member of the business community and pays rates at a council level one should get double the vote. Members opposite seem to be arguing the parallel case: That if one pays payroll tax and other taxes and duties, the argument is not equivalent and cannot be extended. If a business is paying payroll tax and other taxes and duties, on the same assumption, why should that company not be entitled, as a business entity, to receive a separate vote at a State election? It is illogical to suggest that if a company pays taxes at a council level, it is entitled to a vote; but if it pays taxes at a State level, a vote is unthinkable. Think the logic through—the same argument would apply. As a number of speakers have already indicated, the Victorian Liberal-Nationals Government is withdrawing from this concept.

The Hon. Dr Peter Phelps: No it is not—that is completely wrong.

The Hon. PETER PRIMROSE: There are reports that have been presented by Petro Georgiou suggesting that this is wrong and that people are starting to question it.

The Hon. Dr Peter Phelps: Because someone has suggested something does not mean one will go with it.

The Hon. PETER PRIMROSE: The big difference is that in Victoria they allowed a debate about this. Members opposite, including the Government Whip—the great libertarian here—are voting to say no, the people of New South Wales cannot have a vote.

The Hon. Dr Peter Phelps: Steve Bracks supported the Melbourne model.

The Hon. PETER PRIMROSE: They cannot have a discussion about this.

The Hon. Dr Peter Phelps: Your Labor Premier mate, Steve Bracks, supported the Melbourne model.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! Members will cease shouting across the Chamber.

The Hon. PETER PRIMROSE: The only people who are entitled to have an opinion are people such as the Government Whip. He believes that his view is far more important than that of Local Government NSW. I oppose the City of Sydney Amendment (Elections) Bill 2014. I am proud to be on the right side of history.

The Hon. ROBERT BROWN [12.36 p.m.]: It appears that I will be the last speaker. I will keep my comments brief.

The Hon. Lynda Voltz: There is still time—more to come.

The Hon. ROBERT BROWN: Would you like me to filibuster for a couple of hours? I speak in support of my colleague's bill—the City of Sydney Amendment (Elections) Bill 2014. I think it is an eminently sensible bill. I have listened to many of the arguments put by members in this House. Some of them I simply cannot agree with. For example, the Hon. Peter Primrose just tried to proselytise, saying that this bill will allow non-residents a vote. That is not the case—he should read the bill.

Mr David Shoebridge: He said it would be the next step.

The Hon. ROBERT BROWN: We heard that the bill will see a rollout of this sort of arrangement across the State. There is a simple answer to that—let us support Mr David Shoebridge's amendment; that would fix that, would it not?

Mr David Shoebridge: For the moment.

The Hon. ROBERT BROWN: I listened to the Hon. Jan Barham, for whom I have the greatest respect. She is the one clear voice in this House on occasions, particularly when it comes to matters being prosecuted by The Greens. I admire her for her work in local government. But one cannot come into the House and try to draw a parallel between Byron Bay and the City of Sydney. They do not equate. We heard arguments from the Hon. Steve Whan, suggesting that the Government was being hypocritical in its application of votes in the Local Land Services compared to what is being proposed here. These are spurious, circular arguments. This bill seeks not to create a gerrymander, but to break one.

When one looks at the City of Sydney and what it generates for the State of New South Wales and for the whole country and when one considers the way that this city is put together, with its people, it is simply not viable to consider the City of Sydney as a village or a group of villages. That cannot be done. If we start thinking like that, we might as well just fold up the tents and allow Melbourne to run things. This vibrant and vital city has done very well over the years, apart from the narrow streets and a few similar poor-planning problems. We have a gerrymander, as referenced by Reverend the Hon. Fred Nile, created by the Labor Party. One has to have a good memory to argue in this place that the Labor Party and The Greens are the champions of democracy. I support my colleague's bill. It will do wonders for the city of Sydney. I commend the bill to the House.

The Hon. ROBERT BORSAK [12.40 p.m.], in reply: I thank all the members who contributed to the debate. Since I introduced the City of Sydney Amendment (Elections) Bill 2014 a few weeks ago there has been much public comment, most of it ill-informed or simply wrong. Strangely, in democracy the Lord Mayor of Sydney does not want eligible non-residential voters, who contribute greatly to the financial wellbeing of this city, to have their democratic right to vote through an easy and transparent process. That is the sole purpose of this bill. I would have thought that the Lord Mayor would welcome democracy—after all, she says she has the support of business—rather than castigate me for introducing this bill. She acknowledges the right of business to vote yet is happy to restrict that vote through structural obstruction and by wiping the rolls after each election.

The City of Sydney is financially well off, but very unimaginatively managed. Even that management is poor and too conservative. She and her council just do not get it. They do not understand the role of business in an international city, such as Sydney, or, indeed, their role in encouraging business, commerce and development. I shall briefly comment on some of the contributions in this debate. I am sure that the passion with which those speeches were delivered is deeply felt at times, but the reality is that not one speaker has been in business. Not one has had to take a risk with their house and family assets to provide the chance of an income for themselves, their family and employees.

The Hon. Lynda Voltz: That is not true.

The Hon. ROBERT BORSAK: That is the way I see it. How many of them have paid payroll tax, workers compensation insurance levies, council rates, high city taxes, city council fines, incurred bad debts, not had holidays for years or, indeed, paid employees for sick leave, holiday pay and all the other entitlements to which those employees are justifiably entitled? They have criticised and referenced this big scary bogey of large, faceless corporations out to oppress the voters of the City of Sydney. Nothing could be further from the truth. The people we are talking about that my bill seeks to bring into the democratic system overwhelmingly are small business people—self-employed, hardworking, rate-paying individuals who should be encouraged and not abused by the likes of Labor, The Greens, the Lord Mayor and her self-serving cronies. Have they been given even a secondary consideration by this crazy council and the Lord Mayor in the destructive obstruction of their businesses by the current and planned bike paths? No, they have not.

Businesses in this city are just mugs to be milked of taxes, ignored and then, to top it all off, prevented from having a vote. Those opposite should hang their heads in shame. Business is the lifeblood of the city; it is the engine of employment. Business provides rates, taxes, fines and over 80 per cent of the revenue of this great city of ours. The businesspeople of Sydney are the heroes, not some self-serving spruiker standing here lecturing and hectoring them from the soapbox of Parliament, having come from either the cloistered halls of academia or, even worse, the rarefied atmosphere of a barrister's chambers. What one reads in *Hansard* does not really reflect what most of those who oppose this bill really mean. For instance, opposing the bill gives the Labor Party the chance to have greater representation on the city council, which always has been its aim. I am surprised that in the past 24 hours so many Opposition members spoke against a very sensible bill that levels the electoral playing field and—to again use the analogy, though differently—fixes this rotten borough that Labor and Clover Moore created in 2002.

Despite what The Greens have said, they see this bill as an opportunity to have representation in the City of Sydney Council rather than Clover Moore's independents. They stood in this place with no background or knowledge of real-world risk and only contempt for business and businesspeople, and cried crocodile tears over Clover Moore and, by implication, her vassal, Alex Greenwich. Indeed, The Greens' socialist agenda revels in picking over the bones of business, with their cheap and easy appeal to tax-and-spend policies, whilst bemoaning the justifiable rights of business owners. This bill talks about the minimum of one vote, one value for business voters. On average, all businesses generally have more than one proprietor taking the same risks. Limiting votes to two is not only fair, it is also equitable. The proposal is about one vote, one value—plain and

simple. Fortunately, the general public can see through the current charade. That probably explains why attempts to mobilise public protests against the bill have failed dismally. In fact, I am flabbergasted that the Lord Mayor would spend in excess of $50,000 on advertising and other expenses and mobilise only 100 or so protesters against this bill.

This bill is not outrageous. Outrageous is the complete disregard for ratepayers' money being spent on futile attempts by the Lord Mayor to deny eligible non-residential voters their right to access the ballot box. I thank Reverend the Hon. Fred Nile for his contribution. The Christian Democratic Party has long campaigned for a similar bill. I was only too pleased to take the opportunity to introduce it to this place with Government support. The Shooters and Fishers Party and the Christian Democratic Party should be regarded as honest brokers and parties that keep their word. We have only ever sought to do the best for the people of New South Wales in the bills we support and introduce. It would appear that the drafting of the bill has caused some confusion. Seldom is any bill without minor flaws during the drafting process, but they can be fixed with amendments.

The Shooters and Fishers Party is happy to support some of the foreshadowed amendments, particularly to remove the regulation-making power to expand this bill's provisions to other council areas. It never was the intention of the bill to impact on any council other than the City of Sydney. The intention always has been to make it easier for eligible non-residential voters to have their say at the ballot box and to ensure that each entity is entitled to at least two votes to represent the owners of the business and give justification to the basic tenure of local government voting—that is, the ownership of parcels of land leased or used for business. The Government has foreshadowed amendments to clarify this matter, which we are happy to support.

This bill is not about giving some sort of leg-up to anyone, as the Lord Mayor of the City of Sydney would have us believe. Rather, the fact is that most residences of the city of Sydney are occupied by more than one person and each occupant is entitled to a vote, yet they contribute far less to the city's finances than most eligible non-residential voters. The owner or owners of a rental property also are entitled to vote. It is only reasonable that eligible non-residential voters have two votes in the council elections for the City of Sydney—a council that is the driving engine of the State economy of New South Wales. I commend the bill to the House.

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

The House divided.

Ayes, 19

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

Noes, 16

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

Pairs

Mr Harwin	Ms Fazio
Mr Lynn	Mr Foley
Mr Pearce	Mr Wong

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Consideration in Committee set down as an order of the day for a later hour.

[*The Assistant-President (Reverend the Hon. Fred Nile) left the chair at 12.57 p.m. The House resumed at 2.30 p.m.*]

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

QUESTIONS WITHOUT NOTICE

MINISTER FOR FAIR TRADING

The Hon. LUKE FOLEY: My question without notice is directed to the Minister for Fair Trading. As the Minister responsible for the regulation of real estate matters, how many times has he met with members of the Brinkmeyer family, the owners of Elmslea Land Developments? Has the Minister or any of his staff sought a donation from the Brinkmeyer family or Elmslea?

The Hon. MATTHEW MASON-COX: I thank the member for his question. As Minister I have not met with the persons the member mentioned.

ROAD FUNDING

The Hon. NATASHA MACLAREN-JONES: My question is directed to the Minister for Roads and Freight. Will the Minister update the House on the State Government's road grants to New South Wales councils?

The Hon. DUNCAN GAY: I thank the honourable member for her good question. It is my pleasure to indicate that the New South Wales Liberal-Nationals Government has committed a record $1.5 billion since April 2011 to help councils across the State build and repair their local roads, bridges and culverts. This is the highest level of State Government funding for local and regional roads in the State's history—dwarfing Labor's allocations in its last four financial years in Government by more than 40 per cent. This percentage increase is equivalent to an extra $450 million in State Government grants for council owned and managed roads since April 2011.

In addition to this record funding, we have provided an extra $37.5 million for councils this financial year under our very popular Fixing Country Roads program. By the end of the year the funding within Fixing Country Roads will have been allocated based on the recommendations of an independent assessment panel comprising Fiona Simson from the New South Wales Farmers Association, Barney Hayes from the Livestock and Bulk Carriers Association, Roger Fletcher from Infrastructure NSW, and senior officials from Transport for NSW, Freight and Regional Development and the Office of Local Government. This is a great example of taking the politics out of infrastructure funding—not to mention utilising the knowledge and expertise of recognised industry leaders from rural and regional New South Wales.

Fixing Country Roads builds on significant reforms under this Government, such as the formation of Infrastructure NSW, the creation of the "unsolicited proposal" process and the establishment of the State's first-ever dedicated fund for infrastructure: Restart NSW. We have achieved more in transport and freight in our 3½ years in Government than Labor did in 16 years. Indeed a Government agency dedicated to fixing freight bottlenecks did not even exist under Labor. Last week in a speech to this House the Hon. Walt Secord stated that local and regional roads in the Greater Taree, Cessnock and Byron Bay local government areas have suffered due to a lack of State funding. This is true, but only when talking about the past—these councils suffered horribly at the hands of the State Labor Government for 16 years. There were 16 years of neglect.

The PRESIDENT: Order! I call the Hon. Walt Secord to order for the first time.

The Hon. DUNCAN GAY: Compared to Labor, we have increased road grants to the Greater Taree, Cessnock and Byron Bay councils by 204 per cent, 125 per cent and 111 per cent, respectively. How good is that, and how wrong is the Hon. Walt Secord? He is lazy and loose with the truth.

MINISTER FOR FAIR TRADING

The Hon. ADAM SEARLE: My question without notice is directed to the Minister for Fair Trading. As the Minister responsible for the regulation of real estate matters, how often has the Minister had contact with Liberal Party State executive member Wayne Brown? Has the Minister ever discussed political fundraising with Mr Brown?

The Hon. MATTHEW MASON-COX: Mr Wayne Brown is a member of the State executive of the Liberal Party and, of course, I know him, as do most members of the Liberal Party.

ADVENT ENERGY 3D SEISMIC SURVEY

Mr JEREMY BUCKINGHAM: My question is directed to the Minister for Roads and Freight, representing the Minister for Primary Industries. Does the Government support gas exploration and extraction within one of the most productive fishing grounds in New South Wales, only three kilometres off the coast of Newcastle and Lake Macquarie, as proposed by Advent Energy? Will the Government communicate to the Federal Government and its agencies the concerns of commercial and recreational fishers that seismic testing will destroy the productivity of this fishery?

The Hon. DUNCAN GAY: I suggest that the honourable member refer that question to someone in the Federal arena, which is where it should be directed.

DEMENTIA FRIENDLY COMMUNITIES

The Hon. RICK COLLESS: My question is addressed to the Minister for Ageing. Will the Minister update the House on what the New South Wales Government is doing to promote dementia-friendly communities?

The Hon. JOHN AJAKA: I thank the honourable member for the question. Dementia has a significant impact on people with dementia, their family, friends and carers. A recent study estimated that the number of people with dementia in New South Wales will rise to 128,000 by 2020. This is a serious issue that requires the Government, the non-government sector and the community to work together collectively to promote innovative solutions.

I take this opportunity to commend the good work of the member for Port Macquarie, Leslie Williams, in the area of dementia. Mrs Williams sits on the New South Wales Parliamentary Friends of Dementia Committee and has started the Port Macquarie dementia project. Members of the project group include Alzheimer's Australia New South Wales and other interested community members. Leslie works consistently with Alzheimer's Australia to promote dementia-friendly communities. In September last year, at the invitation of Leslie Williams, I visited one of these working groups in Port Macquarie to announce $10,000 in New South Wales Government funding, which has contributed to the "Guide to Becoming a Dementia Friendly Community" information booklet. Last week at an Alzheimer's Australia event I had the pleasure of launching Alzheimer's Australia's "Guide to Becoming a Dementia Friendly Community" information booklet.

The PRESIDENT: Order! There is too much audible conversation in the Chamber. I am having difficulty hearing the Minister.

The Hon. JOHN AJAKA: I recommend all members obtain a copy of the booklet and read it carefully. As the peak body and charity for all types of dementia, Alzheimer's Australia provides advocacy, support services, education and information for people with dementia, their families, friends and carers. By creating more dementia-friendly communities we can reduce the barriers people with dementia face and increase their social participation. The New South Wales Government is in the process of finalising the New South Wales dementia services framework implementation plan for 2014-2016. The implementation plan will progress the work of the NSW Dementia Services Framework 2010-2015, which sets the direction for improving the quality of life of people with dementia, their carers and families in New South Wales.

One of this Government's key priorities is to protect the vulnerable. We have made significant steps towards improving the experience and quality of care for people living with dementia, their carers and families when accessing the health system. A key achievement is the increase in educational opportunities for staff so that people living with dementia have improved access to appropriate and skilled care. The New South Wales

Government also supports people with dementia through its work with local councils on the concept of livable communities, which brings to life the need to tailor our communities to be more inclusive of seniors, carers and people with disabilities.

The Government has also facilitated three regional ageing strategies with local councils, including for the North Coast, Central Coast and northern Sydney. The North Coast Ageing Strategy was released in June 2014, the Central Coast Ageing Strategy was released in September 2014 and the Northern Sydney Ageing Strategy is being finalised.

CONTAINER DEPOSIT SCHEME

Dr MEHREEN FARUQI: My question without notice is directed to the Minister for Ageing, representing the Minister for the Environment. Given the recent evidence from the CSIRO that shows that South Australia has the lowest proportion of beverage containers in clean-ups and New South Wales has the highest, will the Minister commit to a container deposit scheme, which the CSIRO calls "an effective policy in reducing litter"?

The Hon. JOHN AJAKA: I will refer the member's question to the Minister and come back with an answer.

RENTAL BONDS

The Hon. SHAOQUETT MOSELMANE: My question without notice is directed to the Minister for Fair Trading. Given that 57 per cent of low-income private renters in New South Wales are in housing stress and acknowledging that the Rental Bond Board generates $60 million a year in interest on tenant bonds, will the Minister give an explanation and breakdown of how this money is used to assist New South Wales tenants?

The Hon. MATTHEW MASON-COX: I would be delighted to give the member an understanding of what we do with that money, but let me first give him a bit more background. The Rental Bond Board and NSW Fair Trading manage about $1.1 billion worth of rental bonds as part of the wonderful service we provide at Grafton. The $1.1 billion is held on trust for the renters and landlords of New South Wales. The member is correct that interest is earned on that money during the course of the year. It is normally between $55 million and $60 million per year. Last year it was $58 million.

We fund a range of services with that money. One of those is the No Interest Loan Scheme, which I have mentioned a number of times in this place. We provide the Low Interest Loan Scheme to a range of not-for-profit organisations that offer the service to people in vulnerable situations who need to access a no interest loan to purchase basic household goods such as a fridge or computer or to put their car on the road. Each year through that scheme we offer $2.3 million to provide for that important program.

We also fund financial counselling. This week I opened the Financial Counselling Association of New South Wales annual conference. The few hundred people there were pleased that the New South Wales Government provides $6.3 million worth of assistance to that program each year. It is an important program that dovetails with the No Interest Loan Scheme, which is often the first port of call. Financial counsellors are available to help vulnerable people who come in looking for a loan to access other services to learn how to manage their money better and deal with the problems they face.

We run a tenancy advocacy service. A few weeks ago I mentioned my trip to Grafton to open the new Rental Bond Board facility that is providing 26 new jobs in Grafton. We launched the tenancy advocacy service, which is a new model that we have provided to deal with simple and straightforward complaints over the phone or internet. It has been a successful service provided by Fair Trading that has resulted in a marked increase in the number of resolutions of disputes between tenants and landlords. We fund tenancy advocacy services through a range of community legal centres. An example is the Macquarie Legal Centre in Sydney that provides services statewide. We provide a range of services through these mediums that are focused on ensuring that tenants and landlords can access the services they need to protect their rights and responsibilities.

HOME BUILDING CONSUMER PROTECTION

The Hon. DAVID CLARKE: My question is addressed to the Minister for Fair Trading. Will the Minister update the House on how NSW Fair Trading is protecting consumers from unlicensed building work?

The Hon. MATTHEW MASON-COX: I know the member has a strong interest in home building. From time to time on the weekend he picks up a tool or gets out there with a hammer.

The Hon. Adam Searle: Dave the Builder?

The Hon. MATTHEW MASON-COX: Perhaps he is Dave the Builder. I understand that David's neighbours are always pleased to see him exercising his skills on the weekend. Members are aware that the Home Building Act is designed to protect consumers. The law ensures that people working in the industry hold appropriate licences and comply with conduct requirements under the Home Building Act. Information is publicly available on the Fair Trading website so that consumers can check whether a tradesperson or builder holds an appropriate licence. I encourage people to use that website because it should be their first port of call. People in New South Wales must be sure that they are dealing with a licensed builder. Fair Trading has zero tolerance for unlicensed people carrying out building work in New South Wales.

Yesterday the prosecution of Mr Xin Li came to fruition. Mr Xin Li, who traded under the name Sydney Bathrooms and Kitchens at Waterloo, was convicted for breaches of the Home Building Act, including unlicensed contracting of residential building work. Mr Xin Li was ordered to pay fines and costs in the amount of $17,370, which was a good verdict for the people of New South Wales. Builders and tradespeople should ensure that they have a valid licence and that it is renewed before they commence any work in the home building industry.

NSW Fair Trading will continue to crack down on unlicensed operators in the building industry and it actively investigates alleged cases of non-compliance. If members of the public have issues in relation to compliance or the work of a home builder they should contact Fair Trading because it can act on the complaint. As I have mentioned on a number of occasions previously, Fair Trading has a magnificent record in relation to resolving complaints.

The Hon. Greg Donnelly: What percentage?

The Hon. MATTHEW MASON-COX: I will say it again in case the Hon. Greg Donnelly has forgotten.

The Hon. Greg Donnelly: This is tedious repetition—93 per cent.

The Hon. MATTHEW MASON-COX: It is 93 per cent of cases—or 93 times out of 100, to make it abundantly clear—in which Fair Trading is able to, on average, resolve those types of disputes.

The Hon. Duncan Gay: It is very good.

The Hon. MATTHEW MASON-COX: It is excellent. As part of Fair Trading's efforts to stamp out rogue operators, we have undertaken a series of on-site inspections to ensure that traders and builders are operating within the Home Building Act. I mentioned that we respond to complaints and in the last financial year we received 670 complaints that we investigated to check compliance. A further 1,147 home building inspections took place during compliance campaigns. Fair Trading has another strong compliance campaign underway for this financial year. Fair Trading will continue to aggressively pursue prosecutions against individuals like Mr Xin Li.

Fair Trading successfully prosecuted 22 licensed builders and tradespeople in the past financial year for 166 offences, resulting in court orders and fines totalling more than half a million dollars. Two hundred and twenty-two defendants were fined for 375 offences, resulting in fines of $364,000. As I mentioned earlier, all consumers should ensure that they use tradespeople who can show them a valid licence before agreeing to work. That is fundamental. It was a pleasure to see changes to the Home Building Act passed recently to improve protection for consumers in New South Wales. I very much look forward to sharing those with members in the future.

SOUTHERN TABLELANDS TRAIN TIMETABLE

The Hon. PAUL GREEN: I direct my question to the Minister for Roads and Freight, representing the Minister for Transport. I refer to a recent article in the *Goulburn Post* in which the Southern Tablelands Rail Users' Group spokesperson, Mr Price, said that despite a series of high-level meetings with politicians and rail

administrators, during which it was pointed out that the 7.40 a.m. train leaves too late for many passengers to undertake effective business or recreation in Sydney, the train remains unaltered, as do all Endeavour services. Given that that body represents people living along the 79.3 kilometre line, which serves seven stations between Moss Vale and Goulburn along with many towns surrounding Goulburn that have no rail service and almost non-existent public transport, I ask: What further steps is the Government taking to resolve this timetable complexity outside the extra services on that line?

The Hon. DUNCAN GAY: I thank the Hon. Paul Green for that question. I am an avid reader of the *Goulburn Post*—fine paper that it is.

The Hon. Greg Donnelly: A newspaper of record.

The Hon. DUNCAN GAY: Yes, and once owned by the Daniel family from the turn of the century until the late 1950s. It then became part of Rural Press Limited and now, sadly, is part of Fairfax. It continues its fine tradition with some great journalists at that paper, who mostly have been all right to me—but there have been days. I am not aware of the train services to which the member refers.

The Hon. Mick Veitch: Just ask Niall Blair. He catches it every day.

The Hon. DUNCAN GAY: Not from Goulburn, but my mother does catch trains from Goulburn on occasions. She tells me what terrific staff they have at the Goulburn railway station, who are just so helpful and outstanding. On behalf of my mum—Hi, Mum! Hi, staff at Goulburn railway station!—I say thank you for looking after mum. If they see mum again, mum is any lady of a certain age.

The Hon. Mick Veitch: Is your mum watching on the internet?

The Hon. DUNCAN GAY: No. I am sure it is an issue of importance to a lot of people in Goulburn. I will refer it to my colleague that great Minister the Transport, the Hon. Gladys Berejiklian, for a detailed answer.

SENIORS CARD MAILING LIST

The Hon. HELEN WESTWOOD: I direct my question without notice to the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra. I refer to a recent hearing of a parliamentary inquiry into the promotion of misleading and deceptive health-related information and practices at which the President of the Australian Medical Association [AMA], Dr Saxon Smith, gave evidence of misleading and expensive services, such as full body scans and cumin powder being promoted to Seniors Card holders. Why did the Government allow the Seniors Card mailing list to be used to promote misleading health-related information and services? How much money did the Government receive for doing so?

The Hon. JOHN AJAKA: I thank the Hon. Helen Westwood for the question. I indicate at the outset that I am not aware of the specific issue raised by her. I accept what she says in good faith and, of course, I will examine the matter and come back to her. I assure the member that the Seniors Card program is one of the most successful programs when it comes to assisting our seniors to meet their day-to-day living expenses. The benefit of many of the service providers being able to provide discounts to our card members is substantial. We have more than one million Seniors Card holders who are able to access a wide range of services. I am sure everyone in this Chamber would agree that it is a wonderful program. As I said, I will obtain the specific details of the matters raised by the Hon. Helen Westwood and come back to her.

MOTOR VEHICLE FRONTAL PROTECTION SYSTEM

The Hon. TREVOR KHAN: My question is directed to the Minister for Roads and Freight. Will he update the House on the ministerial order to provide tolerances to some bull bars?

Dr John Kaye: Have you been intolerant to bull bars again?

The Hon. DUNCAN GAY: There is a lot of bull around, and it is mostly on the Opposition side of the House. On 26 August 2014 I announced that light vehicles fitted with bull bars within a reasonable tolerance of the requirements specified in the Australian Standard for motor vehicle frontal protection systems will be given a two-year exemption period from some vehicle standards. The current issue with bull bars is yet another example of this Government having to fix up the mess because of policy from the previous administration.

The Hon. Steve Whan: Three and a half years it takes them.

The Hon. DUNCAN GAY: It is no wonder the Hon. Steve Whan is on the losers lounge. The mess was the result of a regulation enacted on 1 January 2003 by the then New South Wales Labor roads Minister, Carl Scully.

The Hon. Charlie Lynn: Mr Sparkles.

The Hon. DUNCAN GAY: Mr Sparkles, and that came from the Labor Party. That is a regulation that Labor somehow forgot to communicate and enforce. But, Mr President, are we really surprised? I signed off and enacted the ministerial exemption order yesterday, 16 September. The guidelines under the order will provide tolerance to people who inadvertently purchased a non-complying bull bar and to manufacturers so that they will have adequate time within which to comply with the standards. Bull bars save the lives of both those within the car and those who are pedestrians outside the car. They provide safety and security, particularly for those who live and travel in the bush. They are more than just a need; they are necessity, not a fad or a fashion accessory.

That is why a considered approach involving the New South Wales vehicle standards working group has been used to fix this problem. Representatives across government and industry have been active in solving this problem: Roads and Maritime Services, the NSW Police Force, the NSW Farmers Association, the Australian Automotive Aftermarket Association, 4WD Industry Council, 4WD NSW-ACT Inc., and the Bull Bar Council. The safety of all pedestrians and road users was considered when developing the guidelines to ensure that dangerous bull bars are removed from our roads without punishing people who unknowingly have purchased non-complying variations that do not pose an unacceptable road safety risk.

This Ministerial order protects consumers and manufacturers, while ensuring that key safety considerations in bull bar designs are upheld. That is something that the previous administration did not, could not, or would not do. Safety considerations that have been factored into bull bar design standards include having minimum ground clearance, forward vision, and visible lights, indicators and number plates. The order was not an easy one to make but balance had to be restored. However, the Government will not accept outrageous bull bars that would be more suited to a Mack truck than a ute or a car.

COAL INDUSTRY

Dr JOHN KAYE: My question is directed to the Minister representing the Treasurer. What steps have the O'Farrell and Baird Governments taken to prepare the New South Wales economy for a sustained downturn in the demand for and price of export coal?

The Hon. MATTHEW MASON-COX: I thank Dr John Kaye for his question. He should understand that the New South Wales economy is a well-diversified economy. It is not an economy that relies on coal; it is an economy that has well-diversified sectors. One needs only to look at the financial sector to understand the importance of that to the economy of New South Wales.

The Hon. Steve Whan: All those cash boxes.

The Hon. MATTHEW MASON-COX: Cash boxes, cash boxes—if only they would bring their cash boxes. I will continue to plough on nonetheless because educating those opposite should always be an objective of members on this side of the House.

When it comes to economic matters, a question from The Greens is always welcome. One would not think that is their strong suit, so it is important that they should understand that New South Wales is a well-diversified economy. The Baird Government has launched a multipronged attack. We have established a massive infrastructure investment program—$61 billion is being invested in infrastructure over the next four years. Once the Government has determined precisely what the sale proceeds may be from the long-term lease of electricity assets, another $20 billion will be available for investment in infrastructure and in other areas of the State.

The Government also has a major focus on building the housing industry in New South Wales—an important driver for the economy in this State. Over the 12 months to March this year, for the first time in a long while, housing starts increased beyond the 50,000 figure. It is important to understand that this Government has

focused carefully on how it might drive the housing market in this State. When people build homes it feeds through the economy to the people who employ others through furnishing homes and the like. We are talking about multiplier effects of two or three times, depending upon the industries one refers to.

The Government has a multipronged approach to economic growth in this State. The Greens would like to see the coal industry in New South Wales on its knees and closed. That is certainly not the policy of the Government. The Government understands that, in order to drive economic growth in this State, one needs not only a well-diversified economy but access to appropriately priced energy. The last thing the Government would want to see in New South Wales is the coal industry closed at the behest of The Greens and thereby driving into the dirt important regional powerhouses such as the Hunter. It would mean thousands of people losing jobs and whole regions of New South Wales coming to a grinding halt. The Government completely rejects that type of economic bastardry promoted by The Greens.

New South Wales is driven by a strong economic team. The Treasurer is doing a magnificent job, ably supported by the Minister for Finance and Services. I look forward in the near future to giving a further report on other measures that the New South Wales Government is progressing.

PETROL PRICES

The Hon. WALT SECORD: My question is directed to the Minister for Fair Trading. Has the Department of Fair Trading investigated New South Wales motorists' concerns about the price differential between unleaded and premium or ultimate unleaded petrol? What advice does the Department of Fair Trading provide to motorists to help them decide which product is the best consumer choice when filling up at the bowser?

The Hon. MATTHEW MASON-COX: I thank the member for his question. One must be clear about the regulatory role of the Department of Fair Trading. We have introduced some regulation in terms of the signage at petrol stations to ensure that signage is appropriately located and visible and that all the products on sale are on the sign. This will enable customers approaching a petrol station to see precisely what is available and the undiscounted price, so that they can make comparisons between different petrol outlets in the area.

The Hon. Walt Secord: That wasn't the question I asked.

