

LEGISLATIVE COUNCIL

Wednesday 25 June 2008

The President (The Hon. Peter Thomas Primrose) took the chair at 11.00 a.m.

The President read the Prayers.

ROAD TRANSPORT LEGISLATION AMENDMENT BILL 2008

CRIMES (FORENSIC PROCEDURES) AMENDMENT BILL 2008

CRIMES (SENTENCING PROCEDURE) AMENDMENT (LIFE SENTENCES) BILL 2008

Bills received from the Legislative Assembly.

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

Motion by the Hon. Tony Kelly agreed to:

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

Bills read a first time and ordered to be printed.

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

CONSUMER, TRADER AND TENANCY TRIBUNAL AMENDMENT BILL 2008

Message received from the Legislative Assembly agreeing to the Legislative Council's amendments.

JANE McGRATH TRIBUTE

Motion by the Hon. Robyn Parker agreed to:

That this House:

- (a) acknowledges, with sadness, the passing of Jane McGrath, AM, following a long fight against cancer,
- (b) recognises the enormous personal contribution made by Jane and Glenn McGrath in the education of women about breast cancer,
- (c) acknowledges the work of the McGrath Foundation in raising funds to support the placement of breast care nurses throughout rural and regional Australia to help women diagnosed with breast cancer, and
- (d) extends its condolences to Glenn McGrath and family.

COMMITTEE ON THE OFFICE OF THE OMBUDSMAN AND THE POLICE INTEGRITY COMMISSION

Report: Report on the Fourteenth General Meeting with the NSW Ombudsman

Report: Report on the Tenth General Meeting with the Police Integrity Commission

Report: Statutory Review of the Community Services (Complaints, Reviews and Monitoring) Act 1993

The Hon. Linda Voltz, on behalf of the Chair, tabled the following reports:

- (1) Report No. 2/54, entitled "Report on the Fourteenth General Meeting with the NSW Ombudsman", together with questions on notice, transcript of proceedings and minutes, dated June 2008.

- (2) Report No. 3/54, entitled "Report on the Tenth General Meeting with the Police Integrity Commission", together with questions on notice, transcript of proceedings and minutes, dated June 2008.
- (3) Report No. 4/54, entitled "Statutory Review of the Community Services (Complaints, Reviews and Monitoring) Act 1993", together with transcripts of proceedings and minutes, dated June 2008.

Reports ordered to be printed on motion by the Hon. Linda Voltz.

The Hon. LYNDIA VOLTZ [11.05 a.m.]: I move:

That the House take note of the reports.

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

PETITIONS

Electricity Industry Privatisation

Petition opposing electricity privatisation, received from **Dr John Kaye**.

PRIVILEGES COMMITTEE

Report: Citizen's Right of Reply (Professor Bob Walker and Ms Betty Con Walker)

Motion by the Hon. Kayee Griffin agreed to:

That the House adopt report No. 42 of the Privileges Committee, entitled "Citizen's Right of Reply (Professor Bob Walker and Ms Betty Con Walker)", dated June 2008.

Pursuant to standing orders the response of Professor Bob Walker and Ms Betty Con Walker was incorporated.

RESPONSE BY PROFESSOR BOB WALKER AND MS BETTY CON WALKER, AGREED TO BY PROFESSOR BOB WALKER AND MS BETTY CON WALKER AND THE COMMITTEE, ACCORDING TO STANDING ORDER 203(4)(B)

We seek a Citizen's Right of Reply regarding comments made by the Hon Michael Costa MLC in the Legislative Council on 6 March 2008 regarding the proposed privatisation of the State's electricity industry and issues relating to public sector financial management.

We believe that Mr Costa's Statements under privilege are wrong and that they have adversely affected our reputation; and have the potential to injure us in our occupation and/or trade (Bob Walker as a Professor of Accounting with expertise in government finances; Betty Con Walker as an economist with experience in both the public and private sectors).

Mr Costa was asked a question by Dr John Kaye on the basis of the contents of our jointly authored book, *Privatisation: Sell off or sell out?* released with a *New Introduction* that morning at Parliament House.

Dr Kaye specifically referred to two pieces of information contained in the *New Introduction*, namely: the more than 25 per cent rate of return on equity of the six electricity agencies being considered for privatisation, and the 93 per cent of the electricity retail market served by the three Government agencies with 7 per cent being served by privately owned retailers.

Dr Kaye asked Mr Costa why the Government's submission to the Unsworth Inquiry referred to a much lower rate of return of 5 per cent and a much higher proportion of 20 per cent of electricity customers as being served by privately owned retailers.

The rate of return on equity of 25.2 per cent rate, reported in the *New Introduction*, was calculated on the basis of detailed analysis of the audited financial Statements of the six agencies for 2006-07. Data regarding the **market share of State-owned retailers** (Energy Australia: 44.1 per cent, Integral Energy: 25.0 per cent, and Country Energy: 23.8 per cent) **and of privately owned retailers** (7 per cent) was sourced from the Standard & Poor's, *Industry Report Card: After Weathering A Stormy Year, Will Valuations Hold Up For Australian Government-Owned Energy Utilities Facing Privatization?*, 12 February 2008.

Mr Costa did not answer Dr Kaye's questions. Instead he attacked the content of our book, and did so by referring to one of the authors—Bob Walker. Since the book is a joint publication, we believe that any attack on its content is an attack on both authors.

In particular, Mr Costa accused Bob Walker of being wrong on four separate times without providing a single example.

He stated variously:

Bob Walker is wrong.

Bob Walker has been wrong on a number of issues.

Bob Walker is consistently wrong.

Bob Walker gets these analyses wrong because he assumes that State Governments and some National Governments can borrow at some preferential rate.

Mr Costa also stated:

One problem Bob Walker has regarding his economic and financial analysis ... is that he thinks that governments can borrow for nothing. That is his fundamental problem.

These statements are false. Neither of us has ever made such claims. A reading of our book or of several submissions prepared to various Parliamentary inquiries will show that to be the case. The differential between the cost of public sector and private sector borrowings and the impact of that differential are reviewed in our book at Ch 5 and elsewhere, while a 22 page technical appendix examines the related concept of the "cost of capital".

Mr Costa also asserted a lack of understanding on our part of key financial management issues (which are our areas of expertise) on a further four occasions. The assertions focused on our understanding of credit ratings, and their impact on interest costs.

In response, we note that the use of credit ratings began in New South Wales in the 1980s. Before then, governments were able to borrow without the benefit of credit ratings.

Contrary to Mr Costa's assertions that we believe that government borrowings are "cost free or at a very low cost", our book provides an extended discussion of yield differentials between differently-rated securities. That discussion was based (among other sources) on information presented in the 1994-95 New South Wales Budget Papers, which reported that during 1993-94 the average yield differential was only 0.25 to 0.35 per cent, and that a downgrading of the New South Wales credit rating by two notches—from AAA to AA—would have added less than \$20 million to the New South Wales Government interest bill in the first year (at a time when Gross State Debt was reported to be almost \$31 billion).

Further, our book acknowledged that governments with high levels of borrowings relative to Gross National Product or Gross State Product, may have to commit a high proportion of their expenditures to interest costs. However it also pointed out that this was not relevant to Australian federal or State governments, because of their relatively low (and historically low) levels of debt.

We also noted that on 11 October 2007, the credit rating agency, Moody's Investors Service, in confirming its AAA credit rating of the State and describing the outlook as "stable", reported that the State has the capacity to take on more debt, and that State Owned Corporations, such as water and electricity utilities, are capable of funding new infrastructure investment since their debt is self-supporting.

In summary, each one of Mr Costa's defamatory Statements is contrary to evidence.

PRIVILEGES COMMITTEE

Report: Citizen's Right of Reply (Mr R. Bailey)

The Hon. KAYEE GRIFFIN [11.10 a.m.]: I move:

That the House adopt report No. 43 of the Privileges Committee, entitled "Citizen's Right of Reply (Mr R. Bailey)", dated June 2008.

Dr JOHN KAYE [11.10 a.m.]: In this right of reply Mr Bailey accuses me of a number of matters that are simply not true. In the first instance, Mr Bailey accuses me of fabricating allegations that Redeemer Baptist Church and school are involved in ongoing tax fraud and ongoing Centrelink fraud in respect of payments to staff members and fringe benefits tax. Members will recall that a number of these allegations are that teachers at Redeemer Baptist School are effectively being remunerated by fringe benefits on which fringe benefits tax is not being paid and that teachers are in receipt of family benefits that would not normally accrue to persons employed on a teacher's salary.

This interpretation of the tax affairs of the Redeemer Baptist School and church is not that of the Greens but of the Australian Taxation Office in Private Binding Ruling No. 67982. The Australian Taxation Office, in public rulings TD 94/98, NAT 4612-03.2005, chapter 6 of the non-profit organisations and fringe benefits tax, Private Binding Ruling No. 67982, classifies that the teachers and staff working for Redeemer Baptist School are employees receiving fringe benefits, not volunteers. The Australian Taxation Office qualifies a volunteer as "someone who enters into any service of their own, or who offers to perform a service or undertaking". A genuine volunteer does not work under a contractual obligation for remuneration, either in the form of money or a benefit. A payment or benefit provided to a volunteer is not considered assessable income if the payment or benefit is not derived to meet day-to-day living expenses and is a token amount for the services provided. We have shown that teachers at Redeemer Baptist School do not fit into this definition.

The Bursar of the Redeemer Baptist School, Mr Russell Bailey—the gentleman making the allegations in this right of reply—does not receive a wage or salary but is provided with a house to live in, the costs of running a motor vehicle, mobile phone and education for his four children. If this is the case, then section 137 of the Fringe Benefits Tax Assessment Act deems these benefits as wages and salaries and the person is treated as an employee for fringe benefits tax purposes. The payment of out-of-pocket expenses does not cause a volunteer to become an employee. However, if an organisation provides non-cash benefits to workers in lieu of salary and wages, fringe benefits tax can apply.

Mr Bailey would have us believe that he, along with the entire teaching staff at Redeemer Baptist School, are volunteers working for the school earning no income. Mr Russell Bailey presented documents to the Supreme Court of New South Wales declaring his income in 2005 of only \$13,434 and his wife, Katriona Bailey, of \$1,600. This amount was paid by Redeemer Baptist Church, to which no income is earned from Redeemer Baptist School in the role of bursar or teacher by the Baileys as they were volunteers to the school. The Baileys, together with the entire staff, can be volunteers only if their expenses paid for are a "token amount for the service rendered" or out-of-pocket expenses. The Baileys received from the school education for their four children valued at \$16,000. They live in a \$1 million house at 43 Strathalbyn Drive. They have two Holden motorcars, mobile phones, furniture, holidays—practically all of their expenses are paid for by the Redeemer Baptist School. We have estimated that Mr Bailey's actual wages and salary received from the school—

The Hon. Michael Costa: Who estimated—you?

Dr JOHN KAYE: If the member had been listening, he would have heard me say, "We have estimated". As I was saying, we have estimated that Mr Bailey's actual wages and salary received from the school based on publicly available documents to be in the order of \$228,000 to which no fringe benefits tax and no income tax has been paid. The Baileys adequately supplement their income by claiming Centrelink benefits of \$20,115 per year. Mr Bailey also told the Supreme Court that people are paid on a needs basis according to their financial and family circumstances. However, the income received by the 16 families with children is \$22,000 less on average than the couples with no children. The end result of lower incomes is that the families with children have their incomes topped up on average by \$15,436 per year from Centrelink.

Mr Bailey completes all the taxation returns and Centrelink applications for each member of the fellowship of the Redeemer Baptist Church and, together with the other elders of the church, sets the stipends received by each member. Mr Bailey must be of the view that the \$228,000 in benefits received from the Redeemer Baptist School is a token amount for services rendered or his out-of-pocket expenses. This tax sham and Centrelink fraud by the Redeemer Baptist School is a well-orchestrated arrangement to defraud the Commonwealth of Australia of taxation revenue and social welfare payments. The underpayment of teachers and staff wages, topped up by Centrelink and the Australian Taxation Office, has reaped huge profits to the school. In the 2004-05 and 2005-06 financial years Redeemer Baptist School posted a profit of \$148,000 and \$492,000 respectively.

Mr Bailey refutes the claims that Redeemer Baptist School has misused the courts. Redeemer Baptist accused Mr Glossop of violence on two occasions: first, when it took out an apprehended violence order against him and, second, when five elders of the church accused him of assault. On both occasions these charges were thrown out of court. On the assault matter, Magistrate Johnson said, "Mr Shaw's evidence is lacking in credibility." Mr Shaw is one of the elders of the church. Effectively, elders of Redeemer Baptist Church fabricated evidence against Mr Glossop. In the defamation case, the Anton Pillar order, no matters were ever proved in court.

The Hon. Michael Costa: The citizen deserves another right of reply!

Dr JOHN KAYE: If he chooses to take one—

The Hon. Tony Kelly: It is an abuse of process.

Dr JOHN KAYE: I am waiting for the interjections to cease so I can continue my speech, Mr President.

The PRESIDENT: Order! Interjections are disorderly at all times and I urge the member to ignore them.

Dr JOHN KAYE: Mr Glossop was dragged into court where he ran up massive legal costs. Nothing was ever proven against Mr Glossop, yet he had to sell his home and business to pay his legal costs. Public records establish that Mr Glossop and those joined with him spent more than \$488,000 defending themselves from attacks from Redeemer Baptist School.

The PRESIDENT: Order! Again I remind members that interjections are disorderly.

Dr JOHN KAYE: This constitutes an abuse of the legal process. It is not about justice; it is about harassment using superior financial resources. Indeed, Mr Bailey denies that this is barbaric. It is barbaric because it is a brute force attempt to destroy Mr Glossop not because he is guilty of anything but because he has dared to speak the truth about Redeemer Baptist School and Redeemer Baptist Church. Finally, Mr Bailey comments on a letter from Mr Glossop in which Mr Glossop seeks an end to the process. When one reads the entire letter one sees that it is quite clear that Mr Glossop was at his wits end. Having been driven to the verge of bankruptcy and close to losing his home and his family, Mr Glossop clearly wanted an end. These are the words of a man who wants to put the whole matter behind him; these are not the words of a man who is in any way admitting that he has done anything wrong. The Greens support Mr Bailey's right to state his case. But, unlike Redeemer Baptist, we support the right of free speech, without the threat of legal harassment and without the threat of being dragged through the courts and bankrupted. The Greens will not oppose the motion.

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

Motion agreed to.

Pursuant to standing orders the response of Mr R. Bailey was incorporated.

REPLY TO COMMENTS BY DR JOHN KAYE MLC IN THE LEGISLATIVE COUNCIL ON 3 APRIL 2008

Pursuant to Standing Order 202 of the Standing Orders of the Council, I claim a Citizen's Right of Reply to Statements made about me in the Council by Dr John Kaye MLC on 3 April 2008.