The Hon. MATTHEW MASON-COX: In terms of the question asked by the Hon. Walt Secord, that is an issue that the Commonwealth looks at in relation to unleaded petrol and the energy rating of those different products. I understand that over the years *Choice* has looked at the way in which consumers might access the best energy-rated product for their vehicle. One also needs to think about E10 in that mix—forgive the pun—but the E10 mix is also important. There is a whole range of issues that consumers need to take into account in terms of their type of vehicle and the like. The Department of Fair Trading takes an active interest in consumer issues and this issue has a Commonwealth flavour. At the same time, we continue to regulate any concerns that are raised by consumers relating to the price of petrol.

JOHN MACLEAN FOUNDATION

Mr SCOT MacDONALD: My question is addressed to the Minister for Disability Services. Will the Minister provide an update on the Only Possibilities fundraising event recently held at Parliament House?

The Hon. JOHN AJAKA: I thank the honourable member for his question. Last week, at the invitation of the Hon. Niall Blair, I attended Only Possibilities, a fundraising event of the John Maclean Foundation. Together with the Hon. Stuart Ayres, the Minister for Sport and Recreation, I presented $10,000 to the foundation to be used for acquiring a new wheelchair for Lauren, a seven-year-old girl who has outgrown her wheelchair.

The story of the founder, John Maclean, was nothing short of tragic but at the same time, an outstanding story of his achievements. In 1988, as a young and promising rugby league player, John was hit by an eight-tonne truck whilst cycling on the M4. The impact resulted in John suffering multiple breaks to his pelvis and back, a fractured sternum, punctured lungs and a broken arm. The injuries he received left him a paraplegic. John went on to become the first wheelchair athlete to complete the famous Hawaiian ironman triathlon and to be the first wheelchair athlete to swim the English Channel. John Maclean's story of strength to

achieve whatever it is that he wants is a fantastic example for people with disability. The event was a great example of the way in which non-government organisations, government and the business community can work together to help young Aussies in wheelchairs to live their lives to the fullest.

The young girl who received the New South Wales Government funding is a great example of what individualised funding in the National Disability Insurance Scheme [NDIS] will provide to people with disability in the form of choice and control over the services and supports they need. The National Disability Insurance Scheme is rolling out across New South Wales and will be fully up and running for all clients by 2018. The New South Wales Government is getting on with delivering the NDIS according to the needs and wishes of people with disabilities and its historic agreement with the Commonwealth in December 2012.

The New South Wales disability sector recently celebrated a great milestone—the one-year anniversary of the NDIS in the Hunter. From the start of the NDIS trial more than a year ago, we have come a long way. I have met with a number of transition clients. One story that resonated with me was that of a woman in her 50s who was ecstatic to be able to use her funding for a new wheelchair and for dancing classes. The satisfaction rate of transition clients such as that lovely woman I met is very pleasing and rewards the hard work the New South Wales Government does, in conjunction with the Commonwealth, to improve services and support for people with disability.

Until we roll it out completely in 2018, such grants are important to foundations like John Maclean. Lauren was diagnosed with central core disease soon after birth—a genetic diagnosis with which her mother also is afflicted and requires a wheelchair. Due to her underlying disorder, Lauren presents with extremely low muscle tone and dislocated hips. Lauren relies on a wheelchair for mobility—a wheelchair built specifically for her. Lauren was in desperate need of a new manual wheelchair as she clearly had outgrown her current one. Without a manual wheelchair Lauren was unable to independently mobilise outside school, at home and in the community, significantly restricting her independence and participation in activities.

The rest of the New South Wales Government grant funding along with all money raised at the fundraiser event will help the John Maclean Foundation make a real impact on the day-to-day lives of young people with disabilities, their families and carers. This includes supports such as new wheelchairs, vehicle and home modifications, surgery and medical assistance, and remedial aid. I thank the John Maclean Foundation for its hard work, support and dedication to people with a disability. I thank the Hon. Niall Blair for bringing it to my attention and inviting me to this fundraiser.

CANNABIS USE FOR MEDICINAL PURPOSES

Reverend the Hon. FRED NILE: I ask the Premier, represented by the Hon. Duncan Gay, a question without notice. Does the Premier agree that if his announced policy is implemented, there will be no need to legalise marijuana for medical purposes as terminally ill patients will have available a defence against police charges for using or possessing marijuana? Is it a fact that a number of legal cannabis marijuana products already are readily available, such as Nabilone, Dronabinol and Nabiximol, which are pure, approved and properly controlled thereby supporting no need to legalise marijuana for medical purposes?

The Hon. DUNCAN GAY: I thank Reverend the Hon. Fred Nile for his question. Certainly, I will pass it on to the Premier. Of course, it is worth mentioning that the Premier said the direction to police in the first instance would allow them to address the perplexing issue of dealing with the terminally ill using marijuana. As the Premier indicated, clarity on that issue is a great first step and it does not matter where one proceeds thereafter. Important also is the reference to examine that issue. As I indicated, I am happy to take the question on board. I am sure the Premier is aware of those products mentioned by Reverend the Hon. Fred Nile, but I will pass those on as well.

WAKOOL INDIGENOUS CORPORATION

The Hon. STEVE WHAN: My question without notice is directed to the Leader of the Government, representing the Minister for Natural Resources, Lands and Water. On Friday 12 September the Wakool Indigenous Corporation, which represents tribes of the Kulin nation, sent the Minister a request for an urgent stop work for all works in the Mungadal, Darcoola, West Abercrombie and Nimmie Caira areas due to concerns about damage to traditional burial sites and breaches of consultation requirements under State and Federal legislation. Why has the Government not responded to the Wakool Indigenous Corporation?

The Hon. DUNCAN GAY: I thank the member for his question and take on face value that it certainly is an important one. Obviously, I realise that he would not expect me to be aware of the total detail that he has asked. I certainly undertake to pass on the question to the Minister for Natural Resources, Lands and Water for a detailed answer.

STATE ECONOMY

The Hon. JENNIFER GARDINER: My question without notice is addressed to the Minister for Fair Trading, representing the Treasurer. Can the Minister update the House on the Australian Bureau of Statistics [ABS] economic indicators that were released in August?

The Hon. MATTHEW MASON-COX: I thank the member for that question. Certainly, it is pleasing to celebrate some of the good economic news seen by this Government. I say that humbly because this Government understands that we are on a long road back from 16 years of darkness under the former Labor Government. We have a long way back and a huge repair job, but we are getting on with that herculean task. Seeing progress is pleasing. The best way of examining that progress is to examine the objective figures: the economic indicators released regularly by the Australian Bureau of Statistics. Of course, in August the New South Wales unemployment rate dropped to 5.7 per cent to remain the second lowest in the nation—

The Hon. Steve Whan: But it's more than it was.

The Hon. MATTHEW MASON-COX: —and well below the national average. We would like it to be lower. The Hon. Steve Whan would like it lower also, but all his Government did was increase unemployment. Through a concerted effort using a range of different levers this Government is ensuring the economy is put back on track. I can say with great confidence that that process will continue. Indeed, the ABS labour force figures show the State's unemployment rate decreased 0.2 per cent with New South Wales contributing more than one-third of last months' nationally created jobs with 45,000 jobs. That is the ninth consecutive month that the New South Wales unemployment rate has been below the national average. Since coming to government the Coalition has created over 165,000 jobs. It is worth reflecting on that for a moment: 165,000 jobs. Let us cast our minds back a few years under Labor governance. Where was New South Wales sitting with national economic key indicators? I am glad I have asked myself that question because I have a ready answer.

Basically, we were the cellar dwellers. We had the highest unemployment rate and lowest consumer confidence, and our housing starts were right at the bottom. New South Wales was the cellar dweller on all of these key economic indicators. It is heartening to know that now we are the leaders of the pack. The wolves sit opposite, but the pack is well ahead of the wolves. We are moving down that economic highway with great confidence. It is pleasing to note that that will continue for many years with a strong Coalition Government on the Treasury benches. Let us examine some of the reasons for that result. We have a number of key drivers and levers pushing this economy. I have spoken briefly about the first one: our $61 billion investment in infrastructure. We remember the infrastructure fiasco from those opposite, perhaps best exemplified by the Rozelle Metro.

The Hon. Duncan Gay: Five hundred million dollars.

The Hon. MATTHEW MASON-COX: It was $500 million. We still have buildings Labor bought and bequeathed to us.

The Hon. Duncan Gay: Didn't lay an inch of it.

The Hon. MATTHEW MASON-COX: They did not lay an inch of track. What did we do recently? The South West Rail Link was completed one year early at $300 million below budget. [*Time expired*].

SOCIAL HOUSING POLICY

Ms JAN BARHAM: My question is directed to the Minister for Ageing, representing the Minister for Family and Community Services. Noting that in answer to a question on 16 September the Minister for Fair Trading stated:

> This Government has a social housing policy …

and given that the Auditor-General's 2013 report, "Making the best use of public housing" and the report of the Select Committee into Social, Public and Affordable Housing recommended the Government develop and release a social housing policy, will the Minister confirm that this policy has been completed and advise when the policy document will be made public?

The Hon. JOHN AJAKA: I thank the Hon. Jan Barham for her question. The Government was facing deep and systemic challenges when it inherited the social housing system. The system was not delivering outcomes for tenants or taxpayers and had been managed in the worst possible way by Opposition members. It is clear that real reform was in the too-hard basket for the Australian Labor Party [ALP]. This Government is determined to change that and to deliver a better result. It has the courage of its convictions to make the necessary calls. Its vision is clear: deliver a more sustainable housing system for our most vulnerable. Unlike the ALP, our actions speak louder than words. We have already made progress. We have made waiting lists transparent to help people make better decisions. We have run amnesties to crack down on those rorting the system. We have introduced vacant bedroom charges so more people can access housing. We have made decisions about areas such as Millers Point, which will mean more money for new homes and maintenance.

The Hon. Steve Whan: Point of order: It is on relevance. The question was specific about Minister Mason-Cox's comment yesterday that the Government "has a social housing policy". I request that the Minister be asked to return to the point of the question.

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

The Hon. JOHN AJAKA: It is clear that social housing should be financially sustainable. It has to provide a fair safety net and ensure that those requiring housing are given an appropriate opportunity to acquire it. As has been clearly shown, the ALP had no plans or policies to make social housing more fair or sustainable. The ALP flirted with reform in Government, but the very best it could do was claim that it would reshape social housing.

The Hon. Matthew Mason-Cox: There were 58,000 on the waiting list.

The Hon. JOHN AJAKA: Absolutely. Labor left the public with a backlog of housing maintenance worth close to $300 million. The reality is that this Government cares and it is taking appropriate action.

Ms JAN BARHAM: I ask a supplementary question. Could the Minister elucidate when this policy will be made publicly available?

The Hon. JOHN AJAKA: Each day that this Government acts on social housing it will ensure that members opposite are well aware of it.

MACQUARIE STEM CELLS

The Hon. PETER PRIMROSE: My question without notice is directed to the Minister for Fair Trading. Given last night's revelations on the ABC about Macquarie Stem Cells charging Australian consumers thousands of dollars for untested treatments, what action has the Department of Fair Trading taken on this matter to protect New South Wales residents?

The Hon. MATTHEW MASON-COX: I have not seen the footage that the member is referring to but I will gather some information, ask Fair Trading for advice and obtain an answer for the member.

CANTERBURY ROAD

The Hon. GREG PEARCE: My question is addressed to the Leader of the Government, and Minister for Roads and Freight. Will the Minister update the House on current upgrades to Canterbury Road?

The Hon. DUNCAN GAY: I know the honourable member, unlike others, is quite concerned about Canterbury Road. I wish the Opposition spokesman would go there occasionally to see what is happening. Since April, the Liberal-Nationals Government has been undertaking a $3.6 million upgrade of a 4.7 kilometre length of Canterbury Road between Wiley Park and Hurlstone Park, which is good news. This upgrade will provide safer and better driving conditions for all road users. Cracked, uneven and potholed asphalt will be removed and the old and worn pavement will be resurfaced with new concreted bitumen. Old kerbs will be replaced and the line marking will be improved.

The project was expanded in July to include additional concrete repair work following identification of the poor condition of the concrete slabs underneath the road surface—which is a problem that the Labor Party ignored for 16 years. Once again Labor ignored their heartland. We are trying to fix it and they are whinging about it. Roads were neglected by Labor. Scratching the surface always reveals a lack of long-term planning and adequate investment in maintenance.

The PRESIDENT: Order!

The Hon. DUNCAN GAY: Weather permitting, work on Canterbury Road between King Georges Road—

The Hon. Lynda Voltz: The trucks go to Canterbury Road because they have no other road to use.

The Hon. DUNCAN GAY: You should hope that there will be a Liberal-Nationals Government forever because it is the only way the roads in your area will be fixed.

The PRESIDENT: Order! I call the Hon. Lynda Voltz to order for the first time.

The Hon. DUNCAN GAY: Weather permitting, work on Canterbury Road, King Georges Road and Gould Street is expected to be finished by the end of October this year. Roads and Maritime Services is also carrying out investigations for the next stage of upgrade works from Gould Street to Jeffery Street, which is just past the Cooks River. The community will be kept fully informed as planning and construction activities progress. It is interesting to note that Labor's last funding application to build and repair roads and bridges in the electorate of Canterbury was in 2010-11 at a cost of $5.4 million. The Liberal-Nationals allocation for Canterbury this year is $32.6 million. When compared with Labor that is a 500 per cent increase in funding. The people up there should hope that we are in Government for a long time. Labor never cared about their heartlands. Their shadow Minister is lazy and loose with the truth.

The PRESIDENT: Order!

The Hon. DUNCAN GAY: This historic allocation for Canterbury electorate includes funding for pre-construction activities such as geotechnical drilling for stage two of Australia's largest urban road and infrastructure project— [*Time expired*.]

WORKCOVER NSW AND MR HILTON GRUGEON

Mr DAVID SHOEBRIDGE: My question without notice is directed to the Minister for Fair Trading, representing the Minister for Finance and Services. What, if any, communications were there between the office of the Minister for Finance and Services and the offices of WorkCover, former Minister Hartcher's office or Mr Hilton Grugeon regarding the withdrawal or potential withdrawal of WorkCover's occupational health and safety prosecution against Mr Grugeon in 2012?

The Hon. MATTHEW MASON-COX: That is a detailed question. I will take the question on notice and obtain a response from the Minister for Finance and Services. Once received, I will communicate the answer to the member.

ENABLENSW

The Hon. GREG DONNELLY: My question without notice is directed to the Minister for Ageing, and Minister for Disability Services. How many people are waiting for items such as wheelchairs, shower chairs and pressure care mattresses through EnableNSW?

The Hon. JOHN AJAKA: I thank the honourable member for his question. It should be directed to the Minister for Health who has responsibility for EnableNSW. The Hon. Greg Donnelly is seeking specific statistics so I will obtain those before replying. However, I can indicate the following. Assistive technology that helps people to mobilise, manage their personal care and continence and communicate is vital in the lives of many people with disability. As I have said, EnableNSW—part of NSW Health support services—provides assistive technology and equipment, and in some cases attendant care, to assist eligible residents in New South Wales with a permanent or long-term disability in the areas of mobility, self-care, communication and respiratory support.

EnableNSW is responsible for the Aids and Equipment Program—formerly known as the Program of Appliances for Disabled People; specialised equipment essential for discharge; prosthetic limb service; the

Home Respiratory Program; the speech generating device loan pool; and environmental control and computer access systems. Since 2010 EnableNSW has been providing statewide services aimed at reduced waiting times, fairer access, greater efficiency, better customer service, better support for clinical prescribers and on-time payments to suppliers. Ageing, Disability and Home Care funds a small number of non-government organisations to administer assistive technology programs. In 2014-15, Ageing, Disability and Home Care will fund $3.8 million towards assistive technology programs. As I indicated earlier—

The Hon. Greg Donnelly: Point of order: The Minister commenced his response by deflecting his answer but then said, "I have it with me." The Minister is not within a bull's roar of answering this very specific question: How many people?

The PRESIDENT: Order! The Minister indicated to the House that he would seek an answer from the relevant Minister. The Minister should resume his seat if he does not have anything else directly relevant to the question.

The Hon. JOHN AJAKA: As I said before the point of order was taken, I will take the question on notice and come back with the specific statistics the member is seeking.

The Hon. DUNCAN GAY: The time for questions has expired. If members have any further questions, I ask that they put them on notice.

WESTCONNEX MOTORWAY

The Hon. DUNCAN GAY: On 13 August 2014 the Hon. Adam Searle asked me a question about tolls on the WestConnex Motorway. I provide the following response:

I am advised:

Like all other motorways in New South Wales, such as the M7, tolls on WestConnex will be indexed quarterly.

RAILWAY STREET, WICKHAM

The Hon. DUNCAN GAY: On 13 August the Hon. Lynda Voltz asked me a question about changes to the Newcastle rail line and the impact of the closure of Railway Street, Wickham on local businesses. The Minister for Transport has provided the following response:

I am advised:

Affected residents and businesses were informed of the proposed closure of the Railway Street level crossing.

ISLAMIC STATE OF IRAQ AND THE LEVANT

The Hon. DUNCAN GAY: On 13 August 2014 Reverend the Hon. Fred Nile asked me a question concerning the flying of flags promoting terrorist groups. The Minister for Police and Emergency Services has provided the following response:

As the Premier has advised, the organisation "Islamic State" is listed as a terrorist organisation under the Commonwealth Criminal Code. Under current laws, displaying a flag of a listed terrorist organisation is not an offence of itself.

The NSW Police Force actively engages with all sectors of the local community to enable people to identify and inform police if they have concerns and to promote cohesion, as well as focus on preventative measures.

Local community engagement and liaison aims to empower communities through a collaborative partnership approach to effectively deal with issues that may arise.

ASBESTOS REMOVAL

The Hon. JOHN AJAKA: On 13 August 2014 the Hon. Steve Whan asked me a question about Government advice given to the owners of homes with the so-called Mr Fluffy insulation in New South Wales. The Minister for Health has provided the following response:

I am advised:

A whole of government approach to this issue is being coordinated through the NSW Head of Asbestos Coordination Authorities [HACA], which is chaired by NSW WorkCover. NSW Health, as a member on this committee, has been providing public health advice which is being incorporated into the whole of government strategy. NSW Health's advice specifically relates to hazard and toxicity, whereas the exposure aspects of the hazard are being dealt with by the HACA.

Any further details sought by the honourable member regarding this whole of government strategy should be sought from the Hon. Dominic Perrottet, MP, Minister for Finance and Services, whose portfolio includes NSW WorkCover.

CHARLOTTE PASS SKI RESORT

The Hon. MATTHEW MASON-COX: On 13 August 2014 the Hon. Robert Borsak asked me a question about lease negotiations between the National Parks and Wildlife Service and the operators of the Charlotte Pass Ski Resort. The Minister for the Environment has provided the following response:

I am advised as follows:

On 29 August 2014, an extension was agreed until 31 October 2017 to the term of the lease held by Charlotte Pass Village Pty Ltd.

CLEAN ENERGY

The Hon. MATTHEW MASON-COX: On 13 August 2014 the Hon. Robert Borsak asked me a question about clean energy in New South Wales. The Minister for the Environment has provided the following response:

I am advised as follows:

By focusing on energy efficiency, we can save money, raise our energy productivity, create business opportunities and protect the environment.

The Californian economy has grown 20 times since 1971, but its energy consumption has remained constant. It has the highest energy consumption in the United States but the lowest per capita consumption.

Moreover, California produces twice as much economic output from its electricity as the United States average.

Like California in the United States, New South Wales can take the lead in clean energy in Australia. According to the Bureau of Resources and Energy Economics' Australian Energy Statistics, the New South Wales economy has the highest energy productivity of any State in Australia and produces 40 per cent more economic value for every unit of energy consumed than in 1990.

I recently launched the New South Wales Government Resource Efficiency policy to reduce the amount of money our Government spends on energy, waste and water. The policy will deliver an internal rate of return of at least 12 per cent.

GAS SUPPLY (CONSUMER SAFETY) REGULATION

The Hon. MATTHEW MASON-COX: On 13 August 2014 the Hon. Peter Primrose asked me a question about operation of the Gas Supply (Consumer Safety) Regulation that commenced on 1 September 2012. I provide the following response:

The Gas Supply (Consumer Safety) Regulation 2012 supports the operation of the Gas Supply Act 1996. The regulation prescribes certain requirements and standards in relation to gas appliances, gas installations, gas fitting and autogas work, and the testing or installation of gas meters.

These laws were last reviewed in 2012. That review involved widespread industry consultation and input. I am not aware of any stakeholders contacting either NSW Fair Trading or my office to raise any concerns about how the regulation has been operating. If industry or other stakeholders have concerns, I would encourage them to contact NSW Fair Trading.

SENIORS CARD MAILING LIST

The Hon. JOHN AJAKA: Earlier today the Hon. Helen Westwood asked me a question about the Seniors Card. I provide the following response:

Previously Seniors Card had a relationship with a company that provided discounted body scans as a way of checking general health and for chronic disease. After a number of complaints from practitioners and members, Seniors Card ceased all relationships with the company in February 2014.

Questions without notice concluded.

PARLIAMENTARY COMMITTEES

Membership

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

Mr PRESIDENT

The Legislative Assembly has this day agreed to the following resolution:

(1) Christopher David Holstein be appointed to the Committee on the Independent Commission Against Corruption in place of Timothy Francis Owen, resigned.

(2) Christopher David Holstein be appointed to the Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission in place of Bart Edward Bassett, discharged.

(3) Glenn Edward Brookes be appointed to the Legislation Review Committee in place of Garry Keith Edwards, discharged.

(4) Andrew Baijan Rohan be appointed to the Joint Standing Committee on Road Safety in place of Darren James Webber, discharged.

(5) A message be sent informing the Legislative Council.

Legislative Assembly
17 September 2014

SHELLEY HANCOCK
Speaker

ROAD FUNDING

Personal Explanation

The Hon. WALT SECORD, by leave: I wish to make a personal explanation. Earlier in question time the Hon. Duncan Gay, Minister for Roads and Freight, misrepresented me about road funding figures I had given in a speech on 9 September. The Hon. Duncan Gay claimed that I was referring to figures I had drafted; those figures were provided by the NRMA. They were taken from a recent issue of *Open Road*. I stand by the NRMA and its claims that Taree, Port Macquarie, Clarence Valley, Cessnock, Byron Shire, Greater Hume and Wyong councils did not receive appropriate funding. I thank the House for its attention.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Motion by the Hon. Robert Borsak agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 1947 outside the Order of Precedence, relating to the City of Sydney Amendment (Elections) Bill 2014, be called on forthwith.

Order of Business

Motion by the Hon. Robert Borsak agreed to:

That Private Members' Business item No. 1947 outside the Order of Precedence be called on forthwith.

CITY OF SYDNEY AMENDMENT (ELECTIONS) BILL 2014

In Committee

The CHAIR (The Hon. Jennifer Gardiner): If there is no objection, the Committee will deal with the bill as a whole.

Mr DAVID SHOEBRIDGE [3.38 p.m.], by leave: I move The Greens amendments Nos 1 to 19 on sheet C2014-086B in globo:

No. 1 **Limit on electors**

Page 4, schedule 1 [8], line 6. Omit "names of 2 natural persons to be enrolled as electors". Insert instead "name of one natural person to be enrolled as an elector".

No. 2 **Limit on electors**

Page 4, schedule 1 [8], line 12. Omit "names of 2 natural persons to be enrolled as electors". Insert instead "name of one natural person to be enrolled as an elector".

No. 3 **Limit on electors**

Page 5, schedule 1 [8] lines 11–22. Omit all words on those lines. Insert instead:

of any rateable land in respect of which a person has already been nominated, the nomination is taken to revoke all previous nominations.

No. 4 **Limit on electors**

Page 5, schedule 1 [8], lines 27 and 28. Omit "2 natural persons who are". Insert instead "one natural person who is".

No. 5 **Limit on electors**

Page 5, schedule 1 [8], line 30. Omit "has validly nominated one natural person". Insert instead "has not validly nominated a natural person".

No. 6 **Limit on electors**

Page 5, schedule 1 [8], line 32. Omit "second".

No. 7 **Limit on electors**

Page 5, schedule 1 [8], lines 38 and 39. Omit "the corporation's sole eligible company secretary is the validly nominated person or".

No. 8 **Limit on electors**

Pages 5 and 6, schedule 1 [8], line 43 on page 5 to line 2 on page 6. Omit all words on those lines.

No. 9 **Limit on electors**

Page 6, schedule 1 [8], lines 3 and 4. Omit "subsections (2) and (3), if a person who is taken to have been nominated by the corporation under one of those subsections". Insert instead "subsection (2), if a person who is taken to have been nominated by the corporation under that subsection".

No. 10 **Limit on electors**

Page 6, schedule 1 [8], line 12. Omit "subsections (2) and (3)". Insert instead "subsection (2)".

No. 11 **Limit on electors**

Page 6, schedule 1 [8], line 24. Omit "2 owners, 2 ratepaying lessees and 2 occupiers". Insert instead "one owner, one ratepaying lessee and one occupier".

No. 12 **Limit on electors**

Page 6, schedule 1 [9], lines 26 and 27. Omit "are more than 2 owners, 2 ratepaying lessees or 2 occupiers". Insert instead "is more than one owner, one ratepaying lessee or one occupier".

No. 13 **Limit on electors**

Page 6, schedule 1 [9], line 29. Omit "2". Insert instead "one".

No. 14 **Limit on electors**

Page 6, schedule 1 [9], line 33. Omit "2 persons". Insert instead "person".

No. 15 **Limit on electors**

Page 7, schedule 1 [9] lines 13–22. Omit all words on those lines. Insert instead:

respect of any rateable land in respect of which a person has already been nominated, the nomination is taken to revoke all previous nominations.

No. 16 **Limit on electors**

Page 11, schedule 1 [10], line 2. Omit "2 natural persons". Insert instead "one natural person".

No. 17 **Limit on electors**

Page 11, schedule 1 [10], line 5. Omit "2 natural persons". Insert instead "the natural person".

No. 18 **Limit on electors**

Page 11, schedule 1 [10], line 5. Omit "are entitled". Insert instead "is entitled".

No. 19 **Limit on electors**

Page 11, schedule 1 [10], lines 6–9. Omit all words on those lines. Insert instead:

enrolled as the nominee of a corporation under section 16AC will be enrolled unless, at least 28 days before the date prescribed for the closing of the roll of electors for the election, a natural person is nominated by the corporation.

Together these are probably the central amendments that we see as necessary for this bill—that is, wherever reference is made in this amendment bill to providing two votes to a corporation these amendments would reduce that to one vote. In other words, they would retain the status quo for the voting power that has been given to corporations. I have said on a number of occasions on the record that The Greens do not believe that corporations should ever be given a vote, even a single vote—that democracy is for people and people alone. Whether it is in local, State or Federal elections, corporations should never be entitled to the franchise. The idea that power, money and property grants people additional votes is an anathema to anyone who has a genuine commitment to democracy. For that reason, The Greens fundamentally believe that votes should only be for natural persons.

That said, the status quo in New South Wales is that corporations, when they own or lease rateable property, are in certain circumstances entitled to one vote. If this House is going to consider a bill that in any way reforms corporate voting rights then it should absolutely be limited to giving those corporations just one vote. These amendments do exactly that; they remove the most offensive business gerrymander provisions from this bill, which has been presented by the Shooters and Fishers Party and ushered through this House by their friends in the Baird Liberal Government. These amendments remove this ugly, obviously offensive, antidemocratic provision which gives corporations two votes when they own property—when even a natural person who is a business owner or a property owner from out of the area would get only one vote.

What is so special about corporations that this Government wants to give them double the vote of natural people? I have not once had a single person approach my office and say, "You know what, corporations just do not get enough of a look-in in government in New South Wales." I have not had a single person come to me and say, "You know what, at a local council level those developer corporations just do not get enough of a say; we need to give those corporations more of a say." Yet somehow or other this Government thinks that corporate Australia—that same corporate Australia that gave those deeply discredited formerly government members of Parliament bags of cash—should get double the vote at a local government level. I understand that the Government has been shamed and embarrassed into supporting this because the Shooters and Fishers Party have on their side shock jocks such as Alan Jones and the tabloid media in the form of the *Daily Telegraph*. I understand that they have been shamed and embarrassed.

The Hon. Trevor Khan: Point of order: Reluctant as I am to interrupt the member when he is in full flight it is practice to speak to the amendments as opposed to essentially giving an extensive second reading speech. I invite the Chair to draw Mr David Shoebridge back to the amendments as opposed to this diatribe.

The CHAIR (The Hon. Jennifer Gardiner): Order! I remind Mr David Shoebridge to address The Greens amendments Nos 1 to 19, which are before the Committee.

Mr DAVID SHOEBRIDGE: I understand the Government has been shamed into not supporting The Greens amendments Nos 1 to 19 because it has been politically outmanoeuvred by the Shooters and Fishers Party, with their friends in the world of far-Right shock jocks. I can understand how embarrassing that is for the Government and how they want to keep on the right side of their friends in that angry talkback radio spectrum.

The Hon. Trevor Khan: Point of order: Again, I suggest that the member is going beyond talking to the amendments and instead in effect is embarking upon a second reading speech. I invite the Chair to draw Mr David Shoebridge back to the amendments he has moved.

The CHAIR (The Hon. Jennifer Gardiner): Order! I remind Mr David Shoebridge to address the amendments before the Committee.

Mr DAVID SHOEBRIDGE: I ask the Government to rise above the shame, to stand on principle and to support these amendments, which will limit the vote of corporations to just one vote. It is bad enough that the Government is supporting the entrenching of corporate votes. If they are going to do that, they should at least pull out some form of shabby, tattered principles that they keep in their bottom drawer for use on the odd occasion and support these amendments, which will limit this otherwise deeply offensive bill to giving corporations only one vote. If the Government is not going to do that then members opposite should stand up and tell the people of New South Wales why they think corporations are so special that they should get double the vote of natural people in local government elections in New South Wales.

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [3.45 p.m.]: I seek a clarification. My understanding is that as The Greens amendments Nos 11 to 15

are in conflict with Government amendment No. 9, I should also move Government amendments Nos 1, 3, 4, 5, 6, 9, 12 and 13 on sheet C2014-O84J in globo. I therefore seek leave to move amendments Nos 1, 3, 4, 5, 6, 7, 8, 9, 12 and 13 in globo.

The Hon. SOPHIE COTSIS [3.47 p.m.]: I have an objection. The Opposition has concerns about Government amendment No. 3.

Mr DAVID SHOEBRIDGE [3.47 p.m.]: In order to expedite matters, The Greens would not object to the amendments being put together and debated together provided that No. 3 could be voted on separately.

The CHAIR (The Hon. Jennifer Gardiner): Order! Leave is granted for the Minister to move those Government amendments in globo. I will put the question on Government amendment No. 3 separately when the Committee votes on the amendments.

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [3.48 p.m.]: I move Government amendments Nos 1, 3, 4, 5, 6, 7, 8, 9, 12 and 13 on sheet C2014-084J in globo:

No. 1 **Joint owners, ratepaying lessees and occupiers—consequential**

Page 3, Schedule 1 [2], lines 5-16. Omit all words on those lines. Insert instead:

[2] Section 14 Definitions

Insert ", subject to subsections (1AA), (3) and (4)" after "means" in section 14 (1) (a).