These Statements have adversely affected my dealings with suppliers of goods and services to the Redeemer Baptist School and Redeemer Baptist Church, my association with leaders of other Schools and Churches, and my reputation as one of the leaders of Redeemer Baptist School and Church.

In his speech to the Council on 3 April 2008, Dr Kaye repeated allegations which he had previously made in the Council in regard to Redeemer Baptist School and Redeemer Baptist Church. Dr Kaye Stated that there was "ongoing tax fraud" and "ongoing Centrelink fraud". He also stated that there were "abusive practices of the school" that should be exposed. As an Elder of Redeemer Baptist Church and the Bursar of Redeemer Baptist School, I deny these allegations most emphatically.

The School has already been the subject of extensive public scrutiny by a number of different government agencies over the last four years, as a result of various allegations of the type that Dr Kaye continues to repeat in the Council. No wrongdoing by the School has been uncovered, or adverse findings made against it.

That is because there is no truth in any of these allegations.

At the conclusion of six months of investigation of the allegations which Dr Kaye referred to, the Office of the Board of Studies New South Wales concluded in a letter to the School dated 15 November 2005 that "these concerns were not substantiated" and that they intended "to take no further action with regard to them". In similar vein the New South Wales Ombudsman Stated in a letter to the School dated 9 May 2005: "I consider that the school took reasonable steps to ensure that the reportable allegations were thoroughly investigated".

Another allegation made by Dr Kaye is that "Redeemer Baptist School has misused the courts". I also deny this allegation.

The School has taken legal action where it believed it was necessary to do so to safeguard the interests of the School community, including its children and their parents. It has only done so on rare occasions when it believed, with the benefit of legal advice, that such action was necessary and appropriate. The School respects our system of justice and rejects most emphatically that it has ever abused the courts.

The rule of law is a basic tenet of civilized society. It is not "barbaric", as Dr Kaye says, to appeal to the courts to make a judgment concerning disputes. That is why we have the legal system: to protect our fundamental rights.

As to the relationship between Redeemer and Mr Glossop, the School has never given instructions to its lawyers "to crucify Mr Glossop", nor did it ever threaten Mr Glossop with "bankruptcy and jail". The court case involving the School and Mr Glossop has now been settled and I have sent Dr Kaye a copy of a letter which the School received from Mr Glossop with respect to the settlement.

Mr Glossop wrote to the School on 27 February 2008 as follows:

I am very happy that we were able to bring the litigation between the school and myself to a final conclusion. I believe this has been a very stressful period for all concerned. It is regrettable that the relationship we once shared when my daughter attended your school has deteriorated over time. I hold no ill feeling against you the school, or any other parties related to this matter. My only concern now is to get on with my life and put the past four years behind me ... I wish you and the school all the best now and into the future.

On the last occasion that the Council provided me a Citizen's Right of Reply with respect to Statements made about me in the Council by Dr Kaye, he subsequently repeated his Statements in the House (Hansard, 25 September 2007, 11:34 a.m.). Dr Kaye indicated on that occasion that he had never contacted me to hear my response to the various allegations he has made. I sent an

email to Dr Kaye following his latest speech against me in the Council. But it remains the case that Dr Kaye has not made any contact with me or the School about any of the matters that he has raised in the Council.

The Elders of the Redeemer Baptist Church and the community of Redeemer Baptist School will not be deterred by Dr Kaye from their commitment to the education and welfare of all our students, both past and present. We pray that Dr Kaye will come to an understanding that the allegations he makes are without foundation.

PRIVILEGES COMMITTEE

Report: Citizen's Right of Reply (Mr D. Kennedy)

Motion by the Hon. Kayee Griffin agreed to:

That the House adopt report No. 44 of the Privileges Committee, entitled "Citizen's Right of Reply (Mr D. Kennedy)", dated June 2008.

Pursuant to standing orders the response of Mr D. Kennedy was incorporated.

REPLY TO THE ANSWER GIVEN BY THE MINISTER FOR FAIR TRADING, THE HON LINDA BURNEY MP, TO QUESTION NUMBER 0224 SUBMITTED BY DR JOHN KAYE IN THE LEGISLATIVE COUNCIL ON 17 OCTOBER 2007

I write to seek a Citizen's Right of Reply under Standing Orders 202 and 203 in respect to the answer given by the Minister for Fair Trading, the Hon Linda Burney MP, to Question Number 0224 submitted by Dr Kaye in the Legislative Council on 17 October 2007.

The question referred to me by name, suburb and former profession and the Minister's response made it clear that she was referring to me in her answer.

The Minister for Fair Trading's answer is wrong, implies that I do not know what I am talking about, and has caused me concern in that:

- (a) The reputation and the respect that I enjoyed for many years within the security industry may have been tarnished and called into question.
- (b) Although I gave up my Security Consultant's licence and Security Sales and Installation licenses some two years ago, should I want to re-enter the security industry Minister Burney's response may in the future place an impediment in the way of my regaining those licenses.
- (c) In my new role as a Strata Manager I am continually coming across security works as defined in the Security Industry Act that should have been, and in the future should be, carried out under security industry licensing regulation rather than under the home building licensing regime and where those wrongful and illegal acts are putting the wellbeing of the family living in those strata title units at serious risk and that continues to concern me.

In respect to the Minister's answer to question 0224 the facts are these: the exemption under Clause 9(1)(e) of the Home Building Regulation, when read in conjunction with the Security Industry Act, confirms that Minister Burney's response is wrong. A literal interpretation of her answer shows inconsistencies which in fact just cannot be right. In one statement she says words to the effect that anyone installing security doors on the home must have a home building license and then later in the answer says that they need to hold either a home building license or a security industry license.

I am in possession of a letter dated 8 July 1997 [ref RML 97/2146] from a former Minister of Fair Trading, Faye LoPo' addressed to the Australian Security Industry Association Limited, which also confirms that Minister Burney's interpretation of the relevant legislation is wrong.

I appeared before a Department of Fair Trading Tribunal hearing, Case No. BU 2000/9686, involving some \$24,000 worth of security grille doors and security window grilles on two homes where the specific finding of the Tribunal was in fact that although the work had been done using a legitimate Home Building License, as twice advised to the consumer by the Department of Fair Trading it should be, the question of 'standard of workmanship' was not relevant because the work had been done illegally using that Home Building license rather than a Master Security Industry license. That finding confirms that the Minister's interpretation of the legislation, as she has expounded in her answer to question 0224, is wrong.

I am in possession of a letter dated 22 November 1994 from Abbott Tout solicitors addressed to Comalco Aluminium Supply providing an opinion which clearly demonstrates that Minister Burney's response is incorrect.

Finally, the Minister in her answer confirmed that she was aware of my 'allegations'. She must surely be aware that those allegations were in fact of criminality involving her Department and that those allegations have never been investigated by any authority with the power to do so.

In accordance with the guidelines laid down for a Citizen's Right of Reply, I limit my response directly to Minister Burney's actual answer to question 0224. I believe however that there should be a full parliamentary inquiry into the role of the Department of Fair Trading in regard to these matters.

GENERAL PURPOSE STANDING COMMITTEES**Portfolio Responsibilities**

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, Acting Minister for the Central Coast, and Vice-President of the Executive Council) [11.20 a.m.]:
I move:

1. That the resolution appointing five general purpose standing committees reflecting Government Ministers' portfolio responsibilities adopted by this House on 10 May 2007, and as amended, be further amended to reflect the changes to Government Ministers' portfolio responsibilities as follows:
 - (a) General Purpose Standing Committee No. 1
 - Premier
 - Citizenship
 - Juvenile Justice
 - Western Sydney
 - Treasury
 - Infrastructure
 - Hunter
 - The Legislature
 - Roads
 - Commerce
 - (b) General Purpose Standing Committee No. 2
 - Education and Training
 - Industrial Relations
 - Assistant Finance
 - Central Coast
 - Fair Trading
 - Youth
 - Volunteering
 - Ageing
 - Disability Services
 - Health
 - (c) General Purpose Standing Committee No. 3
 - Police
 - Illawarra
 - Attorney General
 - Justice
 - Emergency Services
 - Water
 - Gaming and Racing
 - Sport and Recreation
 - Local Government
 - Aboriginal Affairs
 - Mental Health
 - (d) General Purpose Standing Committee No. 4
 - Transport
 - Finance
 - Planning
 - Redfern Waterloo
 - Arts
 - Community Services
 - Small Business
 - Regulatory Reform
 - Ports and Waterways
 - (e) General Purpose Standing Committee No. 5
 - Primary Industries
 - State Development
 - Mineral Resources
 - Energy
 - Lands
 - Rural Affairs
 - Regional Development
 - Housing
 - Tourism
 - Science and Medical Research
 - Women
 - Climate Change and the Environment.

The Hon. DON HARWIN [11.20 a.m.]: The Opposition does not oppose these changes, which are consequential on new ministerial arrangements following the resignation from the ministry of the Hon. Phil Koperberg, the member for Blue Mountains, earlier this year. The Opposition and the crossbench have for some time been in discussions about the future of the budget estimates process as it is handled through the general purpose standing committees. At one stage the crossbench and the Opposition had an alternative proposal. In good faith, we have put that proposal aside on the basis that the Government will come to the table and work with us to develop a budget estimates schedule that is in conformity with the resolution moved by the House at the end of last year. We are hoping that the Government will show good faith in the same way that the Opposition and the crossbench have shown good faith.

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

Motion agreed to.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 1 to 12 postponed by the Hon. Tony Kelly.

THOROUGHBRED RACING AMENDMENT BILL 2008

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.22 a.m.], on behalf of the Hon. Ian Macdonald: I move:

That this bill be now read a second time.

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

Leave granted.

The main purposes of the Thoroughbred Racing Bill 2008 are to reform and update the statutory arrangements that underpin the governance arrangements for Racing NSW; to clarify the powers and functions of Racing NSW for its controlling body responsibilities in relation to the thoroughbred racing industry in New South Wales; and to provide for necessary savings and transitional arrangements. The opportunity to make these reforms is essential, timely and significant. The objectives of the reforms are to promote the future viability of the thoroughbred racing industry, to give certainty to the many thousands of participants that depend on it for a living, to give appropriate acknowledgement to the custom and tradition of our racing heritage, and to ensure that the many participants and members of the public that enjoy the spectacle of racing continue to do so.

The centrepiece of the reforms is the creation of an independent Racing NSW Board selected against prescribed skills based on criteria and merit. It is essential in the twenty-first century to recognise the need to recruit persons with high-level business and management skills. The bill carries forward the existing duty of members of Racing NSW to act in the public interest and in the interests of the industry as a whole. The fundamental issue in question is that the current nominee structure tends to the expectation by the nominating body that its nominee will promote its narrower factional interest. An independent appointee will not be bound by a nominee structure. Eligibility for appointment on this basis will require the severing of factional ties. The structural failure is not one created by previous board members, and no criticism is implied or levelled at them. They are all highly respected professionals committed to the wellbeing of the racing industry.

The bill prescribes the following skills criteria: experience in a senior administrative role; or experience at a senior level in one or more of the fields of business, finance, law, marketing, technology, commerce, regulatory administration or regulatory enforcement. A maximum eight-year term for future members of Racing NSW is also important to ensure that there is a regular reinvigoration of talent. The bill also provides for an appointments panel to select candidates with the assistance of an external recruitment consultant and a Government-appointed probity adviser. The 10-member appointments panel will include a non-voting Government-appointed probity adviser, and representatives from the Australian Jockey Club, the Sydney Turf Club, Country Racing NSW, Provincial Association of NSW, owners of thoroughbred racehorses, breeders of thoroughbred racehorses, licensed trainers, licensed jockeys and apprentice jockeys, and Unions NSW. The bill also provides for the Racing Industry Consultation Group [RICG] and other requirements aimed at facilitating formal and robust consultation between Racing NSW and stakeholders.

Owners, trainers, jockeys and breeders will each have individual representation on the RICC. Joint meetings between the RICC and Racing NSW are provided for at least 12 times each year unless otherwise agreed. Racing NSW must respond formally to any recommendation made by the RICC, including by providing formal reasons when it does not agree to a recommendation put by the RICC. The bill also requires Racing NSW, in consultation with RICC and industry stakeholders, to prepare an industry strategic plan within 12 months of the commencement of the amending legislation; and regularly undertake formal consultation in relation to the initiation, development and implementation of policies for the promotion, strategic development and welfare of the industry.

The bill also answers important questions about the powers and functions of Racing NSW, which have been the source of uncertainty. There are three major reforms in the areas of the distribution of TAB payments to race clubs under the intra-code agreement, the role of Racing NSW in coordinating race broadcasting arrangements, and the setting by Racing NSW of conditions, standards and operating requirements for the conduct of races and race meetings. Presently, the 99-year thoroughbred intra-code agreement provides for a triennial review of distribution payments to race clubs but no amendment of the distribution arrangements is possible unless there is unanimous agreement of the signatories. The relevant provision in the bill requires that Racing NSW undertake a review of the distribution arrangements with the obligation that any proposals for change are considered necessary or desirable for ensuring that the arrangements are, or remain, in the best interests of the industry as a whole.

The statutory intervention which breaks the deadlock is that, unless the parties agree to the proposal or, after consultation, a variation of the proposal, Racing NSW may give a written direction which specifies the changes to the intra-code that are to be given effect. Without such a statutory intervention the arrangements for distribution of TAB payments that were agreed to in 1998 may well be in place for the life of the 99-year agreement. This inflexible state of affairs would continue irrespective of the wishes of the majority of signatories of the agreement, or the appropriateness of rewarding good performance.

The bill also provides Racing NSW with an express power to prohibit race clubs from entering into any future agreement for the broadcasting of races unless first approved by Racing NSW. A key issue of concern, expressed in submissions and consultation in the course of the independent review undertaken by Mr Ken Brown, is to clarify that Racing NSW should be able to prevent an individual race club, or group of race clubs, exercising broadcast rights in a manner which would be detrimental to the industry as a whole. When making optimal arrangements for the racing industry regarding racing broadcasts Racing NSW must have regard to balancing the interests of all race clubs including those in regional areas. By doing so Racing NSW is fostering economic and social benefits for all industry stakeholders. That is a goal that accommodates both the public interest and racing industry interests.

The race broadcasting amendments have been developed with the assistance of detailed Crown Solicitor's advice. Based on that advice the proposed amendment applies to future arrangements only, including extensions of existing arrangements. There are a number of concerns and fears that the broadcasting power in the bill assigns a race club's broadcasting rights to Racing NSW. Those concerns are unfounded. The power in the bill is limited to prohibiting a race club from entering into future arrangements. The provision does not transfer the ownership of broadcasting rights to Racing NSW. In addition, Racing NSW may only negotiate such arrangements if a race club has authorised it to do so. Racing NSW may not, of its own volition, negotiate broadcasting arrangements.