No. 3 **Joint owners, ratepaying lessees and occupiers—principal amendment**

Page 3, Schedule 1. Insert after line 28:

[5] Section 14 (1AA)–(3A)

Omit section 14 (1A)–(3). Insert instead:

(1AA) If the joint owners of any rateable land under subsection (1) (a) consist of 3 or more natural persons, only 2 of those natural persons may be owners of the rateable land for the purposes of this Division.

(1A) If the joint ratepaying lessees of any rateable land under subsection (1) (b) consist of 3 or more natural persons, only 2 of those natural persons may be ratepaying lessees of the rateable land for the purposes of this Division.

(2) If the joint occupiers of any rateable land under subsection (1) (c) consist of 3 or more natural persons, only 2 of those natural persons may be occupiers of the rateable land for the purposes of this Division.

(3) If, because of the operation of subsection (1AA), (1A) or (2), only 2 natural persons from among a number of joint owners, joint ratepaying lessees or joint occupiers may be owners, ratepaying lessees or occupiers for the purposes of this Division, those 2 natural persons are to be determined as follows:

(a) in accordance with a written nomination signed by the majority of those joint owners, joint ratepaying lessees or joint occupiers submitted to the general manager before the nomination cut-off date for an election, or

Note. See section 16B for further provisions regarding these nominations.

(b) if no such nomination is made, 2 natural persons determined by the general manager having regard to the alphabetical order of the names of the joint owners, joint lessees or joint occupiers (considering surname first, then given names) or on such other basis as the general manager considers appropriate in the circumstances of the case.

(3A) If the joint owners, ratepaying lessees or occupiers of rateable land (within the meaning of subsection (1)) consist of corporations or a combination of natural persons and corporations (of at least one natural person and one corporation), section 16AA (2) applies and has effect despite anything to the contrary in this section.

No. 4 **Joint owners, ratepaying lessees and occupiers—consequential**

Page 3, Schedule 1, lines 29 and 30. Omit all words on those lines. Insert instead:

[5] Section 14 (4)

Omit section 14 (4). Insert instead:

No. 5 **Joint owners, ratepaying lessees and occupiers—consequential**

Page 3, Schedule 1 [5], line 31. Omit "(2)". Insert instead "(4)".

No. 6 **Joint owners, ratepaying lessees and occupiers—consequential**

Page 3, Schedule 1 [5]. Insert after line 36:

[6] Section 14 (6) and (7)

Insert after section 14 (5):

(6) Despite subsection (3) (b), if a person referred to in that paragraph is:

(a) otherwise entitled to be enrolled under this Act, or

(b) not entitled to vote at an election of members of the Legislative Assembly or an election of members of the Commonwealth House of Representatives,

that person is to be disregarded for the purposes of that paragraph.

(7) In this section, nomination cut-off date, for an election, means the date that is 28 days before the closing date for the election.

No. 7 **Multiple parcels of land**

Page 3, Schedule 1 [7], line 41. Omit ", (3)".

No. 8 **Multiple parcels of land**

Page 3, Schedule 1. Insert after line 41:

[8] Section 16 (3)

Omit "for the purposes of this section". Insert instead "for the purposes of this Division".

No. 9 **Joint owners, ratepaying lessees and occupiers—principal amendment**

Pages 6 and 7, Schedule 1 [9], proposed section 16B, line 22 on page 6 to line 35 on page 7. Omit all words on those lines. Insert instead:

16B Nominations where more than 2 owners, 2 ratepaying lessees or 2 occupiers—other than corporations

(1) This section applies in relation to a nomination made under section 14 (3) (a) (a ***nomination***).

(2) A person may not be nominated unless the person:

(a) has reached 18 years of age or will attain the age of 18 years on or before the date of the next ordinary election of councillors, and

(b) has consented in writing to be nominated, and

(c) is entitled to vote at an election of members of the Legislative Assembly or an election of members of the Commonwealth House of Representatives, and

(d) is not, for any other reason, already entitled to be enrolled as an elector for the City of Sydney.

(3) A nomination is revoked if:

(a) a person nominated:

(i) dies, or

(ii) submits a notice of resignation to the general manager containing the details required by the regulations (if any), or

(iii) for any other reason becomes entitled to be enrolled as an elector for the City of Sydney, or

(b) a notice of revocation made by the majority of the joint owners, ratepaying lessees or occupiers is submitted to the general manager containing the details required by the regulations (if any), or

(c) the entitlement under section 15 ceases to exist.

(4) If the general manager receives a nomination in respect of any rateable land in respect of which 2 persons have already been nominated and the nomination:

(a) nominates one person but does not revoke the nomination of either of the 2 people previously nominated—the general manager must refuse to accept the nomination, or

(b) nominates 2 persons—the nomination is taken to revoke all previous nominations.

(5) If the general manager refuses to accept a nomination under subsection (4) (a), he or she must advise the owners, ratepaying lessees or occupiers concerned of that refusal and give reasons for the refusal.

No. 12 **Joint owners, ratepaying lessees and occupiers—consequential**

Page 8, Schedule 1 [10], proposed section 18B (4), line 45. Omit "section 16AC or 16B (2) (b)". Insert instead "section 14 (3) (b) or 16AC".

No. 13 **Joint owners, ratepaying lessees and occupiers—consequential**

Page 9, Schedule 1 [10], proposed section 18D (1) (d), line 24. Omit all words on that line.

The Government does not support The Greens amendments Nos 1 to 19 that have been moved in globo. The Government considers that up to two persons should be enrolled for both incorporated and unincorporated businesses to give business voters a voice in the City of Sydney that is more proportionate to their contribution. The proposal contained in the bill strikes a reasonable balance between residential and non-residential electors by capping at two the number of persons who may be enrolled per business. By contrast, there is no limit to the number of residential electors who can be enrolled per property.

The Government amendments seek to clarify that the maximum number of eligible non-resident owners, ratepaying lessees and occupiers that may be enrolled is not to be determined by reference to a "parcel of rateable land" but rather to the ownership of or entitlement to lease or occupy rateable land. These amendments clarify that enrolment eligibility is based on ownership of or an entitlement to lease or occupy rateable land and will remove a drafting anomaly and prevent the disenfranchisement of non-residential voters.

The Hon. SOPHIE COTSIS [3.50 p.m.]: Madam Chair, can we also vote separately on Government amendment No. 9?

The Hon. John Ajaka: You are seeking that we deal with them in globo but have a separate vote on Nos 3 and 9?

The Hon. SOPHIE COTSIS: That is right.

The Hon. John Ajaka: I have no objection to that.

The CHAIR (The Hon. Jennifer Gardiner): We will proceed on that basis and vote on Government amendments Nos 3 and 9 separately.

The Hon. SOPHIE COTSIS: Labor will support The Greens amendments. The Act contains section 16A. The Government-backed bill seeks to include new sections 16AA and 16AB. Those sections contain the explanation of nominations of electors by corporations and are the sections in which the Government has included the two votes for ratepaying lessees and occupiers. We do not support that. Labor's view is that the status quo is sufficient and provides a good explanation of which non-residents are eligible to vote. New sections 16AA to 16B are prescriptive and provide for deeming of nominated electors on behalf of corporations. We do not support the inclusion of that section but it looks like the Government supports it. We do not support the provision of two votes and we will be supporting The Greens amendments. The Government amendments came in yesterday. They have not been properly explained or scrutinised and I believe that they will be unworkable. However, some of the Government amendments will reinstate the provisions that the amending bill has removed.

Mr DAVID SHOEBRIDGE [3.53 p.m.]: The Greens do not support the Government amendments. If they are agreed to they will bring us into basically the worst of all worlds where the existing franchise for business will be reinstated in the bill and the vote will be doubled for corporations. The existing franchise for business includes anyone who leases, occupies or owns property where—as I think is the intent of the Government through later amendments—they pay a minimum of $4,000 per annum per property regardless of

whether it is a separate rateable parcel of property. Any business that is in those circumstances will be given the franchise. Taken together with doubling the vote for corporations it is really going to produce a business gerrymander.

It will maintain the broad franchise for a raft of small businesses whether or not they own an individual rateable property or are a subtenant in a much larger single rateable property such as Westfield or the Queen Victoria Building that are single large rateable properties with potentially hundreds of businesses in them. The Government amendments reinstate all of those voting rights and require businesses to compulsorily be enrolled and to vote. It provides for fines if they do not vote and doubles the corporate vote. The combined effect of the Government amendments with the initial flawed provisions of the bill will produce an overwhelming business gerrymander in the City of Sydney.

For the reasons I have stated, The Greens believe that local, State and Federal government is ultimately for natural people, not for corporations and businesses. I understand that the Government thinks it is fixing a defect in the bill and the Opposition says the amendments just get us back to the situation as it was before the Shooters and Fishers Party started meddling with it. But when we add the other layers of compulsory enrolment, compulsory voting and fines for not voting it does not reinstate the status quo; it moves it radically to the Right. It is for those reasons that we oppose the amendments.

The Hon. ROBERT BORSAK [3.56 p.m.]: The Shooters and Fishers Party will be opposing The Greens amendments and supporting the Government amendments.

Reverend the Hon. FRED NILE [3.56 p.m.]: The Christian Democratic Party will adopt the same policy as the Shooters and Fishers Party. We will oppose The Greens amendments and support the Government amendments.

The CHAIR (The Hon. Jennifer Gardiner): For the benefit of members, because this is really the first time that we have got into the new procedure, I will spell out what we are going to do. Firstly, I will put The Greens amendments Nos 1 to 19 that have been moved in globo. Once we have dealt with that, I will put the Government amendments that were moved in globo. Of those amendments, I will put No. 9 first because that is in conflict, then No. 3 and then the rest of them in globo.

Question—That The Greens amendments Nos 1 to 19 [C2014-086B] be agreed to—put.

The Committee divided.

Ayes, 19

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

Noes, 22

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

Question resolved in the negative.

The Greens amendments Nos 1 to 19 [C2014-086B] negatived.

Question—That Government amendment No. 9 [C2014-084J] be agreed to—put.

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

The Committee divided.

Ayes, 22

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

Noes, 19

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

Question resolved in the affirmative.

Government amendment No. 9 [C2014-084J] agreed to.

Question—That Government amendment No. 3 [C2014-084J] be agreed to—put.

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

The Committee divided.

Ayes, 22

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

Noes, 19

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

Question resolved in the affirmative.

Government amendment No. 3 [C2014-084J] agreed to.

Question—That Government amendments Nos 1, 4, 5, 6, 7, 8, 12 and 13 [C2014-084J] be agreed to—put.

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

The Committee divided.

Ayes, 22

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

Noes, 19

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

Question resolved in the affirmative.

Government amendments Nos 1, 4, 5, 6, 7, 8, 12 and 13 [C2014-084J] agreed to.

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [4.15 p.m.]: I move Government amendment No. 2 on sheet C2014-084J:

No. 2 **Reduction of eligibility threshold**

Page 3, Schedule 1. Insert after line 16:

[3] Section 14 (1) (b) and (c)

Omit "$5,000" wherever occurring. Insert instead "$4,000".

This amendment is in relation to the reduction to the $4,000 monetary eligibility threshold for rate-paying lessees and occupiers. This amendment retains but reduces the existing monetary eligibility requirement for rate-paying lessees and occupiers. The amendment will act as a disincentive to the creation of sham occupancies to facilitate fraudulent enrolments, which may result due to a basic entitlement of voter occupation, while ensuring that businesses are not disenfranchised because they do not meet the monetary eligibility threshold.

Mr DAVID SHOEBRIDGE [4.16 p.m.]: The Greens oppose this Government amendment. It is undemocratic that by simply paying $4,000 a year in rent a business would be eligible for one vote in the City of Sydney and that if the business is incorporated, under the Government's support of the Shooters and Fishers Party deal it will get two votes. The law puts the eligibility threshold at $5,000. If a business owner pays $5,000 a year in rent the owner is entitled to seek to enrol to vote. In seeking to reinstate that law and, by doing so, expand the business franchise from that originally proposed in the Shooters and Fishers Party bill, the Government has taken yet another little nibble in favour of corporate Australia. The Government seeks to reduce the threshold from $5,000, where it has stayed for the better part of a decade, to $4,000.

That $5,000 threshold, which has existed for a decade or so, if adjusted for inflation would probably be double the $4,000 that the Government is proposing. Why is the Government seeking to reduce the threshold? The reason is simply to increase the number of businesses, including incorporated businesses with

two votes, that can get the franchise in the City of Sydney. When one looks at the lowering of the threshold together with the other machinery provisions in this bill—such as compulsory enrolment, compulsory voting, and two votes for corporations—it is yet another way of skewing the electoral roll in favour of business and against residents.

This amendment will likely give thousands of additional votes to business. The more votes one gives to business the more one waters down the votes of residents. Who is present 24 hours a day, seven days a week? Who wants the childcare facilities, the footpaths, the traffic management and a vibrant, lively city? The residents do. With this amendment, the residents' voice on council will be greatly reduced. The Government gives no rationale as to why $4,000 is the right figure in 2014 dollars, as opposed to $5,000 a decade ago. There is not even pretence to justify it. It is just an ugly little unprincipled grab for additional votes for business.

I have not heard a rational justification from the Minister, although I was listening eagerly for one. The reason we got that inane, bland ramble from the Minister is that he is not being honest with the House and saying truthfully, "We're reducing the threshold because we want to do a job on residents. We want to bump up the corporate vote. We want to bump up the business vote and we hate democracy." The Greens oppose this amendment.

The Hon. LYNDA VOLTZ [4.19 p.m.]: The Opposition will oppose this amendment. It is an arbitrary figure plucked from nowhere. No consultation has taken place. The amendments arrived late in the matter and the Government has provided no explanation on how it arrives at this figure. For that reason the Opposition will oppose the amendment.

The Hon. ROBERT BORSAK [4.20 p.m.]: I am sure the Government has really good reasons for doing all of this.

The Hon. John Ajaka: I expressed them already. You weren't listening.

The Hon. ROBERT BORSAK: Sorry, the Minister expressed them already.

The Hon. John Ajaka: Because of all the noise in the Chamber.

The Hon. ROBERT BORSAK: There was a lot of noise. For the record, the Shooters and Fishers Party supports the Government's amendment.

Mr DAVID SHOEBRIDGE [4.20 p.m.]: That exchange sums up the low level of consideration of this bill. This late amendment was cooked up by some of the ugly numbers men in the Coalition, no doubt shepherded through its deeply offended Parliamentary Counsel, and lobbed on our notice papers at the last minute, hidden amongst a bunch of other amendments with some sort of sneaky underhanded deal that further increases the business vote franchise. The proponents of the bill, the Shooters and Fishers Party, cannot even work out what on earth the Government is up to. I give them credit for at least telling us honestly that they are nonplussed by the ugly political manoeuvres of the Coalition.

I am happy to give my view—the only legitimate view—why this particular amendment is moved: They are doing a job on residents. The Coalition looked at the numbers and realised that if it reduced the threshold to $4,000 a couple of thousand more businesses will be entrenched. By doing so, that business vote is doubled if they are corporate businesses. Members opposite think that by doing so the votes of ordinary people can be watered down sufficiently to get rid of a mayor the Government does not like. If the Shooters and Fishers Party does not know what the Coalition is up to, I can tell those opposite that if this rotten piece of legislation is still on the books between now and the next election the people of Sydney and New South Wales sure as heck will know what the Government is up to. The people will punish those opposite for this at the polls. They will not forget the ugly job the Government will have done on them. If the Shooters and Fishers Party was serious about standing up for democracy, it would vote down this grubby little unprincipled Government amendment.

The Hon. ROBERT BROWN [4.22 p.m.]: I will show the member how serious the Shooters and Fishers Party is about this matter. We support the ugly numbers man.

Reverend the Hon. FRED NILE [4.22 p.m.]: The Christian Democratic Party supports the amendment and objects to the use of the term "ugly" reflecting on the appearance of Government members.

The Hon. AMANDA FAZIO [4.23 p.m.]: I oppose the amendment. It is a disgraceful act by the Government to exacerbate the gerrymander it is trying to put in place for the City of Sydney. This amendment is an absolute rort and an attempt to entrench yet another member of the Abbott family into a leadership position in Australia. One person from the Abbott family is enough. We certainly do not need his sister running as the Lord Mayor of Sydney on a gerrymander business role. The amendment is an absolute disgrace.

Mr JEREMY BUCKINGHAM [4.23 p.m.]: Up to this stage I had not contributed to this debate because I left it in the capable hands of my colleague, Mr David Shoebridge, who has done a fantastic job holding those opposite to account. If Government members were experts on small business they would be able to explain how many businesses in Sydney pay just $4,000 a year rent.

Mr Scot MacDonald: They're called microbusiness.

Mr JEREMY BUCKINGHAM: They are nanobusinesses. That is lowering the threshold. To gerrymander this is an outrageous principle.

The Hon. Robert Brown: It is size discrimination!

Mr JEREMY BUCKINGHAM: It is outrageous. Is it just cashboxes? Are these virtual offices? If one has a virtual office in this city, does one get a vote? The Shooters and Fishers Party should consider those questions before it signs up to this stupid bill. I make the point also that the Shooters and Fishers Party slandered The Greens by saying we have not been in small business. I come from a small business background. I do not think it is appropriate for small business to have such a vote, certainly not nanobusinesses and microbusinesses that pay just $4,000 a year rent. How many of those businesses are there? Is that number just plucked out of the air to stack the next election? As my colleague Mr David Shoebridge said so clearly, those opposite will be punished because this is anti-democratic and unjust.

The Hon. Dr PETER PHELPS [4.25 p.m.]: We have heard from Mr David Shoebridge and Mr Jeremy Buckingham that The Greens oppose the business franchise. However, we heard from Ms Jan Barham that she supports the business franchise. I am only a simple lad and am very confused by The Greens' position. Do they or do they not support the business franchise? I went to The Greens website to look up its proposals for democratic reform of local government.

The Hon. Rick Colless: What did it say?

The Hon. Dr PETER PHELPS: Not one of their proposals suggests removing the business franchise. It has democratic reforms for eight separate areas, but not one is about removing the business franchise. All I can deduce from that is that Ms Jan Barham actually knows The Greens policy and these two guys are freelancing for their personal political ambitions.

Mr DAVID SHOEBRIDGE [4.26 p.m.]: I made the mistake the other day of looking for the Liberals policies. I found a blank website.

Question—That Government amendment No. 2 [C2014-084J] be agreed to—put.

The Committee divided.

Ayes, 22

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

Noes, 19

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

Question resolved in the affirmative.

Government amendment No. 2 [C2014-084J] agreed to.

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [4.33 p.m.], by leave: I move Government amendments Nos 10, 11 and 14 on sheet C2014-084J in globo:

No. 10 **Preparation of rolls**

Page 7, Schedule 1 [10], proposed section 18A (1), lines 40 and 41. Omit all words on those lines. Insert instead:

(1) As soon as is practicable after the roll of non-resident owners of rateable land and the roll of occupiers and ratepaying lessees for an election lapses, the general manager is to prepare for the next election the following rolls and keep the rolls updated:

No. 11 **Preparation of rolls**

Page 8, Schedule 1 [10], proposed section 18A. Insert after line 3:

(2) The general manager is to use the non-residential roll electoral information register kept under section 18D as the basis for the rolls prepared under this section.

No. 14 **Assistance with maintenance of rolls and registers**

Page 11, Schedule 1 [10]. Insert after line 12:

18F City Council may engage service providers to assist with electoral rolls and register

The City Council may engage a person or body to assist the general manager in the carrying out of the general manager's functions under this Division in relation to the following:

(a) the preparation of rolls for elections,

(b) the keeping and maintenance of the non-residential roll electoral information register.

Government amendments Nos 10, 11 and 14 relate to non-residential rolls being prepared by the general manager as soon as practicable after the rolls of the last election have lapsed using non-residential roll electoral information to facilitate public access to the rolls and allows a council to engage a person or body to assist the general manager in preparing the rolls and keeping and maintaining the non-residential roll electoral information register. These amendments give the City of Sydney the option of outsourcing the task of keeping and maintaining the council's non-residential roll electoral information register. It will give the council the flexibility to choose the most appropriate provider for this important but potentially complex task. It also facilitates public access to the roll by extending the time for which it is to be made available, thereby improving transparency and accuracy.

The Hon. SOPHIE COTSIS [4.34 p.m.]: It is 2014 yet the Government is attempting to take us back 25 or 30 years. In 2011 it changed the laws to allow general managers of councils to outsource who had responsibility for the conduct of elections. In the 2012 council elections only 14 general managers chose to outsource that responsibility. There was a big uproar and the Joint Standing Committee on Electoral Matters, which was conducting an inquiry into the 2008 election, received a number of submissions from councils that complained about the Electoral Commission's cost recovery issues. A number of recommendations were put forward by the Joint Standing Committee on Electoral Matters in 2010 to sort out those issues. In 2011 Labor did not support the conduct of elections being outsourced to the general managers. There are many reasons for

that. General managers have an important role and their functions are specific and explicit under the Local Government Act and the City of Sydney Act. Their role is to assist the Electoral Commissioner, not to conduct the elections.

Twenty five years ago, Janice Crosio, a then member of Parliament, put forward an amendment that enabled the conduct of the elections to be under the control of the Electoral Commissioner. We did not support the Government's proposal in 2011 and we will not support it today. It is not the role of the general manager of the City of Sydney Council to run elections. The important work of the general manager of the City of Sydney and other general managers is to deliver services to local ratepayers, residents and small businesses. Section 18A of the City of Sydney Act states:

> Electoral Commissioner to prepare roll of non-resident owners and roll of occupiers and ratepaying lessees.

The bill introduced by the Government removes that function and allows the general manager to prepare the roll of non-resident owners and the roll of occupiers and rate-paying lessees. It then provides a prescriptive description about what the general manager should be doing. For the next four years the general manager will be putting together a roll for the Liberal Party, which is completely outrageous. The amendment to the amendment proposes to leave the general manager to prepare the rolls and to prepare the conduct of the 2016 council election. In April 2013 the Joint Standing Committee on Electoral Matters received a submission from the State Director of the Liberal Party of New South Wales. In his covering letter he stated:

> … it is the position of the Liberal Party of Australia(New South Wales Division) that, in order to ensure consistency, efficiency and cost effectiveness, all future local government elections in all Local Government Areas should be conducted by the New South Wales Electoral Commission and no other entity.

The Hon. Walt Secord: Who said that?

The Hon. SOPHIE COTSIS: The State Director of the Liberal Party of New South Wales wrote to the Joint Standing Committee on Electoral Matters and stated in his covering letter that all council elections should be conducted by the Electoral Commission. Those opposite are going against their own party's position. In fact, they are going even further in this gerrymander. The Government should withdraw these amendments. That covering letter makes it impossible for any member of the Liberal Party to vote for them because it expresses a preference that the NSW Electoral Commission should run elections.

Mr David Shoebridge: Who made that submission?

The Hon. SOPHIE COTSIS: The Liberal Party of Australia (NSW Division).

The Hon. Walt Secord: Who?

The Hon. SOPHIE COTSIS: If members look at the submissions listed on the Joint Standing Committee on Electoral Matters website in April last year they will find it. The Government wants the general manager to go through a list on the non-residential electoral information register. The general manager is being given additional functions. The general manager will be asking council officers, who are paid by ratepayers and should be performing other duties, to take their clipboards and doorknock corporations and small businesses. So those small businesses—which are trying to keep the local economy of this city going, serving customers and doing the right thing—will be getting a knock at the door by a council officer and asked to go through a checklist or questionnaire. For example, they will be asked: What is your age and residential address? That is what your bill says.

The Hon. John Ajaka: Point of order: As I have said three times already, this is not my bill. The honourable member is failing to speak to the amendments; she is speaking to the substantive provisions of the bill, which have already been debated. The honourable member should be focusing her attention on the Government's amendments.

Mr David Shoebridge: To the point of order: I well understand that the Government is trying to pretend this is not its bill, but the amendments will give additional duties and burdens to the general manager. This makes clear what the general manager will have to do; it is clearly relevant.

The Hon. Dr Peter Phelps: To the point of order: Given that the general manager earns more than the Prime Minister of Australia and the President of the United States of America both, it is probably not too burdensome on him.

The CHAIR (The Hon. Jennifer Gardiner): Order! I remind members to address the amendments before the Committee.

The Hon. SOPHIE COTSIS: The Opposition vehemently opposes these amendments. If this bill is passed and small businesses do not answer questions without reasonable excuse or refuse or fail to answer such questions they will be fined $2,200. The Government is adding red tape, increasing revenue and imposing fines unnecessarily. That is disgraceful. The NSW Electoral Commission should run elections.

Mr DAVID SHOEBRIDGE [4.44 p.m.]: For the reasons put by the shadow Minister, The Greens oppose these amendments.

The Hon. ROBERT BORSAK [4.44 p.m.]: Government amendments Nos 10, 11 and 14 will bring the City of Sydney Act into line with that which is available to other local government areas in this State—namely, freedom of choice. They can elect to have the council run the election themselves or they can outsource it to a private company or the NSW Electoral Commission. The Shooters and Fishers Party will be supporting the amendments.

Question—That Government amendments Nos 10, 11 and 14 [C2014-084J] be agreed to—put and resolved in the affirmative.

Government amendments Nos 10, 11 and 14 [C2014-084J] agreed to.

Mr DAVID SHOEBRIDGE [4.45 p.m.]: I move The Greens amendment No. 1 on sheet C2014-100:

No. 1 **Public inspection of Register**

Page 9, Schedule 1 [10], line 37. Omit "not".

New section 18D (5) currently reads:

(5) The general manager must ensure that the Register is not available for public inspection.

The Greens amendment No. 1 proposes to amend it to read:

(5) The general manager must ensure that the Register is available for public inspection.

Very substantial fraud concerns are held as to the way this register will operate and the circumstances in which non-residential voters will be found on the register. The register will be used for the purposes of compiling the electoral roll. The Greens believe that one of the best antifraud measures is to ensure that the register is a publicly available document.

There have been repeated concerns in the commentary about the bill in the broader public as to corporations, businesses, groups or entities gaining the system—namely, they will work out schemes to get multiple enrolments for individual properties. They will work out schemes for the purpose of gaining additional votes by changing the ownership from a natural person to a corporation or potentially changing it so that one single rateable property could be leased by multiple individual corporations and instead of having one lease over the property to a single entity or a corporation for, say, $100,000, the system could be gained by having 25 leases to 25 different corporations all for $4,000. By doing that one could find oneself with 50 corporate votes under this scheme. The Greens have moved this amendment for the purpose of checking the register to prevent that kind of gaining of the scheme. We hope to receive majority support from other members.

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [4.47 p.m.]: The Government does not support The Greens amendment No. 1. This amendment is not necessary. There is an existing right for members of the public to inspect non-residential rolls under section 302 of the Local Government Act 1993. The Greens amendment, if passed, would allow anyone to access private and personal information collected by the council to assist in the preparation of the rolls but that would not otherwise be publicly disclosed in the rolls. This includes information about the addressees of silent electors that would not otherwise be publicly accessible.

The Hon. SOPHIE COTSIS [4.48 p.m.]: The Greens amendment No. 1 is a sensible amendment. It is about openness, transparency and accountability. The Government used that mantra about three years ago so I am surprised it is not supporting openness and transparency.

The Hon. ROBERT BORSAK [4.48 p.m.]: I am really not surprised by the response of The Greens and the Opposition; they simply do not understand how the Local Government Act operates. The Government says that the register should not be allowed to be inspected and this amendment would do just that. The Greens amendment would allow the private details of the applicants to be disclosed; that is not available under the current law. The current law applies to the availability of public information on the rolls of the City of Sydney and that will be maintained. The Shooters and Fishers Party opposes this amendment.

Question—That The Greens amendment No. 1 [C2014-100] be agreed to—put and resolved in the negative.

The Greens amendment No. 1 [C2014-100] negatived.

Mr DAVID SHOEBRIDGE [4.50 p.m.]: I move The Greens amendment No. 20 on sheet C2014-086B:

No. 20 **Extension to other councils**

Page 11, schedule 1 [11], lines 13–23. Omit all words on those lines.

I think this might be the last amendment. From the moment this bill became available to members in this Chamber and then available to the general public, item [11] on page 11 has caused enormous disquiet around New South Wales. Item [11] inserts new section 25 as follows:

(1) Regulations made under the Principal Act—

and I pause here to say that that is the Local Government Act—

> may apply one or more of the provisions of this Part, or any regulations made under this Part, (with any specified modifications) to elections for such other local government areas as may be specified in those regulations.
>
> (2) The provisions of any regulation referred to in subsection (1) prevail to the extent of any inconsistency with the provisions of the Principal Act or any other regulations made under the Principal Act.

To put it into more common parlance, that provides a regulation-making power for the Government to impose this deeply undemocratic two votes for corporations provision on local government areas anywhere across the State. They have headlined this attack in the bill. I think the Shooters and Fishers Party and the Government have headlined the attack in this bill as an attack on Clover Moore. While they have been doing that they had in their back pocket this provision—

The Hon. Robert Borsak: Point of order: At no time have I ever said that this is headlined or in any way an attack on Clover Moore or any of her cronies.

The CHAIR (The Hon. Jennifer Gardiner): Order! There is no point of order. If the Hon. Robert Borsak wishes to make a contribution in this debate he may do so at the appropriate time.

Mr DAVID SHOEBRIDGE: Meanwhile in their back pocket the Shooters and Fishers Party has had this proposed section in the bill. It was hoping no-one would notice that it has here a regulation-making power to impose double corporate votes on Newcastle. If one goes to Newcastle and talks to people about the Government's plans to impose two corporate votes on them in Newcastle, they blanch at the prospect that we would be giving more power to the kind of crooks who have been handing bags of cash to the Liberal Party members of Parliament up there. They cannot believe that any government would consider putting forward this proposal.

If one talks to people in Wollongong they will refer to the table of knowledge. They will say, "Are we really going to have the Liberals there at the table buying some kind of paleoliberal kebab and corrupting the local council with their two corporate votes?" In the Illawarra people cannot believe that the Government would be thinking about giving corporations additional power over their local council in Wollongong. The same goes for North Sydney. The same goes for Parramatta. In fact, the same goes for local government areas across the State.

Local Government NSW has spoken with one voice against this particular provision and said that a power to impose this kind of undemocratic corporate voting anywhere in New South Wales should never be on

the statute books. Earlier we heard the Minister say that the Government has no intention, for the moment, of imposing this corporate voting on local government areas other than the City of Sydney. If the Government is serious about that, I would hope that it would support this Greens amendment and remove this Damoclean sword for residents across New South Wales.

The Hon. John Ajaka: I am convinced if Mr David Shoebridge stops now.

Mr DAVID SHOEBRIDGE: I hear the Minister has been persuaded, so I will commend the amendment to the Committee.

Reverend the Hon. FRED NILE [4.54 p.m.]: The Christian Democratic Party had distributed a proposed amendment on sheet C2014-079C. The only difference was the heading. Our proposed amendment read:

> No. 1 **Elections for other councils**
>
> Page 11, schedule 1 [11], lines 13–23. Omit all words on those lines.

We were concerned when we saw the bill that on our reading of it—whether or not it was the Government's intention—it would extend the provisions for the City of Sydney "to elections for such other local government areas as may be specified in those regulations." As has been said, Local Government NSW and local councils were concerned that this could affect every council in New South Wales.

We proposed in our original amendment to restrict the application of the bill to four councils that had large central business districts—North Sydney, Newcastle, Wollongong and Parramatta. After discussion, we agree that it is better to remove that proposed provision from the bill altogether. So omitting all the words from line 13 to line 23 of the bill would remove item [11], part 3, division 5, which inserts new section 25—that is, the whole new section that was to be inserted via this bill. I think that will make everybody in New South Wales rest easier, especially in local government. Given this Greens amendment is the same as our proposed amendment, we will support it.

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [4.56 p.m.]: The Government will not oppose The Greens amendment No. 20. The Government has always maintained the position that this bill related to the City of Sydney. The Government at no time has ever considered the utilisation of this bill or any regulations flowing therefrom in regards to any other council. There has been concern from councils, and those concerns have been well and truly inflamed by those opposite. So, to ensure that there is no further inflaming of those concerns and to eliminate any concerns, the Government will not oppose this amendment.

The Hon. SOPHIE COTSIS [4.57 p.m.]: We support The Greens amendment No. 20, which is in the same terms as the proposed amendment of the Christian Democratic Party. This is a sensible amendment. Since the introduction of this bill, when the Minister called a press conference in the middle of the city and put this proposal forward, the Minister has stated that the Government would look at extending the provisions of this bill to other areas. Yesterday the Minister representing the Minister for Local Government in this place talked about the recommendation of the Joint Standing Committee on Electoral Matters. He said:

> The committee also recommended that the Government consider applying this model to other local government areas with significant economic centres, such as Newcastle, Wollongong and Parramatta.

The Minister in this place concluded by saying:

> As I previously noted, the Joint Standing Committee on Electoral Matters also recommended that the Government consider applying the Melbourne/Sydney model to other council areas covering significant economic centres such as Newcastle, Wollongong and Parramatta. The bill seeks to achieve this by empowering the Governor to extend this model by regulation.

I note that the Government did want to, and probably still does, extend this to other areas. When this bill was announced there was outrage from Local Government NSW, the United Services Union and a number of councils. Hurstville City Council has a majority of conservatives and currently has a Liberal Party mayor. That council unanimously resolved that "the council notes the State Government is considering significant changes to local government elections in the City of Sydney that are based on the City of Melbourne voting model". The council noted its concern over speculation that this proposal could be rolled out to other council areas.

The motion goes on to state that the council will write to local members of Parliament, the Minister for Local Government and me to notify us of the motion. In addition to Hurstville City Council, Botany Bay council, the metropolitan mayors association, the mayor of Marrickville and a number of mayors from across the State were appalled by this bill. They were not notified about the bill but left to find out about it from the media.

The Hon. John Ajaka: No-one is disputing the amendment. I thought you wanted us to support it.

The Hon. SOPHIE COTSIS: No, I want to put on record what people said in Wollongong. The independent Mayor of Wollongong was not happy about the bill and made that clear at a council meeting. There have been numerous newspaper articles and op-eds about why the provisions in the bill should not be extended down to Wollongong or up to Newcastle. It will be interesting to hear what the voters of Newcastle will say at the lord mayoral by-election next month. This is a sensible amendment. I commend the Christian Democratic Party, The Greens and all local councillors and mayors who have spoken out against this bill.

The Hon. ROBERT BORSAK [5.01 p.m.]: The Shooters and Fishers Party will support Reverend the Hon. Fred Nile's excellent amendment, which in turn has been supported by The Greens. It is an amendment in the correct direction in relation to the operation of the bill.

Mr DAVID SHOEBRIDGE [5.01 p.m.]: I do not mind if Reverend the Hon. Fred Nile wants to emulate The Greens amendment. In fact, I am glad to see him move an amendment that directly repeats our amendment. Whether it is an amendment by The Greens, the Shooters and Fishers Party or the Government it is important that we draw a line in the sand. The Greens still oppose this deeply inappropriate bill for the City of Sydney but for the moment let us at least prevent the infection spreading beyond the City of Sydney. This bill is the Ebola of local government. Let us try to contain it today and not let it spread anywhere else in New South Wales.

Reverend the Hon. FRED NILE [5.02 p.m.]: To clarify the point made by the previous speaker, the Christian Democratic Party did not see The Greens amendment. We initiated our amendment through our intelligence and assessment without seeing Mr David Shoebridge's amendment.

Question—That The Greens amendment No. 20 [C2014-086B] be agreed to—put and resolved in the affirmative.

The Greens amendment No. 20 [C2014-086B] agreed to.

Title agreed to.

Question—That this bill as amended be agreed to—put and resolved in the affirmative.

Bill as amended agreed to.

Bill reported from Committee with amendments.

Adoption of Report

Motion by the Hon. Robert Borsak agreed to:

That the report be adopted.

Report adopted.

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

Third Reading

The Hon. ROBERT BORSAK [5.04 p.m.]: I move:

That this bill be now read a third time.

Question put.

The House divided.

Ayes, 22

Mr Ajaka	Miss Gardiner	Mrs Mitchell
Mr Blair	Mr Gay	Reverend Nile
Mr Borsak	Mr Green	Mrs Pavey
Mr Brown	Mr Khan	Mr Pearce
Mr Clarke	Mr Lynn	
Ms Cusack	Mr MacDonald	*Tellers,*
Ms Ficarra	Mrs Maclaren-Jones	Mr Colless
Mr Gallacher	Mr Mason-Cox	Dr Phelps

Noes, 19

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

Question resolved in the affirmative.

Motion agreed to.

Bill read a third time and transmitted to the Legislative Assembly with a message seeking its concurrence in the bill.

MUTUAL RECOGNITION (AUTOMATIC LICENSED OCCUPATIONS RECOGNITION) BILL 2014

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

BUSINESS OF THE HOUSE

Postponement of Business

Government Business items Nos 1 to 7 postponed on motion by the Hon. David Clarke and set down as an order of the day for a later hour.

BAIL AMENDMENT BILL 2014

Second Reading

The Hon. DAVID CLARKE (Parliamentary Secretary) [5.14 p.m.], on behalf of the Hon. John Ajaka: I move:

That this bill be now read a second time.

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

Leave granted.

The Government is pleased to introduce the Bail Amendment Bill 2014.

The purpose of this bill is to make amendments to the Bail Act 2013 to give effect to the recommendations made by former Attorney General John Hatzistergos in his review of the Act.

The new Bail Act commenced operation on 20 May 2014. It introduced a new risk-based model for determining bail in New South Wales. There have been a number of bail decisions made under the new Act that have caused concern to the community. These concerns prompted the Government to request the Hatzistergos review.

In conducting the review, Mr Hatzistergos consulted with key stakeholders from across the justice system and carefully considered a number of bail decisions made under the new Act. The review also drew on the work of law reform commissions around Australia in relation to bail. The review made a number of recommendations to strengthen provisions in the Act.

The Government has accepted all of the review's recommendations. These are common-sense changes that place the potential risk to the community posed by an accused offender front and centre when bail decisions are made.

The key feature of this bill is the increased stringency it applies to bail decisions for those charged with offences that pose significant risks to the community or the administration of justice. It requires people charged with these offences to "show cause" why their detention is not justified.

The new "show cause" requirement will operate in addition to the existing unacceptable risk test. The unacceptable risk test will also be consolidated from a two-stage test to a simpler one-stage test.

I now turn to the main detail of the bill.

Schedule 1 of the bill contains the substantive amendments to the Bail Act 2013.

Items [1] and [2] will remove the existing reference to the presumption of innocence and the general right to be at liberty from section 3 of the Act, and instead insert a preamble into the Act to clarify the key principles underpinning it. The review noted that the presumption of innocence and general right to liberty are more appropriately reflected as principles in a preamble, rather than as a purpose of the Act. The preamble also includes the need to ensure the safety of victims of crime, individuals and the community and the need to ensure the integrity of the justice system as principles of the Act.

Item [3] will amend section 4 to insert necessary definitions.

Item [5] will amend section 16 to outline two flow charts to guide bail authorities in the decision making process. Flow chart 1 shows the key features of a bail decision for a show cause offence. Flow chart 2 shows the key features of the unacceptable risk test as amended by the bill. The unacceptable risk test must be applied to any consideration of release on bail, including for show cause offences.

Proposed Division 1A of the bill introduces a "show cause" requirement for certain offences. Proposed section 16A provides that for show cause offences, bail must be refused unless the accused shows cause why his or her detention is not justified. This shift of onus is an important change.

Both Victoria and Queensland have "show cause" requirements in their bail legislation. Courts in those States have noted circumstances which may be relevant to determining show cause include the strength of the prosecution case, preventable delays and urgent personal situations such as a need for medical treatment. Bail authorities in New South Wales will be informed by the approach taken in these other jurisdictions when applying the show cause provisions.

Pursuant to proposed section 16A (3), juveniles will be excluded from the "show cause" requirement. This reflects the vulnerable position of young people and is consistent with the approach in Queensland. Young people charged with these offences will still however be subject to the unacceptable risk test.

In recommending which offences the show-cause requirement should apply to, the review considered the potential consequences for the community and criminal justice system if the risk posed by a person charged with that type of offence were to materialise. The show-cause categories therefore apply to those offences which involve a significant risk to the community. These categories are set out in proposed section 16B of the bill and include:

Offences with a maximum penalty of imprisonment for life

- Offences involving sexual intercourse or the infliction of actual bodily harm with intent to have sexual intercourse with a child under the age of 16 years by an adult
- Serious personal violence offences or those involving the infliction of wounding or grievous bodily harm, if the accused has a previous conviction for a serious personal violence offence. Serious personal violence offences are those in part 3 of the Crimes Act 1900 carrying a maximum penalty of at least 14 years imprisonment
- Certain offences involving the use or possession of a firearm or military-style weapon
- Offences involving a commercial quantity of a prohibited drug or prohibited plant under the Drug Misuse and Trafficking Act 1985 as well as specified drug offences under part 9.1 of the Commonwealth Criminal Code
- Serious indictable offences committed whilst the accused was on bail or parole and certain offences committed in contravention of a supervision order.

It is important to note that just because an offence falls outside the show-cause list, this does not mean a person will automatically get bail. The unacceptable-risk test will apply and if the accused poses an unacceptable risk, bail will be refused.

The proposed list of show-cause offences serves a different purpose to the old presumptions in relation to bail. Unlike presumptions, determining show cause will not be the end of the matter. If a person shows cause, he or she will still be subject to the unacceptable-risk test.

Clause 8 of the bill will remake Division 2 of the Act setting out the provisions that contain the unacceptable-risk test. The unacceptable-risk test is central to the Bail Act 2013. The provisions in this bill consolidate and simplify the test by making it a one-stage test. This is more in line with the Queensland and Victorian bail regimes.

In applying the unacceptable-risk test, proposed section 17 stipulates that a bail authority must assess whether there is a bail concern. A bail concern is a concern that the accused will fail to appear in proceedings for the offence, commit a serious offence, endanger the safety of victims, individuals or the community or interfere with witnesses. These are the same concerns targeted by the existing unacceptable-risk test so police and courts already have experience in assessing them.

In assessing bail concerns, the bail authority will need to consider the factors set out in proposed section 18 of the Act. These mirror the factors currently set out in section 17 (3) of the Act with some alterations and additions.

The existing factor related to previous compliance with conditional liberty will be amended to require the court to consider the accused's history of compliance or non-compliance rather than a pattern of non-compliance. This will ensure bail authorities can consider serious non-compliance which may not constitute a pattern.

New factors added to section 18 include a requirement to consider whether the accused has any criminal associations. An applicant's links to organised crime networks can have a direct impact on their level of risk. For example, it may give a person access to the means to flee the jurisdiction or the means to continue criminal activity.

Bail authorities will also have to consider the conduct of the accused person towards the victim, or a family member of the victim, after the offence as this conduct may have a material bearing on their level of risk.

For serious offences, the views of the victim or a family member of a victim will also have to be considered to the extent that they are relevant to assessing the risk of the accused endangering the victim or the community if released. This is not intended to place a burden on victims and subject them to extra questioning. It simply allows police to put forward the information they have available from the victim at that time.

Significantly, the bail authority will now have to consider any conditions that can reasonably be imposed to address bail concerns at the same time it assesses the bail concerns. Previously conditions were considered after the bail authority determined whether or not there was an unacceptable risk. The review noted that a one-stage test, requiring consideration of conditions in assessing unacceptable risk, will allow the bail authority to more directly match a bail concern to a proposed bail condition. I note that the Victorian Bail Act requires that conditions be considered in assessing unacceptable risk.

Proposed section 19 provides that, having assessed bail concerns, a bail authority must refuse bail if satisfied that there is an unacceptable risk that the accused will fail to appear in any proceedings for the offence, commit a serious offence, endanger the safety of victims, individuals or the community or interfere with witnesses or evidence.

Where there are no unacceptable risks, pursuant to proposed section 20, the bail authority must either grant bail, release the accused person without bail or dispense with bail.

Proposed section 20A remakes the existing rules for conditions of bail contained in section 24 of the Act. Subsection (1) provides that bail conditions can only be imposed if there are identified bail concerns. Subsection (2) incorporates the existing restrictions on conditions including that they be reasonable and proportionate to the offence charged and that compliance with the condition be reasonably practicable. The provision will also stipulate that a condition can only be imposed if the bail authority has reasonable grounds to believe that it is likely to be complied with. This will ensure that bail authorities do not impose conditions without considering whether or not the accused will be likely to comply with them.

Division 2A contains a number of consequential and other miscellaneous amendments. Clause [10] will amend section 22 to make clear that if the applicant is required to demonstrate special or exceptional circumstances to get appeal bail under that provision, the show-cause requirement does not apply.

The proposed amendments to section 47 at clauses 16 to 18 relate to review of bail decisions by senior police officers. These reforms do not arise from the Hatzistergos review but have been agreed to by the Bail Monitoring Group, which includes representatives from across the justice system.

The requirement for a senior officer to conduct a review of conditional bail was introduced by the new Bail Act. The NSW Police Force has raised concerns that these reviews are creating a significant operational burden for police. Whilst there is utility in allowing a person to seek a review of conditions of bail where they cannot meet the conditions, an accused person who can meet bail can more appropriately seek a review at court after their release. The amendments will therefore restrict the availability of senior officer reviews of conditions to cases where the accused cannot meet a prerelease condition.

Clause 18 will amend section 47 to make clear that where no senior officer is available at the station where the accused is, a senior officer at another station can conduct the review. This will mean reviews can be completed in a more timely fashion, especially in regional areas.

Clauses 20 and 21 of the bill make amendments to section 74 of the Act which restricts multiple bail applications. Section 74 permits a fresh application where there is new information or circumstances relevant to the grant of bail that were not previously presented to the court.

As recommended by the Hatzistergos review, clause 20 will amend this provision to require that new information be 'material', meaning not insignificant. This requirement will apply to both fresh release and detention applications.

There have been reports of some accused people who were refused bail under the Bail Act 1978 arguing that commencement of the new Act is a change in circumstances to justify a fresh release application. The amendments will make clear that the commencement of the Bail Act 2013 does not represent a change in circumstances under section 74.

Clause 23 of the bill contains saving and transitional provisions related to the commencement of the bill. Proposed section 12 of part 3 will make clear that any amendments made by the bill extend to offences committed, or alleged to have been committed, before its commencement. Proposed section 13 clarifies that the changes made by the bill do not amount to a change in circumstances under section 74.

I would like to take this opportunity to thank Mr Hatzistergos for his excellent work. The changes proposed in this bill support the risk-based model and put community safety first. The Government has asked Mr Hatzistergos to continue to monitor the operation of the Bail Act 2013 over the next 12 months.

The bill will commence upon proclamation. The Government acknowledges that the NSW Police Force, courts and legal practitioners will need some time to digest these changes. Education and training will be required, along with changes to various information management systems and bail forms. The Government recognises however that the changes proposed in this bill must be implemented swiftly to ensure that the Bail Act is striking the right balance in protecting the community and the integrity of the justice system.

I commend the bill to the House.

The Hon. AMANDA FAZIO [5.15 p.m.]: I will make my contribution to debate on the Bail Amendment Bill 2014 now because I am paired from 5.30 p.m. My colleague the Deputy Leader of the Opposition, the Hon. Adam Searle, will lead for the Opposition and will speak about the bill at length. I have considerable concerns about the bill. I believe in giving credit when credit is due. Following the review by the Law Reform Commission of the Bail Act that was set in place by the former Attorney General, the Hon. Greg Smith, the Bail Act 2013 was a good piece of legislation. I think it had the balance right in terms of matters to be taken into account when considering whether somebody should be granted bail. Even though it had been the policy of the previous Government to have a presumption against bail in certain circumstances, I believe we should be very careful when legislating about putting in place a presumption against bail.

We must ensure that we are not keeping people locked up who later are found not guilty or are given a non-custodial sentence. When the bail laws are tightened too much we help to entrench someone being criminalised because while they are in jail they lose their accommodation, their job, and their family and the community support they had. When they are released, they are just the same as somebody who has served a five-year sentence: They are left on their own, with no support. That is a real issue and something that must be carefully considered when we are dealing with the Bail Act. The Bail Act 2013 was working okay. People did not have concerns about it until the usual suspects—the shock jocks and the tabloid media—jumped on the bandwagon over a few prominent cases. We should examine what happened in the three prominent cases of Hawi, Fesus and Ibrahim.

Sections of the media were screaming and jumping up and down about those cases. Ibrahim had bail, the Director of Public Prosecutions [DPP] appealed, and his bail was refused. That showed that the system entrenched in the Bail Act 2013 was working as it was intended. A reading of the judgements in the other two cases shows that the principles were properly applied and the decisions were uncontroversial. The reason for refusing bail is the risk the person poses to the general public, to witnesses in the case and for a whole lot of other well-defined and well-accepted reasons. There is no need to amend the Bail Act 2013. As I said previously, I think that Act is something of which the former Attorney General, the Hon. Greg Smith, can be quite proud. As I said, I give credit when credit is due.

The new Attorney General, Brad Hazzard, initially was quite reasonable in his response to questions raised about the Bail Act and the need for it to be in place and be active for a time before it was reviewed. Obviously, he was outvoted by some in his Cabinet who are more reactive to the sensationalist sections of the media. Consequently, he ordered a review of the Act. We must remember that it was only five weeks after the Act came into effect, and well short of the three years that Parliament had set for statutory review of the Bail Act, when Premier Baird announced a review allegedly because the Act was not protecting the community as much as had been intended—all on the basis of three cases. Of those three cases, in one case the Director of Public Prosecutions appealed and bail was revoked; in the other two cases, the judgements show that the system was working well. Even though the people involved were high-profile, they did not pose an ongoing risk to the community.

I have high regard for the Hon. John Hatzistergos—the former Attorney General and our former colleague in this place—but he has historically been quite hard on the issue of bail. To request him to take a very short review of the Bail Act 2013—after it had taken the Law Reform Commission a considerable time to make its recommendations—was a kneejerk reaction by the Baird Government. The Government should have confidence in the Law Reform Commission and in the other well-respected institutions of this State.

The proposed amendments will stop the bill functioning in the coherent, unified and workable way in which it has been designed. Although the Opposition supports the bill, it is incumbent upon it to raise its concerns about the way in which the amendments have been drafted and the way in which they will change the Bail Act 2013. I suggest to the Hon. David Clarke—who leads for the Government on the bill—that it would be a useful inquiry for the Law and Justice Committee to undertake. It would no doubt have been a better path for the Government to have taken. Instead, the Government has chosen to put forward these amendments, which have caused considerable concern in the legal community.

I note that Mr Paul Lynch, the shadow Attorney General in the other place, also raised concerns about this bill. The Law Reform Commission and organisations such as the New South Wales Council for Civil Liberties have also expressed concern about the bill. A great deal of work went into drafting the Bail Act 2013. To change it so quickly on the basis of unbalanced, over-excited, media reporting does not engender confidence in the Government. The Bail Act 2013 was carefully considered and agreed to unanimously. If Government members want to show that they are part of a serious Government that gives due consideration to important matters, they should not respond in such a kneejerk manner. When the Bail Act 2013 was passed, no members spoke against it, either in this place or the other place. It was agreed that it was a good piece of legislation. It is a shame that it is being amended so soon after it was enacted, simply because a few blowhards in the media carried on about stuff that they do not understand.

The Hon. Dr Peter Phelps: Name them.

The Hon. AMANDA FAZIO: I will not name them—despite the demands of the Hon. Dr Peter Phelps—because I do not believe in giving people more publicity than they already get, if they are not doing what is best for the community. The Government should carefully consider the way in which it has handled this matter, however I do not expect that it will. Government members will push this amendment through so that they will not receive early morning ranting calls from media people. It is about time Government members stood up to those people. They should be told that they were not appointed to run anything in New South Wales except their radio show or their newspaper.

The Government was elected by the people of New South Wales to govern. The small number of blowhards in the media were not elected by anybody, to do anything. They should not be formulating legislation in this State or pushing through changes to legislation. I would back the recommendations of the Law Reform Commission any day over shock jocks or tabloid media editors, because I know who would be making an in-depth, considered decision—certainly not the shock jocks or the tabloid editors. I urge caution in relation to the Bail Amendment Bill 2014.

The Hon. PAUL GREEN [5.24 p.m.]: I speak on behalf of the Christian Democratic Party on the Bail Amendment Bill 2014. The object of this bill is to amend the Bail Act 2013 for various purposes. These include clarifying that a bail authority can decide who is an acceptable person to provide security for the granting of bail in the same way as the bail authority can decide who is an acceptable person to give a character acknowledgement. The bill also expands the regulation-making powers conferred by the Act and makes up for minor changes of a statute law revision nature. As noted by the Hon. Amanda Fazio, the bill amends the Bail Act 2013 to do the following: In section 26:

> To clarify that a person, other than the accused, who is required by a bail authority to provide security pursuant to a bail condition must be an acceptable person.

And that:

> … the determination of whether or not a person is an acceptable person for this purpose will be made by the bail authority imposing the bail condition, or … the officer or court to whom the bail acknowledgement is given.

This is consistent with provisions in the Bail Act 1978. The bill will also clarify, in section 50, that:

> A Prosecutor may oppose a release application by an accused person without having to make a detention application.

It also clarifies, in section 64, that:

> An authorised justice may hear a variation application for an offence even if a bail decision has previously been made by a court, so long as the condition subject of the variation application is one which can be reviewed by an authorised justice.

It also provides, in section 88, that:

> … to allow for the Regulations to make provision for the return of bail money and bail security.

The bill provides, in section 98, that:

> … the regulations can make provision for the forms to be used under the Act.

Finally, the bill makes other clarifying amendments to the Act. The bill also makes a number of miscellaneous amendments to other legislation to reflect the passage of the Bail Act 2013. These amendments are largely

technical, replacing references to a provision of the Bail Act 1978 in a number of Acts with references to the relevant provisions of the new Act. Amendments reflect the change from a presumption-based model for determining bail in the Bail Act 1978 to the unacceptable risk model in the Bail Act 2013. It also provides that, in proceedings which do not relate to an offence, such as bench warrant proceedings under section 312 of the Criminal Procedure Act 1989, the person who is the subject of those proceedings is to be treated as an accused person under the Bail Act 2013, ensuring that the unacceptable risk test will apply. These amendments generally replace equivalent provisions deeming an accused person under the Bail Act 1978.

We have heard reference to shock jocks and media reports in relation to this issue. To some degree they reflect a sense in the community that unacceptable risk should be qualified in terms of the risk offenders are going to pose to the community upon release. That is a reasonable question and we need to ensure that, above all things, the community is guaranteed that it is fit and reasonable to release offenders back into the community. People may have different criteria by which they assess what "fit and reasonable" is. I will leave that to the barristers and the people who are well trained in that area.

One of the questions raised by the downsizing and closure of correctional centres in New South Wales was whether we send people to jail as a punishment or for punishment? There is interesting community debate as to whether offenders go to jail because they committed an offence or whether the purpose of jail is punishment. I will leave that for people to debate at their leisure. If offenders have paid the price imposed by a magistrate, it is reasonable to expect they should be able to be released and face the community but the higher argument of community safety must come into question. I believe that is what people are reflecting on with this issue. Recently I watched a television program in which it was said that 60 per cent to 80 per cent of early-release prisoners were charged with further sexual assault offences. It was shocking and disappointing to think people had been given an opportunity to rehabilitate and be restored back into the community only for them to commit further crime.

One of the better doctrines of humanity is to always believe in the best of others. That is from where we should always work. Sadly, for those who cannot deliver on that principle—particularly paedophiles, as numerous statistics show they reoffend after release—we must return to the headline reasoning: victims will never be released from the sentence they face following assault, sexual assault or domestic violence. Community expectation is that a test should be applied to those unacceptable-risk individuals, and the higher order of general community safety and wellbeing is part of the criteria to determine whether they are fit for release back into the community. That would be tough to work out for each individual. I am glad I do not have that job. The Bail Act will address this concern for many in the community who believe that for those who return to the community and who have a need to commit further crime we are simply setting them up to fail. The Christian Democratic Party supports the bill and commends it to the House.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [5.32 p.m.]: I lead for the Opposition on the Bail Amendment Bill 2014. The Opposition does not oppose the legislation but has a number of concerns about and criticism of the bill and the Government's handling of this important aspect of public policy. The purpose of this bill is to introduce a number of amendments to the Bail Act 2013. The amendments flow from a review of that Act carried out by the Hon. John Hatzistergos, a former member of this Chamber and Attorney General in the last Labor Government. The amendments to be made to the 2013 legislation include the following.

Firstly, a preamble is inserted into the Act, including a provision about the presumption of innocence and the general right to be at liberty. That wording is removed from section 3 of the Act, to which is added other principles. Secondly, certain serious offences described not by section but by broad category offence types will have bail refused unless the person accused of the offence shows cause why detention is not justified. The two-stage assessment involving unacceptable risk is said now to be turned into a one-stage process, although the draftsman may not have adequately achieved that objective. Finally, several additional matters now require consideration in assessing whether unacceptable risk exists, although not much legislative guidance remains as to the exact meaning of "unacceptable risk" other than the ordinary meaning of those words.

Those provisions of the bill stem directly from the Hatzistergos bail review. The first attempt in this State to codify the law relating to bail, moving it from the common law and reducing it to statutory law, was in 1978. That bill provided presumptions in favour of bail with a number of specified exemptions. In the years following the 1978 Act, 200 amendments were made to 85 Acts in over 30 years. Over time those amendments were supported by both sides of this House and the other place, giving rise to a sad and unproductive history on which we may be embarking with this bill. The end result was a chaotic, confusing and unworkable legislative framework. The end result is well summarised by the Law Reform Commission [LRC], which said:

> The cumulative effect of 30 years of amendments since the enactment of the reform-orientated Bail Act 1978 is a level of complexity in the legislation which makes it difficult to comprehend and operate even for those with legal expertise working with it daily.

Fast forward to 2010 and anyone with any familiarity with the system could see that the law needed to be overhauled. Labor, under the leadership of then Attorney General John Hatzistergos, released a draft bill that caused some disquiet in some circles because of its provisions or lack thereof concerning presumptions. On being elected to office, the present Government referred the bail issue to the Law Reform Commission. The commission engaged in an extensive consultation process and did as thorough a job as always. It delivered a report in November 2012 that recommended a substantial alteration of the current law. It recommended a fundamental change in terminology, a complete recasting of the Act and a presumption in favour of bail. The Government elected not to pursue the recommendations of the LRC and instead opted for another model, which was supported by the NSW Police Force—a risk-management model used in a number of other jurisdictions.

The risk-management model focused on the risk associated with granting bail in an individual case rather than starting with a preoccupied presumption consequent upon the definition of the offence. That risk-management approach often is contrasted with the justification model, which is the description applied to the pre-2013 New South Wales system and the model proposed by the LRC. In its report the LRC suggested that not much separated the two models. Whether that is a fair assessment, it certainly is true to both models considering the same issues. The Government's response to the LRC report was introduced and debated last year and was proclaimed in May; its implementation was delayed until 20 May this year. The preparation for the commencement of the legislation was thorough enough that various glitches were identified and amending legislation was introduced and debated earlier in the year.

Of course, some people never accepted that the new bail legislation should work. Those of that view think that an arrested person should never be at liberty. The rest of us believe in the rule of law. After public controversy in a limited part of the media, albeit that portion most supportive of the current Government's electricity privatisation plans, the Government has executed one of the State's more spectacular implosions regarding its bail policy. The Government's solution was to institute a bail review, which has resulted in this bill. Leaving aside the various arguments about the range of policy provisions, some obvious points should be made.

Most obviously is that this Government has no idea what it is doing. Its handling of this important aspect of public policy is a complete shambles. The Government went through an extremely exhaustive process to get the LRC report. It then went through another lengthy period and process to respond. After settling on its position, the Government then took 12 months to implement the legislation and ensure that practitioners and stakeholders understood it and could implement it. This very lengthy and considered approach—a cautious, careful and serious attempt to implement a serious change in the law—has just been comprehensively abandoned after a bit of bad press. This knee-jerk reaction is totally at odds with the Government's previous cautious and considered approach.

The reaction, as made clear by the comments of Don Weatherburn from the Bureau of Crime Statistics and Research, was not based on any proper statistical analysis. That is borne out by the Hatzistergos review, which I will come to. The speed of the change made clear that the Government had no commitment to the scheme in which it had invested a large amount of time, effort and, no doubt, other resources. It also calls into question the bona fides of this Government in consulting and listening to subject matter experts on important areas. I do not think this Government knows what it actually has supported for it to so easily abandon it. It may well again change if demanded by the populist media. To emphasise just how unclear, uncertain and confused the Government's policy is, it chose as its reviewer the most recent Labor Attorney General of this State.

The Hon. Matthew Mason-Cox: A very good Attorney too.

The Hon. ADAM SEARLE: I acknowledge that interjection, but when he embarked upon the process of overhauling the bail laws those opposite attacked him mercilessly for the efforts he was attempting to undertake. Of course, now in their desperation to flee from the shock jock critique of their shambles of policy, those opposite have had to reach for the very man they sought to demonise. That says much about the level of their desperation and their need to quickly patch over the flaws in their policy, which, of course, is borne out by the Hatzistergos review text. The bail review is dated July 2014. The main purpose of the review is to determine if the Act was framed appropriately to achieve its objectives. That is important because if we walk our way through the bail review by John Hatzistergos we note paragraph 6 on page 6 states:

> The review has focussed on underlying policy issues. Given its targeted focus, the review has not been hampered by the lack of data.