There is also an appropriate exemption for the provision in favour of Racing NSW in terms of the Trade Practices Act 1974 of the Commonwealth and the Competition Code of NSW. The provision also includes appropriate procedural safeguards such as providing the affected body with the right to make submissions and for Racing NSW to give written reasons for refusing approval to enter into the broadcasting agreement, if that is the case. The final major reform is to provide Racing NSW with the power to set conditions, standards and operating requirements for the conduct of races and race meetings. The power does not extend to the ability to direct a race club to sell its land. It is limited to ensuring that optimal arrangements are in place by way of industry benchmarks for the conduct of race meetings and training facilities.

The minimum standards apply to racing matters, not such things as catering or non-racing event management. This includes the power to compel race clubs to provide information and documents, which will enable Racing NSW to undertake its statutory consultation functions, including developing an industry strategic plan. A complementary provision allows Racing NSW to impose specified sanctions for non-compliance of its statutory directions. The imposition of sanctions is subject to safeguards including the right to make a submission and the right of review on procedural fairness grounds. The bill also contains necessary savings and transitional arrangements to ensure the continuity of operation of Racing NSW.

Two important transitional issues which merit special mention are the provisions that relate to the caretaker period and the facilitation of ancillary appointment processes before the commencement of the amending legislation. The caretaker provision has effect upon the introduction of the bill. It affords the existing members of Racing NSW with the recognition and protection that they are in caretaker mode in expectation of the appointment of a new board. I place on record my thanks for the cooperation and assistance of the existing board members and their leadership of the industry. The new appointment processes require a lead-in time with the need to convene an appointments panel, appoint a probity adviser and engage a recruitment consultant. The earliest possible resolution of this process is essential in the interests of good governance for the racing industry. The bill provides for as many administrative matters to be put in train as possible in anticipation of the commencement of the amending Act.

The bill is a significant milestone for the thoroughbred racing industry. The opportunity for genuine reform to provide a platform for modern best practice governance is one that should not be squandered. There is a longstanding and bipartisan approach to the racing industry that acknowledges its independence, and respects the desire for self-determination in the management of its affairs. Put simply, the industry runs its own race. However, the Government is a major stakeholder, both in terms of the industry economic contribution to the State's economy and of the public interest in terms of gambling integrity. It follows then that the Government's role is to provide a statutory framework that facilitates sustainable economic development and the future viability of the racing industry and ensures the integrity of the conduct of racing and associated wagering on racing.

A powerful example of the practice for providing industry self-determination is the provision in the bill for the appointments panel to seek the Minister's approval for that panel to reconvene for the purpose of a fresh recruitment process. If a 75 per cent

majority of the appointments panel is of the view that the Board of Racing NSW should show cause against specified grounds and if Racing NSW does not provide a satisfactory response a fresh recruitment process will be undertaken. This is an extreme step that will be taken to address the serious problem of a dysfunctional or non-performing board. In effect, it is a "break glass in emergency" mechanism that ensures the board is always responsible to its shareholders, the racing industry.

The appointments panel will be required to provide reasons for its decision to the Minister and the Board of Racing NSW. The Government is committed to implementing practical solutions to ensure that racing has a sustainable future, and this bill is one example of its racing industry reform initiatives. Nothing in the bill will impose any undue regulation. The provisions relating to the distribution of TAB payments to race clubs, the role of Racing NSW in coordinating race broadcasting arrangements and the setting by Racing NSW of conditions, standards and operating requirements for the conduct of races and race meetings have been carefully considered and developed in accordance with legal advice and keeping in mind the public interest and the interests of the thoroughbred racing industry as a whole and a detailed consultation process with the industry and with the Opposition. I commend the bill to the House.

The Hon. TREVOR KHAN [11.23 a.m.]: I lead for the Opposition in the debate on the Thoroughbred Racing Amendment Bill 2008, which the Opposition will not oppose. The purposes of the bill are threefold. Firstly, it aims to reform and update the statutory arrangements that underpin the governance of Racing NSW. Secondly, the bill seeks to clarify the powers and functions of Racing NSW for its controlling body responsibilities in relation to the thoroughbred racing industry in New South Wales. Thirdly, the bill provides for necessary savings and transitional arrangements. The bill facilitates the creation of an independent Racing NSW board selected against prescribed skills based on criteria and merit. An independent appointee will not be bound by the nominee structure. The bill specifies excellent attributes for the board of directors: corporate governance and managerial skills. The board of Racing NSW will comprise five members appointed by a selection committee. The selection committee will be formed from nine members from the various sectional interests of the racing industry and a tenth non-voting member as probity auditor.

The shadow Minister for Gaming and Racing succinctly articulated the Opposition's position in the other place, and I do not intend to labour the same points here. I will reiterate my learned colleague's view, and that of the Opposition, that the racing industry is very important to New South Wales. It is a labour-intensive and decentralised industry that employs an enormous number of people. Following the equine influenza debacle it became known to the wider community just how big an employer the industry is. The State Government deserves to be criticised for its lack of action in response to the equine influenza outbreak and for the frugal and disorganised way in which it provided resources. The bill also refers to broadcasting rights and prevents any race club negotiating separate broadcasting rights without the approval of Racing NSW. This oversight has the potential to prevent race clubs engaging in negotiations that could be to the detriment of other aspects of racing or other clubs.

The Opposition recognises that the racing industry needs this bill. Racing NSW is presently in caretaker mode; the bill has almost frozen the work of Racing NSW. The industry urgently requires the establishment of a new board with new structure and direction. We can look forward with some confidence to achieving that with the passage of the bill. The Opposition was briefed extensively on the bill by Racing NSW, the Australian Jockey Club, the Sydney Turf Club, Aushorse, and the Minister and his staff. The Opposition extends its gratitude to all parties involved for the way the discussions were conducted during negotiations. I conclude by reiterating that the Opposition will not oppose the bill.

Reverend the Hon. FRED NILE [11.26 a.m.]: The Christian Democratic Party has no objection to the Thoroughbred Racing Amendment Bill 2008. Indeed, I am pleased that the bill, in reforming the Thoroughbred Racing Act 1996 and making various changes to Racing NSW and so on, has included a number of checks and balances to ensure that there is no corruption in the racing industry. We know that this is always a temptation and that such corruption has occurred, particularly in the United States. It has also occurred here in New South Wales on occasions, with people attempting to rig the outcome of races and so on. We are pleased that the bill requires proposed members of Racing NSW to be subject to a probity check before being appointed to membership, and that it empowers Racing NSW to set minimum standards in connection with the conduct of races and race meetings by registered race clubs.

With regard to maintaining standards, the bill empowers Racing NSW to impose sanctions against a race club that has failed to comply with a minimum standard set by Racing NSW. The bill also requires the adoption of a code of conduct by Racing NSW to be observed by members and staff of Racing NSW. We trust that those features of the bill will ensure that thoroughbred racing in New South Wales is above board and that there are no opportunities for individuals, or even organised crime, to play a dishonest role in thoroughbred racing in New South Wales.

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.28 a.m.], in reply: I thank honourable members for their contributions to debate on the Thoroughbred Racing Amendment Bill. Since the release of the

report and recommendations from the independent review of the Act commissioned in 2006—known as the Ken Brown review—extensive consultation has taken place with thoroughbred racing industry stakeholders. As honourable members have acknowledged today, everyone is in broad agreement with this reform. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That this bill be now read a third time.

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

AUSTRALIAN JOCKEY CLUB BILL 2008

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.30 a.m.], on behalf of the Hon. Ian Macdonald: I move:

That this bill be now read a second time.

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

Leave granted.