That is repeated in the conclusion. Basically it is not a critique about whether the courts have misunderstood the legislation, whether they have made bad decisions or whether the legislation is badly drafted. It goes straight to

the heart of the underlying policy issues, which suggests that the Government was on the wrong track when it implemented its own legislation only a few weeks before commissioning this review. For example, at page 14, paragraph 39, the Hon. John Hatzistergos stated—

The Hon. Matthew Mason-Cox: Are you supporting this bill?

The Hon. ADAM SEARLE: We are not opposing this legislation. This is your mess; this is your bail architecture. The Government is trying to strap up in the face of shock jock criticisms. We will not get in the way of the Government making a further shambles of it. The Opposition will allow the Government do what it thinks is right. At paragraph 39 Mr John Hatzistergos stated:

- the Bail Act is still very new, and adequate data is not yet available
- the interim review period was short ...
- significant research had already been conducted on bail, not only in NSW but across Australia.

That is very important. In paragraph 19 he stated:

> Bail legislation can only legislate for a structure, not judgment. Judgment can only be sensible and rational based on all available information at the time it is made.

At page 38 he stated:

> ... many persons administering the legislation have significant experience with alleged offenders and bail assessments generally.

At paragraph 127 he stated:

> If there were any doubts as to the approach required, the Supreme Court has recently provided useful guidance that demonstrates the nature of the evaluative exercise.

Then he comments from it. In paragraph 134 he stated:

> Applied correctly, the two-stage risk process—

which is the existing position—

> has the primary benefit of encouraging a comprehensive risk assessment of the applicant before imposing any bail conditions.

Mr John Hatzistergos noted, however, that the language of "unacceptable risk" has a conceptual difficulty, as the assessment could be formed on non-risk factors. It is difficult not only for lay decision-makers but also for the community to appreciate how a person who was found to present an unacceptable risk could be safely released, even with strict bail conditions addressing the risk factors. The reviewer has in fact identified not a fundamental issue with the way in which the legislation has been drafted but some language difficulties. Mr John Hatzistergos says although it has given rise to some confusion, it has in fact been clearly expounded upon by decisions of the Supreme Court, which he sets out and quotes from.

It is clear from the text of his report that this is a policy review. That raises the issue that the Government, now implementing this legislation on the back of the Hatzistergos review, has formed the view that its initial approach, after lengthy consultation with stakeholders over many years, was on the wrong track. It beggars belief that all of that time, energy and careful work could now be junked and put aside simply because this reviewer, a person for whom I have the highest regard, has a different policy perspective about how the issue of bail could and should be approached.

As I said, the main purpose of the review is to determine if the Act was appropriately framed to meet its objectives. The recitation of the terms of reference noted that the reviewer would receive advice from the Bail Monitoring Group, including representatives from Police and Justice, the Bureau of Crime Statistics and Research, the Director of Public Prosecutions, Legal Aid and the Ministry of Police and Emergency Services. The review made it clear that hundreds of bail decisions are made every day in the State, including under the new Act. An overwhelming number attracted no controversy. As Mr John Hatzistergos concedes at page 14:

> The Bail Act is still very new, and adequate data is not yet available.

At page 15 he stated:

> It is acknowledged that there is no data yet to assess some of the objectives of the Act ...

At page 16 he stated:

> The review has not been hampered by this lack of data, as it focuses on the underlying policy of the Act. This was necessitated by the terms of reference.

The reviewer is not called upon to assess how the Act is operating in practice but whether the Government was so hopelessly inept that it got its own legislation wrong and that it should have been established on some other basis or foundation. The review details the history of bail. The review recommends retaining the risk management model with amendments. The review retained the risk-based model, which would allow people to be granted bail earlier so they would not be sitting in jail unnecessarily and at great expense when they eventually would be granted bail in any case.

The first recommendation of the review deals with the purpose of the Bail Act as set out in section 3 of the principal Act. The review notes that the provision was not recommended by the Law Reform Commission. It quotes judgements that argue that the section 3 presumption of innocence did not change the law. In any event, the review claims that the provision is problematic or at least confusing. There is no statistical evidence to support that view propounded by him. It is clearly the view that he has come to from a policy perspective. The review suggests that while the presumption of innocence applies at trial it is a different situation in bail applications, although this is less than clear from the text of the report. Paragraph 108 states:

> A bail application is not a mini trial where the presumption of innocence is to be engaged in an adversarial setting.

The recommendation is to delete section 3 (2) and insert a new principal clause or preamble that would also refer to community safety and integrity of the justice system. The second recommendation of the review deals with section 17 and the unacceptable risk test. The Act requires a decision to be made if there is an unacceptable risk in granting bail with an exhaustive list of factors to be considered. Consideration is then given to whether the unacceptable risk can be mitigated by bail conditions. Bail is to be refused only where sufficient mitigation cannot be achieved. The real concern, as I indicated earlier, was around the language rather than around the substantive law. I have already quoted from paragraph 138 of that report, which was about the language of unacceptable risk being confusing for lay decision-makers and the community. Mr Hatzistergos also stated at paragraph 145:

> As noted earlier, it is difficult to conceptualise and communicate how a risk that has been assessed as "unacceptable" can become acceptable, even with strict bail conditions.

What that goes to is the language used in the 2013 legislation and whether the term "unacceptable risk" should in fact have been used in that context. One solution would be to replace the phrase "unacceptable risk" with "bail concerns". The recommendation is to create a one-step solution rather than a two-step approach. Among other things, it will have this effect, as stated in paragraph 147:

> An "unacceptable risk" will only ever refer to a concern that cannot be sufficiently addressed so as to grant bail.

That makes sense. If the language to be used is that a risk is unacceptable, presumably that would be the end point of consideration rather than the first step of consideration before another prism is laid down through which to look at the issue. The review also recommends that further factors be explicitly listed in the items to be considered when a bail determination is made. This includes an applicant's criminal convictions, which are clearly already considered but are now made explicit. The phrase "pattern of compliance" is replaced with the phrase "history of non-compliance", which is a fairly minor reform.

There is also a proposal to include the views of the victim and the victim's family for serious offences relevant to section 17 (2) (c), which is the safety of individuals, victims or the community. As a matter of practicality, these are matters that should already be considered but, again, it is made explicit. There is no problem with making these matters explicit. Some of the media rhetoric around the review and the bill only refer to victims' views generally being regarded in bail determinations. That may provide a good media grab but it is not an honest representation because victims' views are restricted to the matters set out in section 17 (2) (c), which is not quite the same thing. Likewise, the conduct of the accused towards the victim or the victim's family after the offence is included as a consideration. The better view is that this was already the case, but this makes it explicit.

The review also introduces a "show cause" provision. The basis for this appears to be the proposition that there are "a large number of decision-makers at different levels dealing with all categories of offenders and legislative criteria imposing significant evaluative discretion". The vast majority of decision-makers are police and magistrates. One inference that could be drawn from the report and legislation is that because they cannot be trusted with that discretion it should be narrowed. In fact, for those offences that give rise to the show cause provision it is a reintroduction, using different language, of a presumption against bail. If that is what the Government is doing, it should use that language.

A diversity of decisions may result from a diversity of fact situations regardless of the technical charge concerned. The review recommends the introduction of a show cause test in conjunction with a risk-based assessment to improve consistency and to provide reassurance to the community. However, as there is no statistical evidence available it is not so much a matter that there is a proper, objective need required to provide such reassurance; rather, the reviewer has a different policy approach to those who drafted the principal legislation.

Paragraph 221 sets out that the show cause test does not need to operate across the same range of offences that previously were subject to presumptions. Paragraph 222 argues that the show cause test is different to the previous offences-based presumptions. The show cause provision means that the accused must show cause as to why bail should be granted. This reverses the onus of the current system. It is designed to and no doubt will make it harder to obtain bail. Paragraph 229 sets out the offences to which this will apply. They are identified by category. This approach is justified at paragraph 228, and I quote:

> It is important that categories and types of offences are considered rather than specific lists of offences. The disadvantage of specific lists is significant, as it may easily miss an offence that does carry grave risks, and it is difficult for it to adapt and grow with community expectations. Broad categories should more accurately reflect groups or types of offences that have such significant consequences to the community.

Broad categories are also used in the bill and it will only be revealed over time whether that will cause practical problems. I note that children are exempt from the show cause provision. A further recommendation contained in the report is a provision that the existence of this new legislation is not a change of circumstance for the purpose of the provisions of multiple bail applications. This confirms the position that was expected under the 2013 Act. All the recommendations from the Hatzistergos review appear to have been included in the current bill. That was inevitable, given the desperate way in which the Government invoked the review and its short time frame. The Government could hardly have turned down any of the reviewer's suggestions having embarked upon this path.

The Bail Monitoring Group will continue to consider the legislation and its operation and a further review will be conducted next year. Hopefully, that review will be informed by more statistical data and analysis than has been available to date so we can see what has emerged from this latest experiment at bail law. There has been significant criticism of the bill and a number of concerns about the review and the bill have been forwarded to the Opposition, including submissions from the NSW Society of Labor Lawyers; David Brown, Emeritus Professor at the Faculty of Law, University of New South Wales; and the NSW Council of Civil Liberties.

Those concerns have been quoted at length by the shadow Attorney General in the other place and I do not feel the need to repeat or recite them. However, the shadow Attorney General in the other place did seek the Attorney General's response on a range of technical issues raised by NSW Council of Civil Liberties. I do not think the shadow Attorney General received anything resembling a proper response from the Government but it is useful to identify a number of those concerns in this debate.

Apart from the substantive issue of reversing the onus of proof in the show cause process, it is said that the expression "show cause why detention is not justified" is problematic because it does not set out in the legislation what must be established to show that the detention is not justified. The legislation does not give any real guidance to the judicial officers or other persons involved in the administration of justice who must make those evaluative judgements. It must mean something different to the absence of "unacceptable risk" because if the detention is shown not to be justified the question of unacceptable risk is still at large to be resolved in the process of determining a bail application. There are a number of other concerns, which I will not repeat. That was one of the more obvious concerns.

The unacceptable risk test referred to in pages 6 to 8 of the bill raises the question of whether or not the draftsman has fully captured the notions set out in the Hatzistergos review. Mr Hatzistergos identified a variety

of views amongst stakeholders about whether the two-step test in the principal Act should remain or whether it should be replaced with the one-step test. I refer to paragraph 148 on page 41, "Stakeholder views". Assuming that the reviewer's information is accurate that the different stakeholders referred to had different views, he settled on the notion that the one-stage test as applies in Victoria and Queensland for unacceptable risk is favoured. Under new section 17, "Assessment of bail concerns", a bail authority must before making a bail decision assess any concerns. A "bail concern" is identified as fail to appear at any proceedings, commit a serious offence, endanger the safety of victims, individuals or the community, or interfere with witnesses or evidence.

New section 18 sets out the matters to be considered as part of that assessment—a second step. New section 19, "Refusal of bail—unacceptable risk" states that "a bail authority must refuse bail if the bail authority is satisfied, on the basis of an assessment of bail concerns … that there is an unacceptable risk." An "unacceptable risk" is an unacceptable risk that the accused person if released from custody will fail to appear, commit a serious offence, endanger the safety of victims, individuals or the community, or interfere with witnesses or evidence. It appears from the drafting of the bill that the reviewer's proposal that the two-stage test should become a one-stage test becomes a circle—namely, it starts by asking if there are bail concerns, it then tells how to assess those bail concerns, which leads back to working out whether there is an unacceptable risk that one will not do any number of the things that give rise to the concerns in the first place.

That presents two problems: it leads one back to where one starts with the considerations, and there is no yardstick by which a magistrate or anyone else working in the criminal justice system is able to determine what an unacceptable risk actually means or how it is measured, other than by reference to the meaning of those words in their context. In practice it may take some time to work out what that means. As I have said, the circulatory path in the drafting raises a significant question as to whether striving for simplicity in the system, by collapsing two steps into one as recommended by the reviewer, has in fact been achieved. It would appear that the draftsman has gone around in circles and there is a danger that the criminal justice system will now do the same in chasing its tail.

So that is one area where I think what lies at the heart of this amendment bill may well not have captured the essence of what its own reviewer has suggested should be done in order to simplify it rather than add to the confusion and complexity of the system. I rather suspect, whether by design or by incompetence, the Government has not implemented the recommendations of the reviewer. This gets back to the point I started with—that this Government has no idea what it is doing. It is not doing things very competently.

Similar to this Government's ill-fated attempts at mandatory sentencing, no attempt has been made to quantify the financial consequences of these changes to the bail laws. The Government has presented these changes as a toughening of the law to make it harder for people to get bail. Inevitably that means more people will be held in custody, if the Government's intentions are to be achieved, and that will carry a price. Some estimate should be made by the Government of what that cost will be. I am not arguing that a community or a society might not want more people in jail, and it may well be prepared to pay more for that. But as part of the debate on these matters the costs should be put on the table so that people can make an informed decision. With prisons already experiencing a crisis of overcrowding, an increase in the number of people incarcerated—if in fact this bill achieves what the Government intends—will inevitably have significant consequences. We ask the Minister with carriage of this bill in this place, or rather the Parliamentary Secretary—

Mr David Shoebridge: We have been downgraded.

The Hon. ADAM SEARLE: I do not think that is a fair observation. The Government should respond by answering the question of whether it has even attempted to quantify the cost impact of this bill. I presume that it is still practice to have a financial impact statement accompany Cabinet minutes. We would be interested to know what price tag, if any, these measures carry.

The Hon. Trevor Khan: Surely public safety is worth any cost.

The Hon. ADAM SEARLE: I acknowledge the interjection from the Hon. Trevor Khan. It is not a question of baulking at the cost, but it is important as part of the public debate to know the effect of what we are being asked to enact. That should be put on the table as part of the debate. The Opposition do not oppose the bill but we think the Government does not really know what it is doing. The Government embarked on an extensive consultation process over a number of years to implement its legislation and then just junked it in the face of

criticism only two weeks after the legislation had commenced, and without waiting until there was a reasonable body of information. The review makes it clear that it is not a critique of the operation of the legislation; it is a review based on a different policy perspective.

In this field people may legitimately differ, and the author of the review clearly has a different policy perspective. The Government really should come clean and announce that, yes, it got it wrong in the first place and it is trying something new and different. It is trying to have it both ways—it is trying to respond in a knee-jerk fashion to the criticism from the populist media, but the fact is that it has not given its own legislation a fair opportunity to work. The Government is being driven by factors that have nothing to do with serious and proper policymaking.

Mr David Shoebridge: Point of order: There is constant goading and interjections from The Nationals bleachers, led by the Hon. Trevor Khan. I ask that they be brought to order.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! There is no point of order.

The Hon. ADAM SEARLE: I think I can take what the Hon. Trevor Khan has to dish out. The fact is that this Government is not engaging in serious or proper policymaking. The catcalling and the rude remarks from those on the other side—as they fall about laughing in the midst of this serious debate—does this bill no credit and does them no credit either.

Mr David Shoebridge: They are laughing at your crocodile tears.

The Hon. ADAM SEARLE: No, the fact is that we will not get in the way of the Government making a further hash of this policy area. We will watch with interest to see how these amendments work in practice. We urge the Government to give the legislation the time to bed down and to work itself out in practice. I quote from the report of the reviewer at page 75, paragraph 294:

> 294. The new Bail Act 2013 … is a significant shift from the previous offence-based presumptions. As with any significant piece of legislation, it will take time for the new Act to become embedded in practice.

He goes on to set out a number of practical measures that can and ought to be followed to increase knowledge of the way in which the new regime is intended to work for all participants—the courts, the practitioners and the like. It sets out a range of non-legislative measures that need to be undertaken to ensure the new system has the best chance of working properly, fairly, in the public interest and as intended. The Opposition shares those sentiments of the reviewer and we urge the Government, now that it has embarked on these further changes, to give the new regime time to be bedded down—and to make any further evaluation on the basis of how it has worked in practice.

Mr DAVID SHOEBRIDGE [6.07 p.m.]: On behalf of The Greens I oppose the Bail Amendment Bill 2014. I find it remarkable that only a matter of months after a good piece of law reform, which received unanimous support in both Houses of Parliament, had been implemented—and, from all reports, it was providing much relief to the criminal justice system in respect of having a clear, transparent and principled way of determining bail—we have this dog's breakfast of a bill come before us. It was drafted by a failed former Attorney General—

The Hon. Adam Searle: Point of order: It does the member no credit to engage in an attack on a former member of this House. It is churlish. It is unprofessional. The member should be asked to withdraw.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! Mr David Shoebridge should use caution in his reflections on former members of this House. There is no point of order at this stage, but I ask Mr David Shoebridge to use caution.

Mr DAVID SHOEBRIDGE: I note the ruling of the Deputy-President, but I in no way recant my characterisation of—

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! Is Mr David Shoebridge reflecting on my ruling or does he want to continue with his speech?

Mr DAVID SHOEBRIDGE: I do not in any way challenge the ruling of the Deputy-President—in fact, I note it and appreciate it.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Then I suggest that Mr David Shoebridge continue with his speech.

Mr DAVID SHOEBRIDGE: I was responding to the point of order from the shadow Minister. He has gone out of his way to avoid dealing with the fact that a former Labor Attorney General—a hard-right, anti-liberty, pro-detention former Attorney General, who failed to get his broken and friendless bail bill through the Parliament in the dying days of the previous rotten Labor Government—

The Hon. Trevor Khan: Point of order: Mr David Shoebridge should speak to the bill rather than engage in personal attacks simply for the sake of doing so. We know that he has a problem with the former Attorney General, but he should speak to this bill and proceed, as has already been indicated, with a degree of civility—which he is failing to demonstrate at the present time.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I uphold the point of order. The member should be speaking to the bill. The member is three minutes into his speech and the majority of it has not been to the bill.

Mr DAVID SHOEBRIDGE: The bill was brought to this House following a review by the former Labor Attorney General. It is undoubtedly relevant to the history of the bill and this appalling dog's breakfast of an Act that the bill was brought to this House—

The Hon. Trevor Khan: Point of order: The member is clearly cavilling with your ruling and he should be brought to order.

Mr DAVID SHOEBRIDGE: No, I am not. You are just trying to take up my time. You are a grub. If you have got something to say you should say it on the record.

The Hon. Trevor Khan: Let me add that, as is typical of him, he cannot keep his mouth shut whilst a point of order is being taken. He should be brought to order now.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I uphold the point of order. I remind the member that I have made a ruling. He should speak to the long title of the bill rather than to individuals.

Mr DAVID SHOEBRIDGE: Madam Deputy-President, you have not heard from me on the point of order.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I have ruled on the point of order.

Mr DAVID SHOEBRIDGE: The objects of this bill are said to be to provide for a preamble to the principal Act; require bail for certain serious offences to be refused unless the accused person shows cause why his or her detention is not justified; convert the current two-step unacceptable risk assessment process that applies to all bail decisions into a one-step risk assessment; and require additional matters to be considered by a bail authority in applying the unacceptable risk test. That is what the bill says its objects are but the actual object is to cut a good piece of law before anybody has a rational basis on which to do so.

It is absolutely extraordinary that this bill has been introduced only five weeks after the enactment of a good piece of law reform that was years in the making. That law reform was decided on after detailed consideration by the Law Reform Commission and some of the finest legal minds not just in the State but the country. They came forward with a proposal to do away with presumptions and tidy up the bail laws. That proposal received support from every player in the criminal justice system apart from an angry minority in the police and a very angry Police Association that felt it was not being listened to. Every other player in the criminal justice system said that it was good, principled law reform and it passed through this Parliament with unanimity.

But when one shock jock, Ray Hadley, began criticising the bill the Leader of the Opposition, the Hon. John Robertson, jumped on the band wagon. He was happy to go on Ray Hadley's radio show and get in the good books of the likes of Andrew Clennell and others at the *Daily Telegraph*. He fostered a divisive public debate about the bail laws with no evidence to go on other than grossly unprincipled politicking by Labor to tear down good law reform.

The matter was then handed to a former Attorney General from the far right of the Labor Party who came up with proposals to tear down a good bail law. I give full credit to former Attorney General Greg Smith, who stared down the shock jocks and the decades of unprincipled politicking on bail in this State. While I criticise him for many of his acts as Attorney General, his 2013 bail bill was principled and consistent law reform. Having torn down Attorney General Greg Smith because he showed principle in the face of ugly politicking by the shock jocks in this State, Ray Hadley then thought he would try to tear down the current Attorney General.

I do not think the current Attorney General's heart is in this bill. I think he is affronted by what he sees in it. Nevertheless, the Cabinet has been forced into this position largely because Labor has jumped on the shock jock bandwagon of criticism and opened up the political space to tear down a good bail law. It is an indictment on Labor. Labor members come in here just like the shadow Attorney General did in the other place. The Hon. Paul Lynch stood up and read out principled critiques of this bail bill by the Council for Civil Liberties and the Australian Lawyers for Human Rights. He cried crocodile tears about there being no evidence to support the changes and said it will be the Government's fault if it produces bad law. Nevertheless, he turned up and voted for it just like Labor members in this Chamber will do.

The Hon. Dr Peter Phelps: Point of order: Pursuant to President Harwin's ruling in 2011 the use of the term "crocodile tears" is unparliamentary.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I ask the Clerk to stop the clock. I will need to confirm that ruling.

The Hon. Dr Peter Phelps: I refer to page 60 of *Selected Rulings of the President*, which states that offence was taken to a suggestion that a member was crying crocodile tears and it was ruled that the comment be withdrawn.

Dr John Kaye: To the point of order—

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I have asked the Clerk to stop the clock. I am checking whether the Government Whip is correct.

Dr John Kaye: To be absolutely clear, the member used the expression "crocodile tears" with respect to a person who is not a member of this Chamber. Therefore, that ruling is not germane.

The Hon. Dr Peter Phelps: To the point of order: I do not believe it is appropriate to reflect on a member of the other House either.

Dr John Kaye: Further to the point of order—

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I am happy to rule on the point of order. The ruling made by the President did not specify whether it was a member of this House or the other House. Therefore, I uphold the point of order.

Mr DAVID SHOEBRIDGE: What exactly does this bill do? Schedule 1, item [1] inserts a new preamble into the Bail Act regarding the general intention of the Parliament in enacting the Act. Schedule 1, item [5] removes current section 16 with its one-path flow chart for all bail decisions and includes two charts with the show cause requirement and the unacceptable risk test. The first of those applies only to show cause offences and the second applies to all bail decisions under the Act.

Schedule 1, item [6] inserts the new show cause requirement that means that for bail considerations for certain serious offences the accused bears the onus of proving to the bail authority why his or her detention is not justified. Even once that is satisfied he or she is still subject to the unacceptable risk test. The offences that are classified as show cause offences are offences that are punishable by life imprisonment, serious indictable offences, including sexual assault of children, serious personal violence offences, firearms offences, drugs offences and certain other offences committed while under supervision orders. It also includes attempts to commit such offences.

Schedule 1, item [8] inserts new sections 17 to 20 in the Act that conflate what was a rational two-step test into a complicated appeal-ready notional one-step test where both the issue of bail concerns and conditions

are to be considered together by the court. Schedule 1, item [9] specifies that the unacceptable risk test applies even to a bail decision where there is a right to release. Schedule 1, item [11] removes section 23 of the Act, which says that bail can be granted subject to conditions or unconditionally, and it almost effectively requires complex conditions.

Schedule 1, item [12] removes section 24 regarding general rules for bail conditions that were widely welcomed by police, courts and all players. Section 24 currently provides the general rules for bail conditions, which include that a bail condition can be imposed only for the purpose of mitigating an unacceptable risk and that bail conditions must be reasonable, proportionate to the offence for which bail is granted and appropriate to the unacceptable risk in relation to which they are imposed. These good provisions in the current law will be stripped out by the amendments contained in this bill. Schedule 1, items [13] and [15] likewise remove references to "unacceptable risk" and replace them with the new, rather confused Hatzistergos term of "bail concern".

The new Bail Act commenced on 20 May 2014 after the better part of 12 months training of police, court staff and prosecutors. The review was announced five and a bit weeks later on 27 June 2014 and former Attorney General John Hatzistergos was tasked with the job. As we saw with former Federal Attorney-General McClelland, who the former Premier tasked to review police critical incidents, the current Premier looked into the bottom drawer to find a dependable right-wing Labor type to do the Government's dirty work. Who did the Premier find in the bottom drawer? There, doing nothing much with his spare time, was former Labor Attorney General John Hatzistergos.

With the review having been announced on 27 June, the Hatzistergos report was presented on 4 August 2014, which was literally weeks later, with no public consultation and a limited group of stakeholders being consulted. Those stakeholders were largely from the police and the Government. Many stakeholders reported that they had not even been contacted as part of the review. Having received the report on 4 August, the Government managed to digest its contents in approximately a week and delivered the second reading of this bill on 13 August 2014. That is not law reform; it is a hatchet job, and that is what we have with this amending bill. The proposed changes take the Bail Act back 10 years to a complex, technical and unprincipled scheme where the presumption of innocence is largely lost. In fact, it has been stripped out of the purposes of this bill. Who on earth would think that in the twenty-first century we would have a bail law that strips out from the purposes of the bill the presumption of innocence?

Many members of this Government think they are conservatives. This is not conservative legislation. This is a radical departure from centuries of common law in which the presumption of innocence is meant to be the golden thread running through our criminal justice system. The golden thread has been snapped by this amending bill. There have been many critiques of this legislation. I will read from a critique by the Australian Lawyers for Human Rights. Unlike the Labor Opposition, I will not only read the critiques into the record as though I understand and care about what they say but because the critiques inform the way The Greens approach this bill. We will vote against this bill because we accept the legitimacy of these careful and principled critiques from some of the key legal players in the State. One of those is the Australian Lawyers for Human Rights, which states:

> Australia is a signatory to the *International Covenant on Civil and Political Rights*, Article 9 of which confirms that the presumption of innocence underpins the concept of bail and recognises explicitly that "*it should not be the general rule that persons awaiting trial shall be detained in custody*".
>
> Whilst the criminal justice system must recognise situations where pre-trial detention is justified, these reforms are not reasonable because they do not allow the courts to assess the risks of granting bail based on the circumstances of the offence. They instead introduce arbitrary provisions dealing with all crimes in certain categories in the same way, irrespective of the facts of the case. This will potentially see innocent people spend long periods on remand awaiting trial and significantly increase the pressure on our already overburdened prison system.

The New South Wales Council for Civil Liberties states in relation to the relegation of the presumption of innocence from the purposes of the bill to an eighteenth century preamble provision:

> The amendment proposes the transfer of the underlying principles that Parliament has regard to in enacting the Act from being specified considerations in the body of the legislation to the Preamble. These include 'the common law presumption of innocence and the general right to be at liberty'.
>
> The presumption of innocence (handed down through common law for centuries … will be watered down by moving it from a consideration in the granting of bail (as it should be) to a motherhood statement in the Act's Preamble. The right to be presumed innocent should not be relegated in this way.

The New South Wales Council for Civil Liberties states in relation to the new show cause requirement and the presumption against bail that has been delivered with this amending bill:

> The creation of so-called "show cause" offences constitutes a reintroduction of presumptions against bail for prescribed offences by the back door. The presumption scheme was soundly criticised in the revamp of the Bail Act and this grafts resumptions against bail, with all their faults, back onto the scheme of the 2013 Act. It introduces complications for no clearly discernible legitimate benefit. The effect will be to transfer more power to the police, by their selection of charges before the Office of the Director of Public Prosecutions has a chance to exercise independent judgement in charge selection.
>
> Further – and more seriously – the onus of proof has been reversed in relation to those offences. Article 9 of the ICCPR states (in effect) that remand in custody is not to be the default position for people – any people – charged with offences, yet this creates such a position and imposes upon the accused [the obligation] to prove that it should not apply.
>
> If one's right to liberty is to be taken away, then the onus has always been on the party that seeks to remove it to establish lawful grounds for doing so. This will no longer be so in respect of these offences. The mischief done by these provisions is tacitly acknowledged by the exemption of juveniles from the scheme.

In an article that will be published in the forthcoming December issue of the *International Journal of Crime, Justice and Social Democracy*, Professors Brown and Quilter have this to say:

> First, the reference to the presumption of innocence which had been in the purposes section of the Act has been relocated to the Preamble along with statements regarding: the need to ensure the safety of victims, individuals and the community (a); and the need to ensure the integrity of the justice system (b). Resort to a preamble is old fashioned and has generally been discontinued … The clear purpose is to reduce the importance of a bail authority having regard to the presumption of innocence – a regard that is not featured strongly in the cases analysed – with the assumption that a preamble is not usually construed as part of the Act. If this construction is upheld by the courts, a cornerstone of our criminal justice system – the presumption of innocence – is significantly downgraded.

They say this in relation to the confused way in which this amending bill deals with bail concerns:

> … s 17 introduces a new concept of 'bail concern' not otherwise known to bail law in NSW or any other Australian jurisdiction – and certainly not in the equivalent Victorian/Queensland unacceptable risk models. Thus, the amending provisions require a bail authority to assess any 'bail concerns' before making a bail decision… A 'bail concern' is one that relates to the former factors used to assess 'unacceptable risks' … [such as] (failing to appear, commit a serious offence, and dangers safety of victims, individuals or the community or interfere with witnesses). In assessing the 'bail concern' the bail authority must take into account only the matters in s 18 – which comprise an expanded list of the matters previously used to assess unacceptable risk in s 17 (3). Importantly, these factors now also include any bail conditions that could reasonably be imposed to address any bail concerns … whereas previously such conditions could only be imposed to mitigate an 'unacceptable risk'.

They conclude:

> The clear intent is to allow bail conditions to be imposed at the lower threshold of a 'bail concern' – that is, even if no 'unacceptable risk' is identified. This is in direct conflict with the NSW LRC Report on *Bail* … which attempted to restrict the proliferation of pro-forma bail conditions and conduct requirements … by making it a two-step process so that conditions only came into play where the person would otherwise be detained, or as provided in the legislation, where there had been an unacceptable risk finding.
>
> While this may be the intended effect, in introducing a concept not otherwise known to bail laws, it may also have unintended consequences.

I note it will almost certainly lead to an array of litigation, appeals and uncertainty in this area of the law. They conclude by stating:

> While the Government has claimed that the changes are 'common sense', in its determination to look 'tougher' on crime and to give the electorate the impression that more people will be denied bail, they have rashly introduced complicated and unnecessary changes to a regime that had only just begun to become familiar to police, lawyers, magistrates and judges after a twelve-month familiarisation and training period.

This is bad law. It is bad law delivered by a Government that is responding not to a considered review of the way in which the current law operates but a Government that has rolled over and had its belly tickled by Ray Hadley. The Government has been forced into this situation by a deeply unprincipled Opposition that will do anything it can to look like it is relevant in the *Daily Telegraph* and get some shred of relevance in shock jock world. Bad law should never pass through this Parliament. The mock concern that we have from Labor about the civil liberties in this bill is shown to be mock because, while they say it on the record, the proof of the pudding is in the eating. We know for a fact that just like they did in the lower House, they will vote for this rotten bill in this House. The Greens oppose it. We are proud to oppose it and stand up for civil liberties. [*Time expired*.]