The main purposes of the bill before the House are:

- to modernise the corporate structure of the Australian Jockey Club by recognising the incorporation of the Australian Jockey Club Limited,
- to provide for necessary transitional arrangements from the unincorporated Australian Jockey Club to the recently formed Australian Jockey Club Limited and
- to enable the Trustees of Randwick Racecourse to grant a lease of the racecourse lands for up to 99 years.

It is essential for the AJC to move to a modern corporate structure to enable the club to conduct its business effectively in the 21st Century.

Many people would be surprised to learn that the AJC, which was formed in 1842, is an unincorporated association. The current arrangements under the Australian Jockey Club Act 1873 impose a level of personal liability on the AJC Chairman and the club's officers and members.

Similar traditional arrangements existed in Victoria until recently, and the AJC has requested that the Government assist it with reforms along the lines of those implemented for the Victoria Racing Club.

The 135 year old Australian Jockey Club Act has clearly been overtaken by modern corporate practices, and is now obsolete and inappropriate.

The AJC Committee has recently taken steps to incorporate a new body to be known as the Australian Jockey Club Limited.

The process of incorporation was undertaken by the club with an appropriate awareness program for its members to advise them of the many benefits of the transition to membership of a company limited by guarantee.

The bill before the House will recognise the AJC's incorporation and will provide for the seamless transfer of the assets, rights, liabilities and regulatory authorisations of the unincorporated body to the new company.

Once this transition has been made there will be a proper measure of protection and limited liability for the AJC Chairman and the club's officers and members.

Importantly, the bill preserves the current rights and privileges enjoyed by AJC members and provides for the continued tenure of AJC employees.

The AJC through its own endeavours and achievements has become one of the premier horse racing clubs in New South Wales and arguably Australia, a status it has enjoyed for more than a century and a half.

Through its use of the Randwick Racecourse the AJC has had an unparalleled opportunity to promote horse racing in this State, an opportunity which has been well used to the advantage of the community and the racing industry.

Randwick Racecourse is recognised internationally as one of Australia's major racing venues. Queen Elizabeth II has formally given the title of 'Royal' to the racecourse.

Under the management of the AJC, the Randwick Racecourse is fully utilised for horse racing and training purposes. The racecourse, with its considerable facilities and amenities, including a modern convention centre, is also used for public functions and entertainment purposes.

Substantial revenues are generated for the Government, the AJC and the racing industry by the activities conducted at the racecourse and numerous persons are directly and indirectly employed as a result of the AJC's use and promotion of the racecourse.

The venue is also an invaluable source of social and recreational activity to the public and is a significant community centre.

Randwick Racecourse will play a pivotal role in the upcoming World Youth Day celebrations.

Hundreds of thousands of pilgrims will walk to the racecourse on Saturday 19 July 2008, where there will be an evening vigil with Pope Benedict XVI.

In the order of half a million people are expected to take part in the Final Mass to be held on the following Sunday.

The people of New South Wales are fortunate to have such an impressive venue situated in close proximity to the Sydney CBD.

The Government's \$40 million package to enable Randwick Racecourse to host World Youth Day celebrations recognises that it is of considerable benefit to the State that the Randwick Racecourse continues to operate at an optimal level.

It is vital and that this unique public asset continues to host top level racing and be available for major public events.

The support of the Government in assisting the AJC with its future planning and to enhance its business certainty is also vital to the ongoing viability of the New South Wales thoroughbred racing industry.

The bill will enable the Trustees of Randwick Racecourse to issue a lease of the racecourse lands for a period of up to, but no more than 99 years, giving the AJC security of tenure at the venue.

It is the convention that upon execution of the new 99 year lease, the current lease which expires in 2042 is to be surrendered by the club.

The exclusivity of the lease of the Randwick Racecourse to the AJC gives rise to competition issues.

However, the uniqueness of the arrangement and its rich history must be recognised, as has been the case in Victoria with the Victoria Racing Club's use of the Flemington Racecourse.

Accordingly the bill provides the Trustees with an exemption under the Trade Practices Act 1974 in relation to the grant of a 99 year lease of the racecourse.

The opportunity has also been taken to re-write the legislation in line with modern language and drafting practices. A glance at the preamble to the 1873 Act will show that this is not before time.

The Government is committed to implementing practical solutions to ensure that racing has a sustainable future.

The Government's racing policy is driven by the need to provide a statutory framework which:

1. facilitates sustainable economic development and the future viability of the racing industry, and
2. ensures the integrity of the conduct of racing and associated wagering on racing.

To this end the Government has recently commissioned two independent reviews.

A review into wagering is being undertaken by Mr Alan Cameron.

The review will consider all facets of wagering including the significance of racing as an industry and employer, new technology and wagering, and the impacts on wagering from National Competition Policy.

It will provide a framework for future growth and sustainability of the racing industry.

A review of the regulatory oversight of the State's racing industry, which is being conducted by Mr Malcolm Scott, is to examine whether there are adequate powers and procedures in place for the effective and efficient regulation of the three codes of racing.

The response to the recent Equine Influenza outbreak is another example of the Government's commitment to working hand-in-hand with the racing industry to achieve common goals and outcomes.

The Government moved swiftly to contain the outbreak of this devastating exotic disease, providing practical support to racing industry participants, while at the same time committing significant funding to assist those whose livelihood was impacted by the outbreak.

The proposals contained in the bill are further evidence of the Government's commitment to assisting the racing industry in ensuring its future viability and growth.

Nothing in the bill will impose any undue regulation or will impinge upon existing rights.

I commend the bill to the House.

The Hon. TREVOR KHAN [11.31 a.m.]: I lead for the Opposition on the Australian Jockey Club Bill 2008. The Opposition does not oppose the bill. The purpose of the bill is to recognise the incorporation of the Australian Jockey Club [AJC] and subsequently to transfer assets, rights and liabilities to the newly incorporated Australian Jockey Club Limited from the old unincorporated entity.

The Australian Jockey Club is currently an unincorporated association. As such, the chairman and board members are currently subject to potentially large and devastating liability were bad times to befall the club. Modern business practice dictates that this form of unlimited liability is no longer appropriate for such entities like the Australian Jockey Club and hence, in light of recent financial concerns, the board initiated the process to update the current Australian Jockey Club Act, which draws its origins back to 1873.

The bill also seeks to redress that the trustees of Randwick racecourse are limited to granting a 50-year lease. The bill extends the possible duration of leases up to 99 years. The bill creates the Australian Jockey Club Limited, and all assets, rights and liabilities will be transferred to this new entity. During transition, there are provisions to run the incorporated and unincorporated entities concurrently to help ease the pressure of the changeover on the Australian Jockey Club's members, who will need to change their membership. The changeover is set to occur at the same time as membership renewal in order to minimise confusion and expense. The Royal Randwick Racecourse lease will be renewed from the current 50 years to 99 years. This will afford the AJC more stability and value for future planning.

The Government has also updated the provisions of the 1873 Act to modern day English in order to afford the Australian Jockey Club and all interested parties a clearer understanding of the Act. The Office of Liquor, Gaming and Racing has ensured that no assets, rights or liabilities will be excluded from this amendment, and the Government is not affording the Australian Jockey Club any new rights, nor is it deleting or modifying any existing rights. The Opposition has been briefed in full on the proposed changes by a number of parties, including Racing NSW, the Australian Jockey Club, the Office of Racing, and the Office of the Minister for Gaming and Racing; we express our gratitude to all parties involved for the information they provided.