[*The Deputy-President (The Hon. Natasha Maclaren-Jones) left the chair at 6.27 p.m. The House resumed at 8.00 p.m.*]

The Hon. MATTHEW MASON-COX (Minister for Fair Trading) [8.00 p.m.], in reply: I thank all members for their contribution to this debate. The Bail Amendment Bill 2014 makes significant amendments to the Bail Act 2013 to consolidate the unacceptable risk test and introduce a show cause requirement for certain serious offences. The amendments give effect to recommendations made by the review of the Act completed by Mr John Hatzistergos. The reforms in this bill will strengthen the New South Wales bail laws and ensure that police and courts give the protection of the community appropriate weight when making bail decisions. I commend the bill to the House.

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

The House divided.

Ayes, 21

Mr Ajaka	Mr MacDonald	Mr Secord
Mr Blair	Mrs Maclaren-Jones	Ms Westwood
Mr Colless	Mr Mason-Cox	Mr Whan
Ms Cotsis	Mrs Mitchell	
Mr Donnelly	Reverend Nile	
Ms Ficarra	Mr Pearce	*Tellers,*
Miss Gardiner	Mr Primrose	Dr Phelps
Mr Gay	Mr Searle	Ms Voltz

Noes, 5

Ms Barham
Mr Buckingham
Dr Faruqi

Tellers,
Dr Kaye
Mr Shoebridge

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

The CHAIR (The Hon. Jennifer Gardiner): If there is no objection, the Committee will deal with the bill as a whole.

Mr DAVID SHOEBRIDGE [8.11 p.m.]: I move The Greens amendment No. 1 on sheet C2014-090:

No. 1 **Presumption of innocence**

Page 3, schedule 1 [2], lines 12 and 13. Omit all words on those lines.

This amendment is straightforward. It deletes lines 12 and 13 on page 3 of schedule 1 [2] of the bill. It deletes the section of the bill that proposes to omit section 3 (2) of the existing Bail Act. Section 3 (2) of the Bail Act 2013 is the second part of the Purpose of the Act. The first purpose of the Act is to provide a framework to ensure that a person who is required to appear before a court will appear before the court. The second purpose of the Act is:

(2) A bail authority that makes a bail decision under this Act is to have regard to the presumption of innocence and the general right to be at liberty.

That should, indeed must be a provision of any decent Bail Act in this State. The whole purpose of a bail Act is to balance the competing concerns of ensuring that a person accused of a crime will turn up at court and ensuring that the community, witnesses and the criminal justice system are protected from any risk that the accused may pose. Balanced against that is the fundamental presumption in our criminal justice system—the presumption of innocence until proven guilty by a court.

It is extraordinary that there is a proposal in this amending bill from the Government to remove the presumption of innocence from the purposes of the Bail Act. Of all the provisions in this amending bill, the one that is perhaps the most offensive is the removal of the presumption of innocence from the purpose of the Act. It creates the greatest concerns for liberty, for the rule of law and for a principled criminal justice system in New South Wales. As the New South Wales Council for Civil Liberties said:

> The presumption of innocence (handed down through common law for centuries …) will be watered down by moving it from a consideration in the granting of bail (as it should be) to a motherhood statement in the Act's Preamble. The right to be presumed innocent should not be relegated in this way.

It said further:

> Whatever the motivations, the decision to relegate this right to the Preamble sends a strong and regrettable signal to police and others. **The presumption of innocence and general right to liberty should remain a specified consideration in the body of the legislation.**

I note that Dr Julia Quilter and Professor David Brown address this issue in a paper. As to the proposal to move the presumption of innocence from the purpose of the Act to a preamble, they make it clear that that is harking back to a now defunct and moribund form of legislative drafting which will create confusion when the courts are considering it and will greatly downgrade the importance of the presumption of innocence in bail proceedings. They say:

> Resort to a preamble is old fashioned and has generally been discontinued … The clear purpose is to reduce the importance of a bail authority having regard to the presumption of innocence—a regard that has not featured strongly in the cases analysed …

I note that the cases analysed are the relatively small handful of reported decisions on bail under the existing Act since May this year. They go on to say:

> … with the assumption that a preamble is not usually construed as part of the Act. If this construction is upheld by the courts, a cornerstone of our criminal justice system—the presumption of innocence—is significantly downgraded.

Indeed, that is the clear intent of this bill: to downgrade that cornerstone of our criminal justice system, the presumption of innocence. I note that the shadow Attorney General spoke at length about his concerns relating to the watering down of the presumption of innocence in this bill. But then, as he does so often in matters of law and order, he rallied the Labor troops and voted for the Coalition's rotten bill.

Earlier the shadow spokesman, the Deputy Leader of the Opposition, said how important the presumption of innocence is and how troubling it is that the bill is removing the presumption of innocence from the purpose of the Act. But then, no doubt because he has been directed to by his fearless leader, he and the rest of Labor—despite their purported concerns about civil liberties and about a principled criminal justice system—will rush over to the other side, with the balance of the lemmings in this Chamber, and vote for this rotten bill to remove the presumption of innocence from the principles of the bail Act.

The New South Wales Law Reform Commission is being ignored, the most senior judges in the State are being ignored, years of work by the most respected academics in the criminal justice system is being ignored, the representations of the New South Wales Bar Association are being ignored, the representations of the Law Society of New South Wales are being ignored, and the representations of all the senior practitioners who deal with the Bail Act and who have spoken out on the matter, the Director of Public Prosecutions and others have been roundly ignored.

Who is the majority of this Chamber listening to? They are listening to that great authority Ray Hadley. When was Ray Hadley elected to run this State? When did Ray Hadley attain the knowledge and skills necessary to consider the balancing of important issues such as the presumption of innocence and community safety under the Bail Act? It is a disgrace to the democratic process in this State that one bloke with an amplified microphone can drive fear into attorneys general, Opposition leaders and premiers of this State and force such

rotten laws through this Parliament with so little scrutiny. The presumption of innocence should remain a cornerstone of our criminal justice system. The presumption of innocence should remain a purpose of the Bail Act. I commend the amendment to the House.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [8.19 p.m.]: As Mr David Shoebridge well knows, the presumption of innocence in our criminal justice system does not originate from the Bail Act. It is found elsewhere in the common law and other parts of our law and is not dependent on section 3 (2) of the Bail Act. It is not being removed entirely from the legislation. As the previous speaker identified, it is being moved to a preamble where it is no more than a statement of fact, as it is presently, that these are matters to which any bail authority would as a practical matter have to turn its mind. As Mr David Shoebridge so presciently set out, on this occasion Labor will not be supporting the amendment.

The Hon. MATTHEW MASON-COX (Minister for Fair Trading) [8.20 p.m.]: The Greens amendment would result in the references to the presumption of innocence and the general right to be at liberty remaining in the provisions outlining the purpose of the Bail Act. The Government's bill moves the reference to these principles from the purpose provisions to a preamble to the Act, which was a recommendation of the Hatzistergos review. The presumption of innocence and the general right to be at liberty are, as the shadow Minister mentioned, fundamental principles of common law. Let me make absolutely clear that the reforms in the bill do not exclude their consideration in bail decision-making. They will remain as a part of the Bail Act but will be referred to in the preamble rather than as a purpose of the Act.

The Hatzistergos review acknowledged concerns that the placement of these principles in the purpose provisions of the Act may result in their operating as controlling factors in bail decision-making and thereby exclude or diminish the weight given to other key principles. The review noted that the presumption of innocence and the general right to be at liberty are not really purposes of the Bail Act but rather principles underpinning the criminal justice system. For this reason the review recommended that they be moved to a preamble to the Act.

The review also noted that these principles should be considered in conjunction with other key principles associated with protecting the community and preserving the integrity of the justice system. Consequently, the amendments in the bill will enshrine the common law presumption of innocence and the general right to liberty in the preamble to the Act along with the need to ensure the safety of victims of crime, individuals and the community as well as the need to ensure the integrity of the justice system. All these principles will be taken into account when making bail decisions.

I note that The Greens amendment would not delete the references to the presumption of innocence and the right to liberty from the preamble to the bill. This means that they will appear in two places in the Act. This will not only be unnecessarily confusing but also exacerbate concerns expressed by Mr Hatzistergos about those factors operating as controlling factors in bail decisions, which is not appropriate. For these reasons the amendment is opposed.

Mr DAVID SHOEBRIDGE [8.23 p.m.]: It was interesting to hear the Minister express the Government's assumption that moving the presumption of innocence and the general right to be at liberty from the purpose of the Act to the preamble will somehow allow a bail authority to still consider those factors when making a bail decision under the Act. If only it were true. If there is some ambiguity in the Act, no doubt the courts can refer to the Minister's tortured thinking, which I assume was advice from his staff, in order to try to determine some ambiguity.

New section 18 provides, "A bail authority is to consider the following matters, and only the following matters, in an assessment of bail concerns under this Division", and lists the series of factors we discussed in the second reading debate. New section 18 does not on its face allow a court to have regard to the preamble when making that determination. There is a body of authority that would allow a court to consider the factors that will be contained in the preamble if they were contained in the purpose or objects of the Act. I invite the Minister to read onto the record any statutory provision or authority that allows the preamble to be used in that manner when a court is considering the bail concerns under new section 18. In the refusal of bail there seems to be little if any room for a court to rely upon the preamble because new section 19 provides:

> A bail authority must refuse bail if the bail authority is satisfied, on the basis of an assessment of bail concerns under this Division, that there is an unacceptable risk.

That refers to the criteria in new section 18 that enumerates the closed set of factors that a court can consider. If the Act contains a provision that the preamble can be considered or if there is a statutory provision or senior court authority that says that the preamble can be considered, I invite the Minister to read them onto the record. Otherwise, they are hollow words.

Reverend the Hon. FRED NILE [8.25 p.m.]: In supporting this bill I put on record my disgust with Mr David Shoebridge's tone and attitude towards radio broadcaster Ray Hadley. Members of the public, including police officers, regularly talk to Ray Hadley about the ineffectiveness of the current bail laws. His statements reflect what he has heard; he does not just make up what he says. He reflects public opinion in this State far more accurately than The Greens ever have.

Question—That The Greens amendment No. 1 [C2014-090] be agreed to—put.

The Committee divided.

Ayes, 5

Ms Barham
Dr Faruqi
Mr Shoebridge

Tellers,
Mr Buckingham
Dr Kaye

Noes, 21

Mr Ajaka	Mrs Maclaren-Jones	Ms Voltz
Mr Blair	Mr Mason-Cox	Ms Westwood
Ms Cotsis	Mrs Mitchell	Mr Wong
Mr Donnelly	Reverend Nile	
Ms Ficarra	Mr Pearce	
Mr Gay	Mr Primrose	*Tellers,*
Mr Green	Mr Searle	Mr Colless
Mr MacDonald	Mr Secord	Dr Phelps

Question resolved in the negative.

The Greens amendment No. 1 [C2014-090] negatived.

Title agreed to.

Question—That this bill as read be agreed to—put and resolved in the affirmative.

Bill as read agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Matthew Mason-Cox agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Matthew Mason-Cox agreed to:

That this bill be now read a third time.

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

MINING AMENDMENT (SMALL-SCALE TITLE COMPENSATION) BILL 2014

Second Reading

The Hon. MATTHEW MASON-COX (Minister for Fair Trading) [8.36 p.m.], on behalf of the Hon. John Ajaka: I move:

That this bill be now read a second time.

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

Leave granted.

The Mining Amendment (Small-Scale Title Compensation) Bill 2014 amends the Mining Act 1992 and the Land and Environment Court Act 1979.

This bill implements the key legislative measures set out in the Government's Final Response to the Wilcox Report into Lightning Ridge Opal Mining.

The amendments establish a framework to streamline and clarify interactions between landholders and opal miners, particularly in Lightning Ridge.

The Mining Act is the primary piece of legislation regulating opal mining in New South Wales.

It establishes a titles framework specifically for opal mining activities.

Two types of titles are available under this framework—mineral claims and opal prospecting licences, which the Act refers to as "small scale titles".

The Lightning Ridge region is the heart of opal mining in New South Wales. It produces 95 per cent of Australia's black opals—the most valuable opals in the world and the official gemstone of this State.

A thriving tourist industry exists off the back of opal mining. Over 80,000 visitors, from all walks of life, visit each year.

Some come to try their luck at opal mining, others come to simply experience an outback mining town.

At the same time, the region is also home to vast tracts of grazing and cropping land, and has a long history of primary production.

This history is reflected in the name of the town.

It is said that Lightning Ridge got its name when a bolt of lightning struck a flock of sheep, killing over 200 and scattering the others in terror.

All honourable members should visit this area if they get the opportunity. It is truly a unique part of New South Wales.

There are currently around 3,200 small scale titles in Lightning Ridge on 26 properties. Some landholders literally have hundreds of titles granted over their property.

It is unsurprising, then, that there have been longstanding tensions between landholders and opal miners at Lightning Ridge.

Opal mining is also undertaken in White Cliffs, a small township some 300 kilometres northeast of Broken Hill. White Cliffs is famous for its white opal.

In contrast to Lightning Ridge, there are not known to be the same tensions between landholders and opal miners in White Cliffs.

This is largely because, at White Cliffs, the vast majority of small-scale titles are granted over unoccupied Crown Land.

Despite the commissioning of four reviews, those opposite failed to adequately establish the tools to support landholder and miner dealings.

This Government has taken action and this bill is about implementing a solution.

Honourable members may recall that Murray Wilcox, QC, a former Federal Court judge, was commissioned to undertake a review into issues of concern about opal mining in Lightning Ridge.

In 2011, Mr Wilcox delivered his report with recommendations for resolving these issues.

In 2013, following an extensive consultation process, the New South Wales Government released its final response to the Wilcox report.

This bill implements the key legislative measures set out in the final response. These measures balance the interests of Lightning Ridge residents, farmers and miners alike.

I turn now to a more detailed discussion of the proposed amendments.

The bill amends the Mining Act to establish a standard compensation scheme for landholders affected by opal mining.

This implements a key recommendation of the Wilcox report. It is the centrepiece of the bill.

As announced last year, in our response to the Wilcox report, the standard compensation rate for the Lightning Ridge area will initially be set at $100 per annum for mineral claims.

The rate for opal prospecting licences will be $100 per annum plus 10¢ per hectare.

At this time there is no intention to set a standard compensation rate for opal miners in White Cliffs.

The bill enables the standard compensation rate to be indexed to keep up with inflation. Beyond that, the rate can only be varied every five years after an independent review.

This provides certainty for opal miners. It will ensure the goal posts do not keep shifting.

The standard compensation scheme will not prevent parties from making their own arrangements for compensation.

Opal miners will be able to choose to either pay standard compensation or make a private compensation agreement with a landholder.

Standard compensation will be collected by Government and distributed to landholders.

This will provide a streamlined way of processing payments associated with opal titles for both landholders and titleholders.

If a landholder receives standard compensation and believes it is too low, they will be able to seek assessment by the Land and Environment Court.

The court cannot award an amount that is less than the standard compensation rate.

In the event there is neither a standard compensation rate in place for a particular area, nor a compensation agreement, a party can also ask the Land and Environment Court to determine compensation.

To complement the standard compensation scheme, the bill introduces a new process for granting titles.

The new process will ensure that standard compensation is paid or a private compensation agreement is in place before a small scale title is granted or renewed.

In practice, this means that before a decision maker grants a title, they will need proof that the applicant has paid standard compensation or made a private compensation agreement with a landholder.

An existing agreement between an opal miner and a landholder will be recognised for this purpose. However, proof of this agreement will be required before a title can be renewed.

The new process will also ensure that landholders receive timely notification of the applicant's intention to exercise their rights under the title.

The bill also allows the Minister, by order published in the gazette, to impose levies on opal miners, or classes of opal miners, for particular purposes.

The purposes for these levies are set out in the bill.

They include the provision and maintenance of roads servicing small-scale titles, off-title rehabilitation and environmental maintenance work, and the rehabilitation of mullock dumps.

Other purposes may be prescribed in a regulation.

The levies will enable these works to be undertaken on behalf of miners collectively. This is more efficient than each miner doing the work individually.

There is broad support from landholders and opal miners in Lightning Ridge for introducing these levies.

The work funded by the levies will benefit not only opal miners and landholders, but the broader community.

The bill enables levies to be targeted at a particular class of small-scale titles.

This will enable levies, for example, to be set in respect of Lightning Ridge only, and not White Cliffs.

This flexibility reflects that shared infrastructure needs can vary between areas.

The Government will administer the funds collected from the levies.

The bill establishes a process for people to apply for funding from the levy to undertake works.

> Funding will be available if the works are consistent with the purposes of the levy, and are appropriate and reasonable for achieving those purposes.
>
> The Land and Environment Court plays a central role in resolving conflicts between landholders and opal miners.
>
> However, as noted in the Wilcox report, there is a general unwillingness to elevate local disputes to the court.
>
> In its final response, the New South Wales Government proposed a range of measures to facilitate ease of use of the court.
>
> As part of these measures, the bill amends the Land and Environment Court Act 1979 to introduce a mandatory conciliation and arbitration process for proceedings relating to small-scale titles.
>
> If this does not resolve the matter, the parties will proceed to a normal court hearing.
>
> This process will apply across Lightning Ridge and White Cliffs. It will enable opal mining disputes to be dealt with in a more informal and cost effective way
>
> A similar process is already in place for environmental planning appeals.
>
> Historically, around 1,700 mineral claims were granted in Lightning Ridge which gave miners the right to reside on the claim.
>
> Several years ago, a program was established to phase this out by giving these miners a separate leasehold title to the land.
>
> This involved paying holders of overlying western land leases to surrender parts of their leases, and then granting opal miners smaller, residential western land leases in those areas.
>
> As part of this program, a levy was imposed on these miners to fund the associated costs.
>
> While the program had widespread support, the levy lacked a legislative basis. The bill validates the previous collection and use of monies from this levy.
>
> This bill addresses some key issues of contention facing the Lightning Ridge community. Issues that for so many years have been left neglected.
>
> These changes balance the interests of opal miners and landholders alike.
>
> Opal mining and agriculture are the lifeblood of Lightning Ridge. This Government is committed to the prosperity and coexistence of both of these industries.
>
> I commend the bill to the House.

The Hon. LYNDA VOLTZ [8.37 p.m.]: I am pleased to participate in debate on the Mining Amendment (Small-Scale Title Compensation) Bill 2014 that has been introduced in this House. The objects of this bill are to regulate the compensation paid by the holders of small-scale titles over land to landholders, to provide mechanisms for dealing with disputes between landholders and holders of small-scale titles or applicants for small-scale titles, and to provide for levies on small-scale titles for purposes associated with those titles and the establishment of the Small-Scale Titles Levy Fund in the Special Deposits Account.

The bill will amend the Mining Act 1992 in a number of respects that include the provision for compensation payable to landholders in respect of the granting, which includes the granting of a renewal, of small-scale titles that are mineral claims or opal prospecting licences. On the grant of a small-scale title, the landholder of the land concerned becomes entitled to compensation in lieu of compensation for any compensable loss suffered, or likely to be suffered, by the landholder.

> The Minister for Resources and Energy can determine by order an amount of compensation … that is payable. Any such order may prescribe different amounts for different mineral claims districts or opal prospecting areas and may provide for the standard compensation to be indexed on an annual or other basis.

The Opposition has been keen to see this legislation come before the House. It is fortuitous that the Government has brought it on so quickly. I look forward to the shadow Minister elucidating the position of the Opposition on the Mining Amendment (Small-scale Title Compensation) Bill 2014.

The Hon. STEVE WHAN [8.40 p.m.]: I lead for the Opposition on the Mining Amendment (Small-scale Title Compensation) Bill 2014. I thank the Hon. Linda Voltz for her comments on this bill. I begin by acknowledging the fact that the Lightning Ridge Miners Association has waited for this for a long time and I congratulate the Minister on finally introducing the bill. The Minister took action on this issue almost immediately upon becoming the Minister. It is a credit to him. I understand that he and his staff went to

Lightning Ridge, spoke to the Lightning Ridge Miners Association and met miners and landholders. I commend him for taking action to resolve a long-running and difficult issue for the miners and landholders in the Lightning Ridge area.

Late last year I visited Lightning Ridge and spoke to the miners association. I heard some of its concerns and some of the issues it has been raising. I am sure I am not the only one who did so, but when he first became Minister I suggested that it would be worthwhile for him to talk to the miners. I want to emphasise that, when we talk about the miners at Lightning Ridge, we are not speaking of large companies or wealthy groups who are mining; we are talking about small operators who are not wealthy—although I am sure that some make money out of it.

Mr Jeremy Buckingham: You wouldn't know.

The Hon. Duncan Gay: They are not large taxpayers.

The Hon. STEVE WHAN: I acknowledge the two interjections—one that we would not know and the other, from the Leader of the Government, that they are not large taxpayers. I will not make further judgement.

The Hon. Duncan Gay: You said they are not wealthy people; if you are not wealthy, you don't pay a lot of tax.

The Hon. STEVE WHAN: I hope *Hansard* recorded that interjection so that I do not have to repeat it and so that the Hon. Duncan Gay does not get into trouble with the miners. The group of miners about which we are talking are hardworking people. We are not talking about multinational companies. When we frame our responses to some of the issues that arise in debate, we need to acknowledge that we are talking about people who work hard and do it tough at times. We are talking about landholders who have long-running issues about access to their land and the way in which mining takes place. It needs to be understood that, in a community of this size where people know each other well, issues can become personal and, over time, can lead to difficult situations.

It has not been an easy process to get this new legislation in place. The proposed legislation has been welcomed from both sides, which shows that a reasonable balance has been obtained in the drafting of the legislation. Of course, comments have come from both sides of the picture—from NSW Farmers and the Lighting Ridge Miners Association—on aspects of the legislation they would like to see improved or about which they are not entirely happy. But the fact that both sides of the debate generally welcome this and are pleased that it is being resolved is an indication of good work being done. I will go through some of the issues raised with the legislation in a moment. The new legislation has as its objects:

> (a) to regulate the compensation paid by the holders of small-scale titles over land to landholders, and
>
> (b) to provide mechanisms for dealing with disputes between landholders and holders of small-scale titles or applicants for small-scale titles, and
>
> (c) to provide for levies on small-scale titles for purposes associated with those titles and the establishment of the Small-Scale Titles Levy Fund in the Special Deposits Account.

In the lead-up to this bill the independent Wilcox report was prepared, which set an amount of compensation at the rate of $100 per year for mineral claims and $100.10 per hectare for opal prospecting licences. That is the background to the matter—that for some time there has been an opportunity for the Government to respond to the Wilcox report. It has taken some time. We did not see progress until this Minister took over the portfolio. It is an indication of his priorities.

Mr Jeremy Buckingham: Weren't you the Minister for a while?

The Hon. STEVE WHAN: Yes, I was the Minister for a while in the last Government and this was an issue that was still running and awaiting resolution. The bill makes a number of amendments to the Mining Act, which include setting the compensation arising under small-scale titles. Under new section 266 (1):

> On the granting of a small-scale title, a landholder becomes entitled to compensation determined under this section in lieu of compensation for any compensable loss suffered, or likely to be suffered, by the landholder as a result of the exercise of the rights conferred by the small-scale title.

In its comments to me on this, the Lightning Ridge Miners Association suggested that it was concerned that the Minister was going to determine the compensation payable at his discretion. There is no criteria the Minister is required to take into consideration. Similarly, there is no criteria that an independent review is required to take into consideration. The Lightning Ridge Miners Association said, "The quantum of any standard compensation is purely a political decision and there is no right of appeal from the decision." The miners association suggested the deletion of the words "in lieu of compensation" in new section 266 (1). My interpretation of that was different to that of the miners association. My view was that, if we deleted the words "in lieu of compensation" it would leave it open for a landholder to seek further compensation in addition to the amount that is there. I felt that that was not the intent of this bill and that that those words should not be deleted.

The association expressed concern about the Minister setting the amounts for compensation. I have spoken to the Minister's office and I appreciate the work of the Minister's office in providing briefing on this matter. In response to my questions the Minister's office has said that the Wilcox report committed to setting the initial standard compensation at $100, as I mentioned earlier. That followed an extensive consultation process. The Minister's office has provided the advice to me that if the Minister wants to increase or reduce the standard compensation rate, he will first need to commission an independent review into appropriate levels of compensation and consider the findings of that review. In practice, this review could be undertaken by an accounting firm or senior lawyer or another person with appropriate expertise.

My understanding is that that would happen only after five years of the operation of the new legislation. I understand The Greens will be moving an amendment about potential for appeals. I will deal with that when it is moved during the Committee stage. However, it would be good if the Minister would confirm in his reply whether it is the intention of the Government not to change the rate without an independent review being conducted to give some reassurance that this will not be something that is changed arbitrarily by a Minister in the future. The Lightning Ridge Miners Association raised a number of other issues with the proposed legislation, including some comment on other provisions, namely, new section 266 (4) (c), which states:

> If the application is for the renewal of a mineral claim, the applicant has, no later than 28 days after lodging the application, paid all outstanding amounts of compensation payable by the applicant to the landholder under the mineral claim (other than compensation that may be payable under a compensation agreement).

The association seeks confirmation that that provision cannot apply retrospectively and is only for future compensation amounts. I ask the Minister to confirm that in his reply. I flagged that with the Minister's office to ensure that is the case. The Minister's office has told me that these amendments will apply prospectively. For example, the office advised:

> The restriction on granting small-scale title unless standard compensation has been paid or a private agreement reached will only apply for applications made after the amendments commence.

I ask the Minister to confirm that in his reply. In lieu of compensation for compensable loss, which was raised by the miners' association, advice I have received from the Minister's office states:

> Currently, under the Mining Act landholders affected by opal mining are entitled to compensation for compensable loss suffered as a result of activities exercised under a small-scale title. In effect, the bill makes it clear that a landholder's entitlement to compensable loss is satisfied if they receive standard compensation or privately agreed compensation. This does not in itself mean that landholders can get more than standard compensation. However, the Land and Environment Court may award additional compensation to a landholder in exceptional circumstances.

That issue has caused concern for the miners' association. It would like it to be made clear that the amounts cannot exceed the market value of land. The advice from the Minister's office is reasonably clear: The bill has provision in very limited circumstances for a landholder to go to the Land and Environment Court to get additional compensation in exceptional circumstances. My understanding is that that means when significant improvements have been undertaken on land that may not be adequately recognised by the standard amounts. That is a fairly limited capacity for landholders to seek extra compensation. Having said that, I understand that had a landholder undertaken significant improvements to his land, he might, quite rightly, seek further compensation from someone who wishes to construct a mine on that land. As with many parts of this bill, that is one of those difficult balances one has to undertake when explorers and opal miners wish access to undertake mining activities on private land. The Greens will discuss that issue and I will speak more on it when they move their amendments during the Committee stage.

The legislation deals with levies that may be imposed. The Miners Association raised with me, which I assume it raised also with the Minister, that the provisions allow the levies to fund administrative expenses for

the department in the operation of the Act and in its work for small-scale title levy funds. I told the association that I thought it was reasonable for it to be self-funding and the levies should be able to be used for some of those expenses, and in that sense Labor did not agree with the proposed position.

In the long-term accounting for this proposal, it is reasonable that the Lightning Ridge miners who pay these levies should have the assurance of having a say in whether those levies are becoming excessive as well as some ability to judge whether the charges and the administrative expenses are reasonable. I invite the Minister to comment on the Government's capacity to consult with the Miners Association about the quantum of those administrative expense amounts taken out of the levies. However, having said that, it is not unreasonable for the Government to include that element in this legislation.

The Miners Association raised a number of other issues about the current operation of the department's work. As I said when I commenced my contribution, this has been a very long process. I am sure that for some time other members in this place have received large amounts of correspondence from people in Lightning Ridge seeking to resolve these issues and raising problems with the way things are administered currently. We have received—as, no doubt, have many others—a series of letters from citizens in the Lightning Ridge area and various parts of New South Wales, and from people who have supported the industry, such as the local swimming club and Lightning Ridge Bowling Club, expressing concern about the town's long-term survival if issues about the future of this important industry are not resolved.

Various miners talk about the entrepreneurial spirit that built Australia being embodied in the opal industry. Many point out that the black opal, which is one of the State's emblems, is sourced from the area. People have raised a number of matters that reflect long-running issues and problems with relationships in the region. The Hon. Kevin Humphries recently received a letter from the miners association highlighting ongoing issues with departmental performance, including that the Lightning Ridge Miners Association's collective security deposit scheme expired in April 2013 and still has not been renewed. That has caused some concern for the association. Further, the department's maps and opal prospecting blocks boundaries are inaccurate and cause difficulties for prospectors, and, no doubt, for landholders.

The association raises issues about changes to departmental policy and that mineral claims registered just off the edge of the red soil have restricted its activities. It raised issues with the processing and timeliness of title applications and renewals and issuing permits to enter. The association believes those tasks should be fairly straightforward but now can be signed off only by staff in Maitland. Should the person in Maitland not be available the process could take days or weeks. The department advised that it is sorting out the relevant delegations but the association states that that has been outstanding for 12 months. The association raised that access is key to successful discovery and extraction.

The Hon. Duncan Gay: Who moved the department to Maitland?

The Hon. STEVE WHAN: The Labor Party did, and it was a very good move to decentralise the department to Maitland.

The Hon. Duncan Gay: Why are you implying that there is a problem in Maitland?

The Hon. STEVE WHAN: From memory of my visit to the area, those decisions used to be made in Lightning Ridge. The staff who had the delegation to make those decisions in Lightning Ridge have now gone and there is no new delegation.

The Hon. Duncan Gay: So there is no problem with Maitland?

The Hon. STEVE WHAN: It is now going to Maitland. I am not blaming Maitland, Minister.

The Hon. Duncan Gay: That's good.

The Hon. STEVE WHAN: I am saying that the delegation no longer is local and that is why the association says it takes a long time. That is my understanding of the problem. It has said the issue is that access is the key to the successful discovery and extraction of our State emblem, the black opal. It stated, "When we cannot reach an agreement with the landholder we are required to apply to the department for a determination. It has recently taken over six months for a reply and in one case it is now over seven years without a reply. We, the miners, obviously cannot move forward without a reply to our request for a determination. We do not

understand why the process takes so long." The miners also raised issues about pipelines, tanks and troughs being installed and properties that are prevented from being mined. That issue will come up later in debate in connection with the number of improvements on properties, which has been raised by farmers and, as I understand, will be the subject of amendments.

The Labor Party is fundamentally happy with this legislation. As I have acknowledged, it is difficult to get it right. There are a number of hard decisions to be made to balance the legitimate interests of the landholders, graziers and miners in the area. I do not suggest for a moment that that is an easy task. The Government has got this legislation right and Labor will support it. The Greens will move a couple of amendments. We will support one and I am considering supporting a couple of others, but I wish to hear the Government's response. The Opposition is happy with the bill as it stands.

Mr JEREMY BUCKINGHAM [9.01 p.m.]: I lead for The Greens in debate on the Mining Amendment (Small-Scale Title Compensation) Bill 2014. The Greens welcome the bill and support it. The bill clearly improves the current compensation arrangements for landholders, which were exposed as being woefully inadequate in the 2011 independent report of former Federal Court judge Murray Wilcox, QC. This reform is overdue. I join with the Hon. Steve Whan in commending the new Minister for travelling to Lightning Ridge. His interest in the issue has helped to deal with some of the issues that have been of enormous concern to the local communities. Lightning Ridge is a long way from Sydney and this place. When one travels to the area, one realises it is an issue that can be dealt with.

The Greens will support the bill but we will move a number of amendments because it is clear that compensation and remediation are only a part of the ongoing tension between miners and landholders at Lightning Ridge, the main opal mining site in New South Wales. I have visited Lightning Ridge and I have met with a number of the landholders. The most pressing concerns for landholders are access, liability and enforcement of title issues. Adequate compensation is important but it only goes so far when landholders are faced with strangers who have unfettered access to their land. The Greens believe that the most appropriate way to address the issue of land-use conflict and compensation is to ensure that opal mining does not take place on private land.

The Government's own briefing note acknowledges that the same tensions do not exist in White Cliffs where the vast majority of opal mining titles have been granted on unoccupied Crown land. The Government needs to make a choice about opal mining. Does it want it to continue as a largely unregulated tourist attraction, a niche industry with a cowboy culture and nineteenth century regulation, or does it want opal mining to be a serious twenty-first century industry, adding a vibrant element to the regional economy of New South Wales? I strongly sympathise with the desire to maintain it as a historic and small-scale industry, which is largely a tourist attraction, but it is not fair for this to occur at the expense of landholders, many of whom feel genuinely unsafe in their own homes or on their properties.

The Government has a number of options to stop the conflict. It can purchase the land on which the opal mining occurs, it can encourage the opal miners to do so, or it can establish long-term, clearly defined lease arrangements. If, on the other hand, the Government wants a serious opal mining industry that continues to take place by access arrangements with private landholders, then The Greens propose to introduce appropriate amendments that address cumulative environmental impact assessments, buffer zones around infrastructure and public liability insurance for miners.

Before I talk about these amendments, I wish to relate my experiences and impressions of opal mining to members who have not been to Lightning Ridge. I acknowledge Anthony Roberts for making the effort to visit the region. I highlight that this is in stark contrast to the approach of his predecessor, the Hon. Chris Hartcher, who refused to travel to Lightning Ridge and whose regular response to the concerns of landholders was to either ignore them or treat them with disdain. The Greens welcome the response to the Wilcox inquiry. The Minister for Resources and Energy knows as well as I that the region has evolved into lawless cowboy country where miners frequently flout the rights of landholders by operating unlicensed on land that is pockmarked with uncovered mining shafts.

I seek leave to table four volumes containing 329 photographs from the opal mining district. Each photograph details a separate compliance breach. Ross Slack-Smith, the landholder who took these photos, spent more than 10 hours travelling around the region to identify the issues. The documents are entitled Muttabun—Photo Catalogue—Volume One; Muttabun—Photo Catalogue—Volume Two; Muttabun—Photo Catalogue—Volume Three; and Muttabun—Photo Catalogue—Volume Four.

Leave granted.

Documents tabled.

These photos show literally hundreds of unsecured and unsafe mining shafts that often collapse; abandoned camps, cars and rubbish; eroded mining tracks; and subsidence. They are a snapshot of the impact of unregulated opal mining. I have a lot of sympathy for the opal miners. The prospect that just below the surface of the ground lies a treasure potentially worth millions of dollars is an intoxicating experience.

The Hon. Rick Colless: Like any mining operation.

Mr JEREMY BUCKINGHAM: Seeing the mullock heaps and the waste opal makes the blood flow. One can understand how miners are lured to the area to prospect in the hope of potentially finding a precious black opal worth millions of dollars. My grandfather spent a lot of his life denuding the hills of Sofala and sluicing the topsoil of the central west into the Turon River in search of gold.

The Hon. Duncan Gay: Beautiful Sofala.

Mr JEREMY BUCKINGHAM: Beautiful Sofala.

The Hon. Duncan Gay: Beautiful one day, denuded the next.

Mr JEREMY BUCKINGHAM: He contributed to that. The Greens are not opposed to fossicking and prospecting, but we believe mining needs to be regulated. Upon travelling to the region, one can see that compliance with and enforcement of the regulations is difficult. I saw illegal pubs, illegal buildings and dangerous shafts. A concerning element is the spread of the Hudson pear, which is a weed that looks like something from another planet. Hudson pear would frighten a triffid. It is a noxious cactus that has been spread by mining vehicles because there is no proper regulation. It is an abomination that causes all kinds of infections in wildlife and livestock and would put a hole in a tough boot. Safety is clearly an issue.

One of the great concerns of farmers is the cumulative impact on the environment. Massive mullock heaps consisting of waste rock that are 10 or 20 metres high and run for 80 metres are established on people's land. We have to recognise that some of the operations are no longer a hole in the ground; they are open-cut mines with large excavators, bulldozers and a number of old cement trucks sluicing the waste rock. I listened intently to the Hon. Steve Whan's speech. I noted that only in the last couple of minutes did he mention the "f" word—farmers—but he spoke a lot about consultation with the Lightning Ridge Miners Association.

I spent a lot of time with Wayne Newton, Penny and Doug Leeman and the Slack-Smith family and I thank NSW Farmers for facilitating that tour. NSW Farmers responded to the Wilcox report and this bill addresses some of their concerns. I turn now to the substance of the bill. The Greens will be suggesting a number of areas of improvement. The bill is a partial response to the land-use conflicts that exist at Lightning Ridge and provides a reasonable framework for addressing issues of adequate compensation. The Wilcox report provides impetus for this change. The report states:

> The compensation system has substantially collapsed. Only a handful of landholders have current agreements with the miners working on their land. There is no consensus about the appropriate compensation rate and no accepted mechanism for payment of compensation.

The Greens will be moving two amendments, which I will explain in detail in Committee. The first amendment proposes to allow landholders to appeal to the Land and Environment Court if they believe that the standard compensation amount does not adequately compensate them for the loss suffered by mining on the land, and the second proposes to allow the Minister to increase—this is the important part—but not reduce the standard compensation amount without having to wait five years.

The bill will also enable levies to be imposed on opal miners to fund the maintenance of shared access tracks and mullock dumps and to conduct offsite rehabilitation activities. The Greens wholeheartedly support the establishment of this fund and we will continue to be engaged in its development and implementation, but this fund should not be used as an excuse for the Department of Resources and Energy not to adequately police licence conditions or for opal miners to disregard their responsibilities. As I noted earlier, the current

compensation levels are woefully inadequate and I commend Minister Roberts for taking this step. The real issues at Lightning Ridge relate to access and enforcement of conditions. The NSW Farmers Association was unequivocal in its response to the Wilcox report when it said:

> The issue of compensation ranks after our members' concerns with land access, rehabilitation, the infinite approval of prospecting areas, and chronic failures in enforcement and compliance.

For far too long the Department of Resources and Energy has turned a blind eye to a mining regime that has destroyed landholder assets, left huge amounts of mess, tolerated illegal camp sites and pubs and failed to rehabilitate impacted areas. It is in response to those issues that The Greens will be moving a number of amendments to the Mining Act 1992. The amendments propose to allow a landholder to require the Crown to acquire their land if it is in a minerals claims district or opal prospecting area; create buffer zones around significant improvements such as dams and stockyards where opal mining is prohibited; prevent miners from accessing private land outside the hours of 6.00 a.m. to 10.00 p.m.; allow landholders and miners to appeal against the standard compensation determination; and ensure that public liability insurance is mandatory for all access management plans. People setting up illegal dwellings and turning approved prospecting areas into holiday camps is becoming a big issue.

The Greens also believe there needs to be an assessment of the cumulative impact of opal mining on given areas of land, and where there are significant numbers of claims over a single area an environmental impact statement must be conducted in accordance with section 112 of the Environmental Planning and Assessment Act 1979. While opal mining is generally lower impact than other mining, the cumulative impact of numerous claims over a piece of land can be extensive and cause significant environmental damage. It is incredibly concerning for graziers to have new open shaft leases appearing on their land. During the time of the Wilcox review a person fell down an open shaft at Lightning Ridge and died. Some of the shafts I saw were an absolute nightmare—a hole not much wider than a man that disappears 10 metres down, with a piece of corrugated iron, a few bits of barbed wire and a star picket over it.

The Hon. Duncan Gay: You were lucky to dodge some of those.

Mr JEREMY BUCKINGHAM: I was very pleased to return. I would be concerned as a landholder if I had stock, children, friends or family travelling around that country. Walgett Shire Council's State of the Environment Report 2010-2011 sets out a number of the environmental impacts of opal mining, such as soil compaction and erosion. Vehicle movements associated with opal mining and prospecting can result in increased rates of soil compaction and erosion and rill and gully erosion can also occur, especially when access tracks are located perpendicular to the contours of the land. It states as an environmental impact the loss of native flora and fauna. Clearing associated with the establishment of mine sites, mullock stockpiles and tailings dams reduces the extent and diversity of native vegetation. The report also refers to the loss of native fauna and domestic livestock—as I have said, mine shafts present a serious hazard—the chemical alteration of soil and runoff, a major issue because the opal appears in the clay that is brought to the service; weed establishment; and rubbish dumping. As there are no regulated services at the camp dwellings, this is usually in the form of driving unwanted machinery into the bush or filling in holes in the ground.

It is appropriate for an environmental impact statement to be prepared when an access management plan is granted. While I understand the Government does not have the appetite to support such a provision, I suggest that if opal mining is to take place on private land then this is a very reasonable requirement. I conclude by reiterating that The Greens believe that the most appropriate way to address the issue of land-use conflict and compensation is to ensure that opal mining does not take place on private land. It would be relatively easy for the Government to declare an opal prospecting area and to buy out and/or join with the miners in buying out those graziers—who have said they would prefer that—and for the area to become a well-regulated and hopefully successful opal prospecting area to continue to underpin the Lightning Ridge economy and regional New South Wales. The Greens welcome the bill and commend Minister Roberts for introducing these reforms. It is a step in the right direction. I hope that my eloquent speech has convinced the Government to support all of The Greens amendments. I also hope that the Labor Opposition will support them.

The Hon. DUNCAN GAY (Minister for Roads and Freight, and Vice-President of the Executive Council) [9.17 p.m.], in reply: I thank all members for their contributions to this debate. I thank the Opposition and The Greens spokesmen for their kind words about Minister Roberts, who is doing a terrific job in this area, and the Hon. Murray Wilcox who produced the report. As a former shadow Minister in the area, I am friends with the Slack-Smith family, the Newtons and Bill Murray, the mayor of Walgett and a surrounding landholder. To be able to come up with something as sensible as this with such widespread support is pretty damn

outstanding. As I said, I worked through this as a shadow Minister, as did the Hon. Steve Whan in his previous capacity. It is pretty special to achieve something that over the years seemed unachievable. Well done to Minister Roberts and the Hon. Murray Wilcox for their hard work.

In response, I indicate that the Mining Amendment (Small-Scale Title Compensation) Bill 2014 implements key legislative measures set out in the "Final NSW Government Response to the Wilcox Report into Lightning Ridge Opal Mining". The bill amends the Mining Act 1992. Standard compensation in Lightning Ridge will be set at $100 per year per mineral claim. Standard compensation will be collected by the Government and distributed to landholders. To complement the standard compensation scheme, the bill introduces a new process for granting titles, as members have indicated.

The Government understands there are concerns about the hours during which opal miners can access their titles. A miner should only be on their title for the purposes of mining—they should not be there at late hours and for other activities, which was a matter raised by Mr Jeremy Buckingham. We will actively investigate whether the hours of access should be restricted through placing additional conditions on titles. On-the-spot fines can be a useful enforcement tool for minor opal mining breaches, such as contravening an access management plan. The Mining Regulation already allows on-the-spot fines to be issued for a range of opal mining breaches. For example, an opal miner who breaches an access management plan can receive an on-the-spot fine of $200.

The Wilcox report did not make recommendations about buying out land from affected landholders and dedicating it exclusively to opal mining. The Government is committed to the coexistence of farmers and opal miners. The bill implements a range of measures—standard compensation, levies and alternative dispute resolution—to secure this outcome. Farming and opal mining are essential threads in the social and economic fabric of the Lightning Ridge community. It is our intention to keep it that way. In relation to the points raised by the Hon. Steve Whan, I can assure the member that it is a statutory requirement that before the Minister changes the compensation rate the Minister consider the finding of an independent review.

The new process for granting small-scale titles under proposed section 266 (4) (c) will apply only prospectively. This is for applications made after the amendments have commenced, that is, prospectively not retrospectively. Landholders who believe that standard compensation is too low are entitled to apply to the Land and Environment Court New South Wales [LEC] for an assessment. The LEC can award additional compensation in exceptional circumstances. However, it is very unlikely that the LEC would allow compensation to exceed land value. On the issues raised by the Lightning Ridge Miners Association [LRMA] about the words "in lieu of compensation", I can clarify that the entitlement to compensation is satisfied if standard compensation or a private agreement is reached.

Concerns have been raised about the performance of the Department of Resources and Energy in regulating the activities in Lightning Ridge. These criticisms are being taken on board by the Government with a view to constantly improving the performance of government officers on the ground. In relation to the rates that may be charged for levies, the Government can commit to consulting with the LRMA before any new levies are introduced. This process will be open and transparent, with miners able to see where their money is going. This balanced package of amendments addresses issues of concern for both landholders and opal miners in Lightning Ridge. Agriculture and opal mining have been the backbone of the Lightning Ridge community for over a century. This Government is committed to keeping it this way for generations to come. I commend the Minister, I commend Mr Wilcox and 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

The CHAIR (The Hon. Jennifer Gardiner): If there is no objection, the Committee will deal with the bill as a whole.

Mr JEREMY BUCKINGHAM [9.26 p.m.], by leave: I move The Greens amendments Nos 1, 2, 4, 5, 7, 8, and 11 on sheet C2014-87G in globo:

No. 1 **Land acquisition—mineral claims district**

Page 3, Schedule 1. Insert after line 1:

[1] Section 173AA

Insert after section 173:

173AA Owner of land in mineral claims district may require Minister to acquire the land

(1) The owner of any land constituted as part of a mineral claims district (the ***applicant)*** may apply to the Minister for part or all of that land to be acquired by the Minister.

(2) Any such application is to be made in the form prescribed by the regulations and must be made no later than 1 year after the relevant day.

(3) The Minister, on receipt of any such application, is to provide the Valuer-General with a copy of the application.

(4) The Valuer-General must then determine the market value of the land to which the application applies as on the relevant day and provide a copy of that determination to the Minister.

(5) The Minister, on receipt of the determination, is to make a written offer to the applicant offering to acquire the land at 1.2 times the value determined by the Valuer-General.

(6) The Minister must acquire the land for the amount offered if the applicant, within 3 months after receiving the offer, accepts the offer by notice in writing to the Minister.

(7) In this section ***relevant day***, in respect of land, means the day on which the land is constituted as part of the mineral claims district or the day on which this section commences (whichever is the later).

No. 2 **Objections as to agricultural land**

Page 3, Schedule 1. Insert after line 3:

[2] Section 179 Objection as to agricultural land

Omit "28 days" from section 179 (2). Insert instead "3 months".

No. 4 **Public liability insurance—mineral claims**

Page 3, Schedule 1. Insert after line 7:

[3] Section 192 Conditions of mineral claim

Insert after section 192 (3):

(4) Without limiting the generality of subsection (1), it is a condition of a mineral claim that holder of the claim maintain adequate public liability insurance in respect of the exercise of any right conferred by that mineral claim.

No. 5 **Objections as to opal prospecting areas**

Page 3, Schedule 1. Insert after line 7:

[3] Section 222 Objections

Omit "28 days" from section 222 (1). Insert instead "3 months".

No. 7 **Public liability insurance—opal licences**

Page 3, Schedule 1. Insert after line 13:

[5] Section 229 Conditions of licence

Insert at the end of section 229:

(2) Without limiting the generality of subsection (1), it is a condition of an opal prospecting licence that the holder of the licence maintain adequate public liability insurance in respect of the exercise of any right conferred by that licence.

No. 8 **Access management plans**

Page 3, Schedule 1. Insert after line 13:

[5] Section 236D Matters for which access management plan to provide

Insert after section 236D (2):

(3) An access management plan must not contain a provision that the Secretary would reasonably foresee to cause:

(a) a landholder to suffer an overall financial loss as a consequence of a holder of a small-scale title exercising his or her rights under this Act, or

(b) overall environmental degradation of land to which that plan applies as a consequence of a holder of a small-scale title exercising his or her rights under this Act.

(4) An access management plan must not provide access to land to which that plan applies by the holder of a small-scale title outside the hours of 6 am to 10 pm except in cases of emergency.

[6] Section 236E Miners' representative to seek access management plan

Omit section 236E (1). Insert instead:

(1) If a miners' representative intends to negotiate an access management plan for any land that is or may be subject to a small-scale title, the representative must give reasonable notice of that intention by way of written notice served on the landholder.

No. 11 **Land acquisition—opal licence**

Page 5, Schedule 1. Insert after line 21:

[8] Section 288A

Insert after section 288:

288A Owner of land in opal prospecting area may require Minister to acquire the land

(1) The owner of any land in an opal prospecting area (the ***applicant)*** may apply to the Minister for part or all of that land to be acquired by the Minister.

(2) Any such application is to be made in the form prescribed by the regulations and must be made no later than 1 year after the relevant day.

(3) The Minister, on receipt of any such application, is to provide the Valuer-General with a copy of the application.

(4) The Valuer-General must then determine the market value of the land to which the application applies as on the relevant day and provide a copy of that determination to the Minister.

(5) The Minister, on receipt of the determination, is to make a written offer to the applicant offering to acquire the land at 1.2 times the value determined by the Valuer-General.

(6) The Minister must acquire the land for the amount offered if the applicant, within 3 months after receiving the offer, accepts the offer by notice in writing to the Minister.

(7) In this section ***relevant day***, in respect of land, means the day on which the land is constituted as part of an opal prospecting area or the day on which this section commences (whichever is the later).

I appreciate the work of my staff member Jack Gough in negotiating with the Government over this legislation. This is an area where The Greens are seriously committed to reform. We have been doing a lot of work with the NSW Farmers Association, and Mr Wayne Newton in particular, on this area. We have met with the Minister's representatives. I am mildly disappointed that the Minister has not indicated support for these amendments, and neither has the Opposition. Nevertheless I have moved these amendments. As in all things, I think this is an area that will require further change down the track—and I believe these amendments are part of that.

The Minister has indicated that the Government has a philosophical view that mining and agriculture can coexist. Whether that is the case remains to be seen, especially with the many small titles in opal mining areas. Amendments Nos 1 to 11 allow a landholder to require the Crown to acquire their land if it is in a minerals claims district or opal prospecting area. For any area that is declared as an opal prospecting area or a

minerals claim district, the landholder has the right to be bought out by the Crown at 1.2 times the market value as set by a registered valuer. This right lasts for one year after an area has been so declared and for one year after the proclamation of this Act for existing opal prospecting areas. The Minister must contact directly each affected landholder.

The amendments recognise that opal mining can be a significant tourism opportunity but that coexistence with existing landholders is a failed strategy. Giving large numbers of strangers unfettered access to people's land while not providing the resources to enforce title conditions is a recipe for conflict. Opal miners in general are law-abiding citizens. I acknowledge the glare of the Hon. Rick Colless—

The Hon. Duncan Gay: Point of order: It is not appropriate for Mr Jeremy Buckingham to make a comment such as that, which implies that the Hon. Rick Colless does not believe these are honourable people. It is a terrible slur on the Hon. Rick Colless, who said and did nothing. I ask the member to withdraw his comment.

Mr JEREMY BUCKINGHAM: I withdraw the comment. As I was saying, there is an element in Lightning Ridge who are antisocial and do not abide by the law. To say otherwise would be untrue. People have concerns about activities that are occurring there. It is a matter of record that the area has been used to grow cannabis and people have suffered major thefts. That is of concern to landholders. They do not know who is coming onto their land or the character of those people. That is why The Greens have moved the amendments. Amendments Nos 2 and 5 increase the time period for objections from 28 days to three months, which is a reasonable amount. Landholders are busy and sometimes do not have the capacity to respond within 28 days. They have asked for the time frame to be extended.

Amendments Nos 4 and 7 make it a condition of a mineral claim or opal prospecting licence that adequate public liability insurance be maintained. This is fundamental to redress some of the concerns of landholders and farmers. Public liability insurance is essential to protect landholders from claims for damages against them arising from potential negligence claims if it is deemed that a landholder should have reasonably foreseen the possibility that something done on their property by a miner, such as leaving a shaft uncovered beside a road, could have resulted in injury or death.

It is also essential to ensure that a landholder can make a claim for damages arising out of the actions of unauthorised persons or the activities of authorised people that are not authorised by the Act or related to their mining or prospecting activities. An example may be if a bushfire were to break out due to the illegal activities of a miner. The NSW Farmers Association submission to the Wilcox inquiry stated:

> If the policy position of the NSW Government is that landholders ought not be out of pocket as a result of mining activities, then it has an obligation to ensure liability for damages can be met. To meet this objective NSW Farmers believes that miners and prospectors should be required to have public liability insurance in place as a condition of their authority. While this is standard practice in other extractive industries the same standard has not been applied to opal mining despite the risks being the same if not greater. As an additional measure, there should be a clear legislative provision stipulating that the NSW Government will make good any damage in relation to opal mining where payment cannot be obtained from the liable party.

That liability should be borne by the miner and the landholder should not be exposed to risk and potential financial loss because of the miner's failure to be insured. They are clearly reasonable amendments. Amendment No. 8 introduces an overriding principle for negotiating access management plans, which is that the landholder is to be in no worse a financial position or the land in no worse an environmental position as a consequence of the miner exercising its rights to obtain access. The final part of the amendment prohibits opal mining outside the hours of 6.00 a.m. to 10.00 p.m. That is referenced in the Wilcox report, which states:

> Several landholders complained about the number of people coming to claims on their land. They said these were not confined to workers on the claim; people came there to camp, or even to participate in night-time parties. I have no way of evaluating these allegations but, if they are correct, this behaviour is wrong. A mineral claim holder is entitled to access someone else's property only for the purpose of carrying out mining operations.

The NSW Farmers Association said in relation to the issue:

> NSW Farmers has serious concerns with the "Camps on Claims Scheme", which has to some extent legalised the use of private farm land for the construction of homes on claims initially granted for mining purposes only. Prior to commencement of this scheme there were a number of illegal residences and other structures on the opal fields. Legitimising this practice by initiating a scheme to promote residential development was not an appropriate government response at the time, and the NSW Government and local authorities are continuing to neglect their responsibilities to planning and safety in those areas. Makeshift electrical grids and sewerage systems, non-compliant building practices, and the absence of waste management systems pose a serious threat to the inhabitants, landholders, their livestock and the environment.

I commend the amendments to the Committee.

The Hon. DUNCAN GAY (Minister for Roads and Freight, and Vice-President of the Executive Council) [9.35 p.m.]: The Government opposes The Greens amendments Nos 1, 2, 4, 5, 7, 8 and 11. The Government does not support amendment No. 1 relating to land acquisition. The Wilcox report did not make recommendations about buying land from affected landholders and dedicating it exclusively to opal mining. As I said in my speech in reply, the Government is committed to the current systems for farmers and opal miners. The bill implements a range of measures, standard compensation, levies and alternative dispute resolutions to secure this outcome. Farming and opal mining are essential threads in the social and economic fabric of the Lightning Ridge community and we intend to keep it that way.

The Government does not support amendment No. 2. Changing the time frame would create an inconsistency with other time frames for making an objection under the Mining Act. For example, the corresponding time frame for objection to the grant of a mining lease is 28 days. We are looking for continuity and that is the standard time span in operation. The Government does not support amendment No. 4 but recognises concerns about the capacity of opal miners to meet their liabilities. However, requiring individual miners to take out public liability insurance could be cost prohibitive in such a fragile industry and cause immense damage to the opal mining industry. The Minister's staff have indicated to me that they are investigating other options for addressing the issue. We accept it is a valid issue but do not believe that the amendment is the right way to deal with it.

The Government does not support the objections to opal prospecting areas contained in amendment No. 5 for the same reasons it does not support amendment No. 2. I repeat that changing the time frame would create an inconsistency with other time frames for making an application under the Mining Act. For example, the corresponding time frame for objecting to the grant of a mining lease is 28 days. The Government does not support amendment No. 8 relating to access management plans. The principle of making good financial loss is reflected in the Mining Act through the compensation scheme and appeal mechanism. Under the bill, landholders affected by opal mining activities are entitled to standard compensation in satisfaction of their compensable loss. The standard compensation rate will be set at $100 per mineral claim per year, which is double the rate recommended in the Wilcox report. If a landholder believes that standard compensation is too low, they can apply to the Land and Environment Court to have it assessed.

The Government does not support The Greens amendment No. 11, which relates to environmental degradation. Opal miners already are required, as a condition of their title, to rehabilitate their title areas. Compliance with this requirement is supported by a security deposit. The bill allows the Minister to set a levy for rehabilitation work, and funds collected from the levy will be available to undertake off-title rehabilitation and environmental maintenance work. In relation to access to land outside of 6.00 a.m. to 10.00 p.m., amendments to the Act are not necessary to achieve that. The Government understands that there are concerns about the hours during which miners can access their titles. A miner should be on their title only for the purposes of mining. They should not be there at late hours for any other activities. We will actively investigate whether the hours of access should be restricted through placing additional conditions on titles rather than doing it through the bill.

In relation to a miner's representative to seek an access management plan, the Government does not support this amendment. Parties already have at least 60 days in which to negotiate an access management plan before one of the parties can apply to have it determined. In relation to The Greens amendment No. 11, which relates to land acquisition, the Government does not support this amendment. As I indicated earlier, the Wilcox report did not make recommendations about buying land from affected landholders and dedicating it exclusively to opal mining.

The Hon. STEVE WHAN [9.41 p.m.]: The Opposition will not be supporting these amendments. While I acknowledge as legitimate issues a number of the arguments that Mr Jeremy Buckingham has advanced, I am not sure that the amendments are the way to deal with them. I have no doubt that both landholders and miners would prefer it if the Government bought the land and made it available. However, it is not Crown land, as is the case in the unincorporated areas in the west which are significantly different from the lands we are discussing. I do not believe that we should be requiring the Government or the miners to acquire the land. In this case, it would require the Government to allocate a substantial amount to undertake that acquisition. In principle, it is not the place of this legislation to require the Government to spend a large amount on acquiring land. I am not sure that that is something the upper House should do.

The Opposition also does not support the suggested change from 28 days to three months. It has been pointed out to me that some of the titles that are granted are only for 12 months. If the appeal period is three

months, that will take out a very significant part of the year during which people can go on to the land. The issue of public liability is a valid issue. I am pleased to hear the Minister say that the Government is investigating other options. I also share the concern that putting this in place would essentially put a number of these small operations out of business as matters stand at the moment. The Opposition certainly acknowledges that the issue needs to be dealt with. Inappropriate activities on-site also should be addressed, although I am not entirely convinced that people cannot mine after 10.00 p.m. I believe that some people mine for long hours.

The Hon. Rick Colless: It gets too dark.

The Hon. STEVE WHAN: It gets too dark underground; I thank the Hon. Rick Colless for that gem. My understanding is that there are people who work long hours. As long as they are not causing a nuisance to landholders, I do not see why that would be stopped. I note the Government's assurances that that is an issue that it would like to deal with. While the activities described by The Greens are not inappropriate activities that are unrelated to mining, they are certainly something that should not be tolerated.

Question—That The Greens amendments Nos 1, 2, 4, 5, 7, 8 and 11 [C2014-087G] be agreed to—put and resolved in the negative.

The Greens amendments Nos 1, 2, 4, 5, 7, 8 and 11 [C2014-087G] negatived.

Mr JEREMY BUCKINGHAM [9.45 p.m.], by leave: I move The Greens amendment Nos 3 and 6 on sheet C2014-087G in globo:

No. 3 **Prohibited mineral claims areas**

Page 3, Schedule 1. Insert after line 3:

[2] Section 188 Dwelling-houses, gardens, and significant improvements

Insert at the end of section 188 (1) (c):

,or

(d) on which, or within the prescribed distance of which, is situated any dividing fence as defined in the *Dividing Fences Act 1991*,

[3] Section 88 (1)

Omit "or improvement". Insert instead ", improvement or fence".

[4] Section 188 (2) (b)

Omit "subsection (1) (b)". Insert instead "subsection (1) (b)–(d)".

[5] Section 188 (4)

Omit "or significant improvement".

Insert instead ", significant improvement or dividing fence".

No. 6 **Prohibited opal prospecting areas**

Page 3, Schedule 1. Insert after line 9:

[4] Section 227A

Insert after section 224:

227A Opal prospecting prohibited in certain areas

(1) An opal prospecting licence may not be granted over the surface of any land:

(a) on which, or within the prescribed distance of which, is situated a dwelling-house that is the principal place of residence of the person occupying it or a woolshed or shearing shed which is in use as such, or

(b) on which, or within the prescribed distance of which, is situated any garden, or

(c) on which, or within the prescribed distance of which, is situated any significant improvement other than an improvement constructed or used for mining purposes only, or

(d) on which, or within the prescribed distance of which, is situated any dividing fence as defined in the *Dividing Fences Act 1991*,

except with the written consent of the owner of the dwelling-house, woolshed, shearing shed, garden, improvement or fence (and, in the case of the dwelling-house, the written consent of its occupant).

(2) The prescribed distance is:

(a) 200 metres (or, if a greater distance is prescribed by the regulations, the greater distance) for the purposes of subsection (1) (a), and

(b) 50 metres (or, if a greater distance is prescribed by the regulations, the greater distance) for the purposes of subsection (1) (b)–(d).

(3) An opal prospecting licence may not be granted over land below the surface of land referred to in subsection (1) except at such depths, and subject to such conditions, as the mining registrar considers sufficient to minimise damage to that surface.

These amendments prohibit mineral claims and opal prospecting within 50 metres of significant improvements in property boundary fencing, as described in the Dividing Fences Act 1991 No. 72. What a great piece of legislation that is. Currently section 188 of the Mining Act prohibits mineral claims being granted over houses, gardens and "significant improvements", but while there is a buffer zone of 200 metres around houses and a 50-metre buffer zone around gardens, there is no buffer zone around significant improvements, such as stockyards, fences or water wells. This means that landholders often have mining impeding their activities by mining occurring directly beside important infrastructure. There is no more important infrastructure for farmers than their fences and stockyards.

I hope that the Government will accept that the dividing fences are considered to be important infrastructure and support this amendment, which relates to safety issues. It causes concern to landholders because miners dump mullock, leave machinery and leave their waste in ways that obstruct activities of farmers—there are instances of this—and that is not fair. The Greens believe that amendments Nos 3 and 6 are reasonable measures to ensure that farmers can reasonably coexist with mining and that significant improvements are respected by miners. I commend the amendments to the Committee.