The Australian Jockey Club has dealt with the recent troubles surrounding the equine influenza outbreak. I do not need to remind the Chamber of the economic pain and emotional strain that the outbreak had on the industry, with losses felt throughout the sector. The equine influenza debacle was one that shook the industry to its core and dispelled longstanding myths about the seemingly invincibility and strength of the industry. In light of these circumstances it is clear to see why the chairman and the board of the Australian Jockey Club were no longer happy with the personal liability they bore and sought review of the legislation.

In the debate on the Totalizator Amendment Bill 2008, I noted that motivation to increase the overall gambling profits of the racing industry was drawn, in part, from a need for the industry to re-establish itself following the equine influenza outbreak. I draw attention to this now only to make the point that with the passing of this bill, the Australian Jockey Club, Royal Randwick Racecourse and the Racing Industry in New South Wales, have undergone some important structural reform since the equine influenza outbreak. The Totalizator Amendment Bill 2008 increased the racing industry's gambling revenue by an estimated \$4 million in 2008-09, \$5 million in 2009-10 and \$6 million in 2010-11. Arguments were put forward as to why the bill should be supported beyond that of the industry needing support following the equine influenza outbreak, but it was definitely a factor.

This bill reflects sensible structural changes to the Australian Jockey Club and decreases the personal liability of the board bringing the organisation in line with modern business practice. The bill represents sensible amendments to the structure of the Australian Jockey Club to reflect the need to operate within modern financial times. The stakeholders seem in agreement on the need to update the legislation and structure of the Australian Jockey Club. The Opposition does not oppose the bill for the reasons I have outlined.

Reverend the Hon. FRED NILE [11.35 a.m.]: The Christian Democratic Party does not oppose the Australian Jockey Club Bill 2008, which simply provides for the reorganisation of the Australian Jockey Club. The bill repeals the Australian Jockey Club Act 1873 and re-enacts that Act with modifications: firstly, to recognise the incorporation of the Australian Jockey Club and to transfer the assets, rights and liabilities of the Australian Jockey Club to a newly incorporated Australian Jockey Club Limited; and, secondly, to enable the trustees of the Royal Randwick Racecourse to grant a lease of the racecourse lands for up to 99 years.

The Australian Jockey Club, which was formed in 1842, has been an unincorporated association. It is necessary to bring the operations of the club and the Royal Randwick Racecourse into line with modern business practices. The changes contained in the bill are based on recent changes in Victoria, which was in a similar situation to New South Wales. The Royal Randwick Racecourse is internationally recognised as one of the major racing venues of Australia. I note that Queen Elizabeth II has formally given the title of "Royal" to the racecourse. The Royal Randwick Racecourse has recently been referred to in the media because of the role it will play in the World Youth Day celebrations. The Christian Democratic Party is pleased to support the bill.

Ms LEE RHIANNON [11.36 a.m.]: The Greens support the Australian Jockey Club Bill 2008. The aim of the bill is to modernise the Australian Jockey Club and to help with the transition of the old Australian Jockey Club to the newly incorporated Australian Jockey Club Limited. But the Greens cannot let the bill pass without commenting on the recent machinations involving the Australian Jockey Club, the Iemma Government, and the use of the Royal Randwick Racecourse for the closing Papal Mass during the celebration of World Youth Day next month.

Reverend the Hon. Dr Gordon Moyes: How much will it cost?

Ms LEE RHIANNON: That is an interesting question. It is unfortunate that the Government has not been fully open on that matter. As we now know, the Australian Jockey Club negotiated with the New South Wales Government a very handsome \$41 million compensation package for moving out of Royal Randwick Racecourse for 10 weeks and moving the horses, trainers, and associated services. The package involves a whopping 64-year extension to the Australian Jockey Club's lease, \$3 million for economic loss, \$10.8 million to upgrade the infrastructure at the Warwick Farm Racecourse and the Rosehill Racecourse, and \$7 million for other works. Some \$20 million was also allocated for insurance in case the racing surface required post-event maintenance.

At the time the package was announced we called on the Catholic Church, and not the State Government, to pay this bill. We still stand by this view, particularly as the cost to the people of New South Wales for the World Youth Day celebrations continues to grow. Hopefully, somewhere in the future the full story will emerge as to why this event was organised for the Royal Randwick Racecourse and not the seemingly more appropriate Olympic Park site, as was first planned. I found it curious when I questioned Minister Watkins about the change of venue that he proffered many different excuses, from the temperature, to the line of sight and to the Pope's presence at the event. The Minister's excuses did not add up, but I imagine more will be known about that in due course.

Reverend the Hon. Fred Nile: The issue was the space.

Ms LEE RHIANNON: Reverend the Hon. Fred Nile talks about space, but he may not be aware that the space at Randwick racecourse is limited. Minister Watkins, when I questioned him, acknowledged that there would be a huge overflow to Centennial Park, with possibly hundreds of thousands of people camping there. The Olympic site was nominated as the original venue. I understand the Premier spoke about that when he was in Rome to discuss World Youth Day in Australia.

Like many decisions by the Government in relation to World Youth Day, it was a strange outcome to move the venue from Olympic Park to Randwick racecourse. I still argue that it goes against commonsense. There are major problems with the use of Randwick racecourse, but the Government seems always to have been committed to that site. In October 2007 when I asked Minister Watkins why the Government chose the Randwick racecourse site, he said it was the only place where people could be comfortably accommodated and efficiently moved, and that Randwick is warmer than Homebush Bay. The deal was more than an arrangement designed to facilitate World Youth Day. Even the Catholic Church was aware that the deal would not necessarily be well received. Church leaders publicly responded to news of the package by saying that a significant portion of the compensation package was unrelated to World Youth Day and that it provided long-term benefits to the racing industry. Negotiations on the deal were painful—very much like pulling teeth,

I would imagine. It took almost four months of negotiations to pull it off. The Greens would argue that the Government was so desperate to secure the venue that millions of dollars of public money was unnecessarily thrown away.

The Hon. Amanda Fazio: Point of order: Ms Lee Rhiannon's comments are not relevant to the bill before the House. Her comments do not come within the leave of the bill merely because the bill refers to Randwick racecourse. I ask that the member be directed to refer her comments to the bill before the House and not general issues surrounding World Youth Day and Randwick racecourse.

Ms LEE RHIANNON: To the point of order: I am surprised by the point of order taken by the Hon. Amanda Fazio because she is usually on the ball. However, she has missed the point here. The member said that I was referring to Randwick racecourse. I have referred to the Australian Jockey Club in almost every sentence. Given that we are debating legislation dealing with the Australian Jockey Club and the recent conduct of its business, my comments are relevant to the debate on the bill.

The PRESIDENT: Order! Although it is tradition in this House that members are given wide latitude when contributing to debate on the second reading of a bill, the standing orders require members to confine their remarks to the subject matter of the question before the Chair. I draw the attention of members to the long title of the bill being debated, which states:

An Act to provide for the transfer of the business undertaking of the Australian Jockey Club to Australian Jockey Club Limited and for the granting of further leases of Randwick Racecourse; and for other purposes.

I direct members also to the explanatory note to the bill. Contributions that are within the leave of the long title of the bill and its explanatory note are in order, and I urge Ms Lee Rhiannon, as she proceeds, not stray too far from that leave.

Ms LEE RHIANNON: The holding of the Papal Mass at Randwick racecourse is clearly a significant issue in this debate because of its impact on the Australian Jockey Club, the horseracing industry, the track, trainers, punters and residents who live in the vicinity of the racecourse. I note that the Australian Jockey Club does a great deal of work to ensure that the locals are inconvenienced as little as possible on race days. Certainly there are many ongoing issues.