The Hon. DUNCAN GAY (Minister for Roads and Freight, and Vice-President of the Executive Council) [9.48 p.m.]: The Government does not support the amendments. I was asked by Mr Jeremy Buckingham whether the Government supports dividing fences as significant improvements. Yes, we do, but we are not supporting the amendments because a fence or a dividing fence would be a significant improvement for the purpose of the Mining Act. It is not necessary to provide for it separately. It is already considered to be a significant improvement. Under the Mining Act, a mineral claim cannot be granted over land containing a significant improvement, such as a fence, unless the owner consents.

The amendments would create inconsistency between significant improvement provisions for small-scale titles and those for other production authorities, such as mining leases. The definition of "significant improvement" is very broad. Imposing an arbitrary one-size-fits-all buffer zone could unnecessarily sterilise land and make matters more complex. The Government does not support The Greens amendment No. 6. Holders of opal prospecting licences are already prohibited, as a condition of their title, from undertaking activities within 200 metres of dwellings, within 50 metres of gardens and over land containing a significant improvement, as I indicated in answer to the previous amendment.

The Hon. STEVE WHAN [9.49 p.m.]: The Opposition will not be supporting the amendments. Both the mover and the Minister have mentioned the provisions of section 188 of the Mining Act 1992, which already provides the 200 metres protection from a dwelling and 50 metres from gardens. It is my understanding that until 1994 there was a 50-metre distance in place from significant improvements and that that became impractical. If one extends the definition of a 50-metre barrier to boundary fences, one then alienates a large amount of land on a property, taking into account the length of the boundary fence and 50 metres from that fence.

If that protection is then applied to other improvements, which may include very significant improvements such as stock water facilities, stockyards and drainage channels, it may alienate a large amount of a property from opal miners being able to either explore or exploit the opals on that property. I believe, on behalf of the Labor Party, that the provisions in the legislation are adequate in this case. My understanding is that in granting titles there is a prohibition on surface activities taking place within 10 metres of a boundary

fence. Further, the department takes into account the location of significant improvements such as water, stockyards and so on and ensures that activities are not able to take place in a way that would impact on those facilities.

Question—That The Greens amendments Nos 3 and 6 [C2014-087G] be agreed to—put and resolved in the negative.

The Greens amendments Nos 3 and 6 [C2014-087G] negatived.

Mr JEREMY BUCKINGHAM [9.52 p.m.]: I move The Greens amendment No. 9 on sheet C2014-087G:

No. 9 **Appeal against standard compensation determination**

Page 4, Schedule 1 [5], proposed section 266 (10), line 39. Omit all words on that line. Insert instead:

(10) The Land and Environment Court may review a determination of standard compensation by the Minister in respect of land if an application for review is made by the landholder or a person holding a small-scale title over the land within 60 days after the determination is published in the Gazette. In any such review the Court is to have regard to the compensable loss suffered, or likely to be suffered, by the landholder as a result of the exercise of the rights conferred by small-scale titles over the land.

(11) Where more than one application for review is made under subsection (10), the Court may order that concurrent proceedings of a similar nature be joined.

Section 266 (8) of the bill only allows a review of the standard compensation determined by the Minister in exceptional circumstances. This allows for a review if, for example, a part of the minerals claim district falls on significantly better land and is therefore deserving of a higher rate of compensation. The bill does not allow for an appeal if the standard compensation determined by the Minister for a whole area is inappropriate. This amendment would allow landholders or miners to appeal to the Land and Environment Court if they believe that the standard compensation amount does not adequately compensate them for the loss suffered by mining on their land. I understand this is widely supported by both landholders and the Lightning Ridge Miners Association. I hope that I will have the support of the Government and the Opposition for this reasonable amendment in order to ensure that the compensation, whoever it is for, is adequate.

The Hon. DUNCAN GAY (Minister for Roads and Freight, and Vice-President of the Executive Council) [9.54 p.m.]: The Government does not support this amendment. The bill already allows for a landholder who is paid standard compensation to appeal the amount in the Land and Environment Court. Allowing a landholder to apply for a review of the Minister's determination would undermine the role of standard compensation to reduce tensions which have existed between opal miners and landholders over a number of years.

The Hon. STEVE WHAN [9.54 p.m.]: This is a difficult area because, as Mr Jeremy Buckingham has correctly pointed out, both sides have indicated that they support an ability to appeal. My personal judgement is that I would not be advocating for this if I were an opal miner. However, given the advice to me from the Lightning Ridge Miners Association and indications from the farmers that they want the ability to be able to appeal the standard amount, the Opposition will support the amendment.

Question—That The Greens amendment No. 9 [C2014-087G] be agreed to—put and resolved in the negative.

The Greens amendment No. 9 [C2014-087G] negatived.

Mr JEREMY BUCKINGHAM [9.56 p.m.]: I move The Greens amendment No. 10 on sheet C2014-087G:

No. 10 **Reduction of standard compensation by Minister**

Page 4, Schedule 1 [5], proposed section 266 (11), line 40. Omit "vary or substitute". Insert instead "reduce".

This amendment relates to potential reductions of standard compensation by the Minister. The bill does not allow the Minister to vary or substitute a standard compensation amount unless five years have passed and an independent review has been conducted. This amendment allows the Minister to increase but not reduce a

compensation amount within this time frame. It is not appropriate for a landholder who does not have a choice about mining on their land to be stuck with a level of compensation for five years if the Minister determines that it is inadequate. This amendment arises from the fact that the previous amendments regarding appeals to the Land and Environment Court were not supported.

The Hon. DUNCAN GAY (Minister for Roads and Freight, and Vice-President of the Executive Council) [9.57 p.m.]: The Government does not support this amendment. The approach to setting standard compensation balances the interests of opal miners and landholders. Under the bill the Minister can adjust the standard compensation rate, as the honourable member indicated, no more than once every five years and only after an independent review. The proposed amendment would remove this balance. We believe that this balance is very much part of the reason why there is support for the bill.

The Hon. STEVE WHAN [9.57 p.m.]: The Opposition will not support this amendment. It is not equitable to have an amendment that will only allow the amount to move in one direction—that is, up—and opal miners, or farmers for that matter, will not have any input into or independent consideration of that process.

Question—That The Greens amendment No. 10 [C2014-087G] be agreed to—put and resolved in the negative.

The Greens amendment No. 10 [C2014-087G] negatived.

Mr JEREMY BUCKINGHAM [9.58 p.m.]: I move The Greens amendment No. 1 on sheet C2014-091E:

No. 1 **Review of Director-General's determination**

Page 3, schedule 1. Insert after line 13:

[5] Section 236H Review of Director-General's determination

Omit "14 days" from section 236H (2) (b).

Insert instead "28 days".

[6] Section 236I Registration of access management plans
Omit "14-day" from section 236I (2) (a).
Insert instead "28-day".

This amendment simply extends the period of review of a director general's determination from 14 to 28 days. The Greens believe that this is a reasonable amendment and, as the Minister has previously said, it is consistent with the time frames in the rest of the Act. It gives more time for review of a director general's determination. It is consistent and we all want to be internally consistent with other elements of the Act. I would hope the Government will support this amendment and finish on a happy note.

The Hon. DUNCAN GAY (Minister for Roads and Freight, and Vice-President of the Executive Council) [9.59 p.m.]: On a very happy note, we are more than happy to agree with consistency, which is why we do not support this amendment. The current time frame is the same as that for seeking a Land and Environment Court review of a determination of an access arrangement for an exploration licence. As the member quite properly said, changing one time frame but not the other would create an inconsistency. We do not want to create inconsistencies.

The Hon. STEVE WHAN [9.59 p.m.]: The Opposition will support the amendment. The increase from 14 days to 28 days is consistent with other aspects of the Act and seems a reasonable time frame.

Question—That The Greens amendment No. 2 [C2014-091E] be agreed to—put and resolved in the negative.

The Greens amendment No. 2 [C2014-091E] negatived.

Title agreed to.

Question—That this bill as read be agreed to—put and resolved in the affirmative.

Bill as read agreed to.

Bill reported from Committee without amendment.

Adoption of Report

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

That the report be adopted.

Report adopted.

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

Third Reading

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

That this bill be now read a third time.

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

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

The House continued to sit.

CONSTITUTION AMENDMENT (PARLIAMENTARY PRESIDING OFFICERS) BILL 2014

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

Motion by the Hon. Duncan Gay agreed to:

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

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

ADJOURNMENT

The Hon. DUNCAN GAY (Minister for Roads and Freight, and Vice-President of the Executive Council) [10.04 p.m.]: I move:

That this House do now adjourn.

BERESFIELD GOLF COURSE

The Hon. LYNDA VOLTZ [10.04 p.m.]: The Beresfield Golf course is owned and managed by Newcastle City Council on behalf of the people of Newcastle. The golf course is located 17 kilometres north-west of Newcastle's central business district [CBD] on the north-west boundary of Newcastle city local government area. The site comprises two parts. The eastern part of about 24 hectares has the developed golf course on it and is classified as community land, and an additional area of about 10 hectares has not been developed and is classified as operational land. In July this year Newcastle council took a decision to not only privatise the course but also four of the council's inland pools. It awarded a lease of this golf course for three years to Golf North Pty Ltd. Expressions of interest were called and then tenders. This turn of events has raised obvious concerns. Many residents are concerned at the alienation of public property, and the affordability and accessibility of the course under private management. Long-term fears are held about the ambitions of developers to exploit this site. Those fears have been exacerbated by the privatisation of the management of the course by Jeff McCloy's council.

The Save Beresfield Golf Course Group is particularly concerned at the procedural steps that have occurred so far. Its concerns are serious enough to challenge the validity of the lease granted to Golf North. The

first procedural problem relates to material disclosed in what is apparently an extract from council documents that summarise details of the award of the tender to Golf North Pty Ltd. The suggestion seems to be that the ABN of Golf North is 74 268 261 886. The problem is that it is not. It is the ABN number of a similarly named but entirely different body called Golf North Queensland Inc. I am advised that representatives of that body deny any connection with Golf North Pty Ltd. This error suggests a lack of due diligence on the part of the council in evaluating tenders. Moreover, if the incorrect ABN has been provided by the tenderer, serious inferences can be drawn about the bona fides and integrity of the tenderer. The people of Beresfield are owed an explanation.

It emerges that Golf North was registered only in late April 2014, a very short time before it was awarded the tender. The next issue that arises is whether such a newly established corporation is able to properly carry out the terms of the lease. Has it got the appropriate financial resources? Associated with this is whether Jeff McCloy's council carried out appropriate due diligence and financial checks on the successful tenderer, which was one of six. This line of inquiry leads to some interesting considerations. Local residents are convinced that the owners of Golf North are guilty of phoenixing. Certainly, one company closely associated with Golf North is under administration—TF Security Services Pty Limited. Golf North Pty Ltd's Australian Securities and Investments Commission [ASIC] details show its registered office is at Tallwood's Village. Various documents point to TF Security Services Pty Ltd being at that address. Independent liquor and gaming authority records show the transfer of a liquor licence at Tallwood Village for TF Security Services to Golf North Pty Ltd in July this year.

More recent ASIC documents show TF Security Services Pty Ltd now is located at Kulara Close, Beresfield, which is the contact address in council records for Golf North Pty Ltd. TF Security Services Pty Ltd is a company under administration—administrators were appointed on 3 July 2014 under section 436A of the relevant Act. A director and the secretary of Golf North is Timothy Ford. Mr Ford holds 90 per cent of the shares in Golf North. Timothy Ford was appointed a director of TF Security Services on 1 March 2010, essentially from when the company started. He also owned the 100 shares in the company. Mr Ford owns both TF Security Services Pty Ltd and Golf North Pty Ltd. One company has gone bust and is in administration following Supreme Court proceedings 188673 of 2014. The other entity has been given the lease in an allegedly competitive tender process of a public golf course. One is entitled to ask what Jeff McCloy's council was up to and why this tender was issued.

Residents opposed to the privatisation have told me that TF Security Services has left behind debts of more than $400,000, with a number of employees having unpaid partial superannuation. It is reported that on 25 August Golf North said it wanted to rezone the golf course land and build a motel. Another curious aspect is that the telephone number given in council documents for Golf North is answered by someone who identifies the business as "Radiant". Presumably this is Radiant Services, which is advertised as commercial and industrial cleaners. Its address is the same address as the current ASIC registered address for TF Security Services Pty Ltd. One wonders who is being taken to the cleaners other than the residents of Beresfield. The Minister for Local Government should intervene in this matter and overturn the lease.

CONTAINER DEPOSIT SCHEME

Dr MEHREEN FARUQI [10.09 p.m.]: The ever increasing consumption of goods and the subsequent production of waste are becoming major issues around the world. The large ecological footprint of Australia and other developed nations means that we are living unsustainably and we are consuming natural capital faster than the planet can regenerate it, while also producing waste at record levels. The amount of waste generated in Australia each year is continuing to grow. The current generation is more than 40 million tonnes per annum. In 1996-97 waste generation per capita increased from 1.2 tonnes to an average of 2.2 tonnes in 2010-11.We now live in a highly disposable society where production is focused on single use rather than re-usable or long-lasting goods. Rising consumerism has further exacerbated this trend of increasing waste generation. In 2007 Australians purchased more than 25 million electronic products when at the same time we had a stockpile of 123 million items of e-waste.

There is no doubt that overall recycling rates have increased substantially in absolute terms and as a proportion of the total waste generated. However, the overall amount of waste being disposed of in landfills has increased due to the high rate of waste generation. Much of the waste produced ends up in landfills and as litter in our terrestrial and marine environments, which in turn results in land contamination, water and air pollution, and degradation of our environment. It also causes much harm to marine animals and results in fatalities.

We need to change our high-consumption lifestyles and dematerialise our economy by implementing concepts such as extended producer responsibility [EPR] to minimise waste and pollution. The Organisation for Economic Co-operation and Development defines "extended producer responsibility" as "an environmental policy approach in which a producer's responsibility for a product is extended to the post-consumer stage of a product's life cycle". It notes:

> By placing responsibility for a product's end-of-life environmental impacts on producers, EPR policies are also expected to push them to redesign their products for environment. Such change, while reducing waste management costs, should as well reduce materials use and enhance product reusability and recyclability.

The container deposit scheme [CDS] is a tool that embraces the idea of EPR. Where container deposit schemes are in operation, consumers pay a small deposit, say 10¢, when they purchase a beverage and they can redeem this by returning the aluminium, glass or plastic beverage container to designated recycling depots or retailers. Container deposit schemes have been operating successfully in 40 jurisdictions around the world, including Canada, Germany, Sweden, Israel and the United States, and are a proven tool to reduce litter and increase recycling and re-use rates. A container deposit scheme has been operating successfully in South Australia since 1970 and recovery rates are more than 70 per cent compared with national recovery rates of around 40 per cent.

Fifteen years ago the Government considered the option of a CDS. An independent review was conducted in conjunction with social research and an innovative citizens' jury process was held to seek community input. The review found the potential benefits of introducing such a scheme to significantly exceed the costs. Local governments would benefit because of the reduced costs of kerbside collection. Jobs would increase as a result of collection centres being set up and charities would benefit. For example, in South Australia the Scouts run nine recycling centres and in 2011 it made $1.45 million. Results of the social research indicated strong community support for container deposit schemes. However, the Labor Government of the time buckled under pressure from the packaging and beverage industry, and rejected the adoption of a CDS in favour of voluntary approaches to managing waste.

It is time that we again consider CDS seriously. A recently released CSIRO report shows that New South Wales has the highest proportion of beverage containers on clean-up sites; South Australia has the lowest. CSIRO has specifically identified the container deposit scheme as an effective policy in reducing litter. This should be a wake-up call for the Government to introduce a container deposit scheme to prevent beverage litter and shift some of the responsibility to industry. Government should not succumb to pressure to adopt ineffective schemes such as the Big Bin network, which is a way for the beverage and packaging industry to escape responsibility for dealing with waste that it produces. A container deposit scheme meets the principles of ecologically sustainable development and has economic, environmental and social benefits. New South Wales does not have to wait for the Commonwealth to act. It is time New South Wales showed some leadership and enacted a container deposit scheme.

YOUNG NATIONALS JENNY GARDINER SCHOLARSHIP

The Hon. SARAH MITCHELL [10.14 p.m.]: Last Friday Young Nationals and young-at-heart Nationals came together for a reunion dinner at Parliament House to celebrate the career of the Hon. Jennifer Gardiner and the establishment of a scholarship in her honour. Many former chairmen, members of Parliament and friends and family of the Hon. Jennifer Gardiner came along to support her and the new scholarship that will give $2,000 to help a regional student attend a regional university or undertake a trade qualification in their community.

I am proud to have come through the ranks of such a passionate organisation as the Young Nationals. The Young Nationals uses its platform to engage as well as challenge the senior party on issues that might not normally be at the forefront of the agenda and it presents new and fresh ideas for policy discussion. However, a subject at the core of the senior party and the younger counterparts is advocating a fair go for regional people and the communities in which they live. Those from the country are all too familiar with the fact that young residents often have no choice but to move to the city for tertiary studies rather than being able to study at a regional university. Essential skills in medicine, teaching and the financial sector are continually exported to metropolitan areas, and regional communities face the challenge of demand for expertise in those areas far outweighing the supply.

The Young Nationals launched the Jenny Gardiner Scholarship to encourage talented, passionate and accomplished young people to bring the many skills a tertiary education can offer back to their communities.

When Jenny announced her intention to retire at the next election the Young Nationals created this scholarship in her name so that future members would understand the big impact she has had on our party. Jenny has continually fought for the regions as a former Young National, a State Director and a 23-year veteran member of Parliament. It is important that new members of our party understand how indebted we are to her for her service, not only to the party but also the wider community.

The criteria for the scholarship outlined that the successful candidate must come from a regional area and study at a regional university, TAFE or other tertiary institution. Applicants had to outline how the scholarship would help not only their study but also their community. The number of applications, all of which were of a very high standard, was very promising. Applicants were based in communities across regional New South Wales, from Tenterfield to Peak Hill, and all would have been deserving recipients. However, the winner of the inaugural scholarship was Holly Walker of Ariah Park in the Riverina. Holly aims to study a Bachelor of Medical Biotechnology at the University of Wollongong and, more importantly, she intends to return to her home town upon completion of her degree.

Holly detailed in her application that she wanted to work towards providing security to farmers and to create other means of food production that are able to withstand the volatile environment of regional Australia. Holly has seen firsthand the impact that drought has had on her beloved community and her family. Though farmers experience the highs and lows, there is a true-grit attitude that pulls many through the tough times. Holly clearly exemplifies this resilience and her love for Ariah Park shone through on the evening. In the typical Young Nationals fashion of challenging the norm, Holly also aims to use her degree to further research genetically modified food products and to assess their viability in new markets.

As members know, moving away from home to study creates a lot of financial pressure and the scholarship will help Holly pay for textbooks and other equipment to make the most of her time at university. After hearing her story and her ambitions, I am confident that Holly's skills will one day be put to good use in the regions. Although there is concern about the sustainability of small towns and communities, the optimism and determination of all applicants was inspiring. Education is the cornerstone of ensuring that our smaller country communities not only survive but also thrive.

I congratulate the NSW Young Nationals Chairman, Dom Hopkinson, on his work in establishing this fantastic initiative. Under Dom's leadership since taking on the role as chairman earlier this year, the Young Nationals have continued to grow and implement new and exciting programs to further engage young people in country areas. Congratulations also go to the committee members—the Hon. Jenny Gardiner, Felicity Walker, Matt Connolly, Tom Aubert, Peter Bailey and former Deputy Prime Minister the Hon. Mark Vaile—for their diligent consideration of all applicants and assistance throughout the selection process. With the announcement that the scholarship will be awarded annually, I look forward to seeing the energy and passion that the 2015 applicants will bring to our party and to regional New South Wales.

I cannot let this opportunity go by without wishing my husband, Anthony, a very happy birthday for tomorrow. He is a wonderful husband and father, and takes on a big role looking after our daughter, Annabelle, while I work at Parliament. Happy birthday, Ant.

INTERNATIONAL WEEK OF DEAF PEOPLE 2014

The Hon. HELEN WESTWOOD [10.19 p.m.]: The International Week of Deaf People and the International Day of Deaf People are initiatives of the World Federation of the Deaf. These two events are traditionally held in September each year and are based on the founding dates of the World Federation of the Deaf. The National Week of Deaf People is a weeklong national celebration of deaf individuals and the deaf Australian community. In Australia National Week of Deaf People is held in the third week of October. It is an opportunity for deaf people to celebrate their community, language, culture and history, and to make the public aware of their local, State and national deaf communities and recognise their achievements. It is also an opportunity for organisations involved with or wishing to be involved with the deaf community to showcase their services and/or products, build and maintain relationships with deaf people, and be recognised for giving deaf people a fair go.

The 2014 National Week of Deaf People will be held from 18 to 24 October. I will mention just a few of the events to be held in that week. The Deaf Festival will be held on 18 October on the Parramatta River bank at Parramatta. I will be hosting two events at Parliament House. On Thursday 23 October deaf and hard-of-hearing students from a range of Sydney schools will visit Parliament House to learn more about our

system of government and the role of members of Parliament. I urge all members to visit those young students. At 6.30 p.m. that evening in the Theatrette a panel discussion titled "Strengthening Human Diversity" will discuss the question: Is the Deaf Community reflective of Australia's diversity?

The New South Wales deaf community is a strong and vibrant community with a rich culture and a history not well-known beyond the community itself. The Deaf Society of New South Wales has been an important part of the community's history and last year it celebrated its centenary. The Deaf Society of New South Wales was established in 1913 and works towards a vision of "equity for deaf people". From its establishment at a meeting held in the Sydney Town Hall on 20 October 1913 to its centenary in October 2013, the Deaf Society has sought to serve the deaf community of New South Wales. At times it has steered a course towards partnership with that community and today it is a bilingual and bicultural community organisation working towards the realisation of the rights of deaf people and the participation of deaf people at every level of society.

The establishment of the Australian Theatre of the Deaf during the 1970s, first as an amateur and later as a professional company, was fostered and supported by one of the boards' most forward-thinking directors the late Kenneth "Ken" Tribe, who said he was proud to have been part of the movement "from patronage to partnership, and to friendship". Although amateur concerts and revues had often been part of the activities of deaf people under the auspices of the Deaf Society, the Australian Theatre of the Deaf, with its emphasis on the capabilities rather than the needs of deaf people, was a departure from accepted ways of thinking at the time and did not enjoy the unconditional support of all members of the Deaf Society administration.

Significant developments in the early 1980s were the introduction of accreditation testing for interpreters and the establishment of an Auslan interpreting service separate from the Deaf Society's welfare services. This move aimed to ensure that deaf people gained greater autonomy and control of their lives and represented an inching step away from patronage and towards partnership. In the late 1980s and early 1990s the cost of maintaining the large site and comprehensive services in Stanmore led the Deaf Society administration to re-evaluate this model of service provision and to strike out in a new direction. The Deaf Society eschewed the cradle-to-grave model of comprehensive service provision and adopted a model of integration in line with the new multicultural ideology of the 1990s. In 1994 the Deaf Society moved to Parramatta. In 2007 the Deaf Society merged with the Deaf Education Network, which was registered as a training organisation, and it continues to operate as a department of the Deaf Society of New South Wales.

Today the Deaf Society provides services in Auslan interpreting, advocacy and community development, consumer and community services and employment, as well as education and training. Its mission is to "work in partnership with the deaf community to enhance the quality of life of deaf people, strengthen the community and advocate for changes that will ensure fundamental rights and freedoms". It has a majority of deaf or hard-of-hearing board members, with deaf people employed across management and in front-line service roles. It is an associate member of the World Federation of the Deaf and proudly boasts that one of its members is currently president of the World Federation of the Deaf.

YOUTH OFF THE STREETS

The Hon. PAUL GREEN [10.24 p.m.]: Tonight on behalf of the Christian Democratic Party I reiterate the importance of Father Chris Riley's Youth Off The Streets. Youth Off The Streets is a non-denominational community organisation working for young people who are homeless, drug dependent and recovering from abuse. These young people are supported as they work to turn their lives around and overcome immense personal traumas such as neglect and physical, psychological and emotional abuse. It is the goal of Youth Off The Streets that these young people will leave care drug free and with a high school education, living skills and a full-time and/or part-time job.

Since its opening in 1991, Youth Off The Streets has grown from a single food van delivering meals to young homeless people on the streets of Kings Cross to a major youth-specific agency offering a full continuum of care through the delivery of a wide range of services, including Aboriginal programs, crisis accommodation, alcohol and drug services, counselling, accredited high schools, outreach and residential programs. The kids are supported by volunteers every step of the way. Youth Off The Streets is an accredited designated agency for out-of-home care and maintains policies and procedures which comply with the benchmark standards as defined by the NSW Office of the Children's Guardian.

Father Chris Riley, AM—the founder and chief executive officer of Youth Off The Streets—has worked with disadvantaged youth for more than 35 years in a variety of roles, including teacher, youth worker,

probation officer, residential carer and principal. Father Riley officially founded Youth Off The Streets in 1991. As the chief executive officer of Youth Off The Streets he oversees the operation of over 35 programs that employ more than 180 staff and involve more than 250 volunteers. He has implemented innovative behaviour modification strategies to help young people deal with a history of trauma, abuse and neglect. Many of these strategies have been adopted by schools and government agencies across Australia. Father Chris Riley believes that there is no such thing as a "child born bad" but acknowledges that there are bad environments, circumstances and families that impact negatively on our young. He believes that "we must have the courage to demand greatness from our youth".

The values of Youth Off The Streets are passion, respect, integrity, dedication and engagement. In those core values Youth Off The Streets reinforce to each person they come across—whether a troubled teen, fellow staff or a member of the community—the incredible dignity they have as a human being. Often when our life circumstances are difficult and everything seems to be going wrong we can tend to lose sight of our human dignity and take refuge in a lifestyle that will do us harm in either the short- or long-term. It is easy for anyone to fall into a "quick-fix" trap such as taking drugs, turning to alcohol or running away to ease a terrible emotional hurt.

As the famous maxim goes, "There but for the grace of God go I." We must never take our good circumstances or blessings for granted and always strive to be conscious of those who suffer in this way. Youth Off The Streets gives or restores to a troubled youth the confidence, skills and ability to rise above their circumstances and rebuild their lives; it gives them a sense of human dignity. It also gives them the tools they need to start again. I congratulate Father Chris Riley and his incredible team on the wonderful work they do for our youth who need a guiding hand to set their life back on track. I commend Youth Off The Streets to the House.

GLOBAL WARMING

The Hon. Dr PETER PHELPS [10.28 p.m.]: This evening I raise once again the concerns I have about the great global warming swindle. Only a few days ago the *Huffington Post* led with an article entitled "The planet just had its warmest August on record". Of course the usual suspects—the bourgeois Left including news site *Salon.com*, the *Guardian* and the *Sydney Morning Herald*—all breathlessly repeated that this was the hottest August on record. Unfortunately, the claim was false. August 2014 was in fact cooler than August 2011. Remote Sensing Systems [RSS] data shows that it was in fact the seventh coolest August, and below the average since 1997.

So how how did the National Aeronautics and Space Administration [NASA] and Gavin Schmidt create this bizarre reverse scientific cock-up? Well, there are three stations in Antarctica that they marked as very hot. We have to remember that with "very hot" we are talking about an average of around minus 20 degrees Celsius. NASA then extrapolated those three minus 20 degree Antarctic stations across a huge area of below normal temperatures and massively skewed their global average anomaly using a large area of fake plus six degree Celsius anomaly—which, remember, they declared hot at minus 20 degrees Celsius. The map produced by Dr Schmidt and NASA's 1,200-kilometre extrapolations smears the earth with non-existent warm temperature data.

But it is much worse than it seems because none of those three stations actually has any temperature data for the 1951 to 1980 baseline period. It is a complete fraud to claim that you have a six degree anomaly when you do not have any baseline data on which to base that anomaly. How can they know what the anomaly is if there is no temperature data for the baseline period? There are all kinds of other things wrong with this data, and deliberate falsehoods such as filling Africa and South America with fake warm temperature data when RSS clearly showed them to be cold. Problems also occurred with the Australian data, which RSS showed to be colder than normal. There is a long history of NASA abusing data, and this is especially true in the Arctic. DMI showed that the area north of 80 degree north as first or second coldest on record. NASA's data has no data north of 80 degree north and instead filled it with hot data.

In summary the claim of record heat in August has been absolutely disproved by NASA's own data and was largely based on fake cold data at the poles, which they declared to be hot. How could Antarctica have been hot anyway? We have at the current time record levels of sea ice—levels of an extent never before recorded—indicating that, if anything, the area is colder rather than warmer. Dr Schmidt went on to say not to worry too much about monthly trends and that "the long-term trends are toward warming". That again is completely false. The pause in so-called global warming has now persisted for 17 years and 11 months.

Indeed to three decimal places on a per decade basis there has been no global warming for 18 years. Taking the RSS satellite-based monthly global mean lower troposphere temperature dataset, there has been no global warming—none at all—for at least 215 months. This is the longest continuous period without any warming in the global instrumental temperature record since satellites first watched in 1979. The hiatus period of 215 months is the farthest back one can go in the RSS satellite temperature record and still show sub zero trends. Yet the length of the great pause in global warming, significant though it is now, is of less importance than the ever-growing discrepancy between the temperature trends predicted by models and the far less exciting real world temperature change that has been observed.

The first Intergovernmental Panel on Climate Change report predicted that global temperature would rise by one degree to 2025, equivalent to 2.8 degrees per century. That is absolutely disproved by observed temperature, which comes in at least half below that and below even the lowest temperature trend predicted by the models. The great pause is a growing embarrassment to the scientific elites, which like to play out on global warming when in the face of all observable evidence their models are hopelessly and incredibly flawed. The great pause is a growing embarrassment for those who told us that they had substantial confidence that the science was settled and the debate is over. It is not over, because the models are flawed and it is a giant rort.

THE GREENS

The Hon. CATHERINE CUSACK [10.33 p.m.]: For the record, there are currently nine members of Parliament in the upper House—seven Government, one Labor and one from the Christian Democratic Party. The Greens, who boast five members of the Legislative Council, have evaporated. They lecture us about democracy but they are never here in the Chamber. There are five of them. They never come in the morning, pleading their dislike of the prayer; they are not here during the day, except if they have to ask a question; and they are not here now. They like to give fiery, often defamatory, speeches abusing parliamentary privilege. But the only reason we are quorate now and capable of having this adjournment debate is that everyone else attends—while The Greens pop in like interlopers, launch their rockets and leave. This House could not function if we all adopted The Greens' attitude to attendance. I am frequently on the receiving end of their pious speeches about democracy, and their hypocrisy is utterly breathtaking. Parliament is a prop and we are just here facilitating their circus. Why do we do it? Well, we are the ones who are the true supporters of democracy, even in the face of this extreme provocation.

[*Time for debate expired.*]

Question—That this House do now adjourn—put and resolved in the affirmative.

Motion agreed to.

The House adjourned at 10.34 p.m. until Thursday 18 September 2014 at 9.30 a.m.