As to the detail of the bill, I am particularly concerned about proposed sections 26 and 34. Proposed section 26 exempts the Australian Jockey Club Incorporated from paying fees and charges in relation to registration flowing from incorporation, for example, to meet the requirements of the Registrar General. It also allows the Australian Jockey Club to provide abbreviated information to registration authorities to enable such authorities to update the registers they maintain in respect of assets, rights or liabilities.

The Greens do not see any good policy reason for dropping registration fees or requiring a lesser level of disclosure. At the Committee stage I will move an amendment to delete this provision. The Australian Jockey Club Limited should be subject to the same reporting requirements as any other incorporated body. When one considers the massive injection of public money it has just received, arguably the level of reporting requirements should be more stringent. It is disappointing that in the speeches from both of the conservative parties this issue has not been addressed. Proposed section 26 means that information which an incorporating body generally places on the public record can be of a lesser standard. The Government should give reasons for including this provision in the bill. I do not know why it has been included, other than it may be part of the World Youth Day deal. That is the reason I raised World Youth Day. We need to look at the bill in that context. The arrangements with the Catholic Church could throw some light on the reason for requiring a lesser standard.

With incorporation comes many benefits, particularly reduced liability. Incorporation also brings with it responsibilities. Does proposed section 26 allow the Australian Jockey Club to not disclose its new lease or other critical information about its relationship with the Government? I ask that the Parliamentary Secretary address this issue in her speech in reply. Clearly, the Government should provide an explanation on the public record. We cannot find any precedent for proposed section 26 in any New South Wales statute, either comparable or analogous provisions. If the arrangement in proposed section 26 were commonplace, one would expect it to be included in recent Victorian legislation relating to the Victorian Racing Club, which was incorporated on 10 April 2006 by the Victorian Racing Club Act 2006.

Under proposed section 34, the bill exempts the Australian Jockey Club from paying State taxes arising from incorporation. This would primarily relate to stamp duty, which could be substantial. The waiving of

State taxes may not be so unusual in this context, considering incorporation is largely a construct. A similar arrangement was reached in Victoria when its racing club was incorporated. However, when one considers that the Australian Jockey Club just received a very large compensation package from the New South Wales Government, the public may expect some return from the Government's largesse and the Australian Jockey Club's gain. I again ask the Parliamentary Secretary to detail the expected State taxes payable into State coffers as a result of the transfer of assets under this bill. When this information is placed on the record we will be in a better position to judge whether the exemption under proposed section 25 is reasonable. As foreshadowed, I will move an amendment in Committee.

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.48 a.m.], in reply: I thank honourable members for their contributions to the debate. The maintenance of Randwick racecourse as a premier racing complex and quality venue for public recreation and entertainment represents a valued asset to the community as a whole. To ensure that the Australian Jockey Club continues to grow and develop its activities at Randwick racecourse for the benefit of the public and the racing industry, it is appropriate that the Government assists by providing the Australian Jockey Club with business certainty and a measure of security of tenure at the racecourse. The realities, both economic and social, of the existing occupation and usage of Randwick racecourse must be accepted, as has occurred in Victoria in relation to the Victorian Racing Club and Flemington racecourse. The bill puts the Australian Jockey Club and Randwick racecourse on a similar footing. As previously discussed, the Australian Jockey Club committee has recently taken steps to incorporate the new body, to be known as the Australian Jockey Club Limited. The club undertook the process of incorporation with an appropriate awareness program for its members to advise them of the many benefits of the transition to membership of a company limited by guarantee.

The bill recognises that the Australian Jockey Club's incorporation will provide for a seamless transfer of assets, rights, liabilities and regulatory authorisations of the unincorporated body to the new company. The provisions as set out in the bill are necessary for the orderly transition. The provisions are in keeping with the principle that by going through this process the Australian Jockey Club should be no worse off. The matters raised by Ms Lee Rhiannon relating to sections 24 and 26 go directly to that matter. The provision has been drafted by Parliamentary Counsel to meet those objectives.

World Youth Day is beyond the ambit of the bill and I will not address that issue. There is no alternative motive here. The Australian Jockey Club will remain the Australian Jockey Club, except it will now be incorporated. The exemptions are reasonable and it would be onerous to require the Australian Jockey Club to do more simply because it is incorporating. 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. Amanda Fazio): I propose that the Committee deal with the bill by parts and schedules. There being no objection, I shall proceed accordingly.

Part 1 [Clauses 1 to 4] agreed to.

Part 2 [Clauses 5 to 14] agreed to.

Ms LEE RHIANNON [11.51 a.m.]: I move:

No. 1 Page 16, clause 26, lines 1-18. Omit all words on those lines.

Further to my previous comments, the amendment will delete new section 26. I listened with interest to the Parliamentary Secretary's speech in reply, and I still believe we have not had a clear explanation as to why the Australian Jockey Club is not subject to the same reporting requirements as any other incorporated body. When it comes to putting information on the public record the Australian Jockey Club is operating at a lesser standard. Also, we could find no precedents for this practice in any incorporation in New South Wales statutes. Considering the responsibilities that go with incorporation and the importance of the information being on the public record, we believe that it would be a much healthier bill if that section were deleted.

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.53 a.m.]: I will not go into too much detail. This has been a long process and all stakeholders have been very well consulted about the Australian Jockey Club and its move to incorporation. The very principle at the beginning of this process was that the club would be no worse off, and the exemptions for these fees are in keeping with that principle. There is nothing sinister or underhanded here; the simple principle was that as the Australian Jockey Club moved to incorporation it would be no worse off, and the fees and charges exemptions basically fit with that. We do not support the amendment.

The Hon. TREVOR KHAN [11.53 a.m.]: The Opposition does not support the amendment. New section 26 is plainly an appropriate mechanical provision to enable the intentions of the Act to come into effect. If it were deleted it would greatly complicate the procedure.

Question—That Greens amendment No. 1 be agreed to—put and resolved in the negative.

Greens amendment No. 1 negatived.

Part 3 [Clauses 15 to 28] agreed to.

Part 4 [Clauses 29 to 40] agreed to.

Schedules 1 and 2 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Penny Sharpe agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That this bill be now read a third time.

Motion agreed to.

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

DISTINGUISHED VISITORS

The PRESIDENT: I welcome to the public gallery Vietnam veterans and members of the Australian Federation of Totally and Permanently Incapacitated Ex Servicemen and Women from the Macarthur region and their partners. It is always a privilege to welcome veterans to this House. We thank you for your efforts on our behalf.

POLICE INTEGRITY COMMISSION AMENDMENT (CRIME COMMISSION) BILL 2008

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary), [11.57 a.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

I am pleased to deliver the second reading speech on the Police Integrity Commission Amendment (Crime Commission) Bill 2008. The New South Wales Crime Commission is a key law enforcement agency in the fight

against organised and drug-related crime. Its successes in the past financial year include making 445 arrests and laying 2,482 serious criminal charges. Since 1990 the New South Wales Crime Commission has confiscated more than \$140 million in criminals' assets, including mansions, luxury boats, cars and cash from drug dealers and crime bosses.

This Government stands behind the important work of the New South Wales Crime Commission and believes its invaluable work should continue. The public deserves to have full confidence in the integrity of the New South Wales Crime Commission and its officers. The recent arrest of a senior Crime Commission officer has shaken that confidence. The public should be aware that the operation and subsequent arrest were carried out with the full cooperation and assistance of the New South Wales Crime Commission.

The bill should engender further confidence in the integrity and corruption resistance of the New South Wales Crime Commission. The bill will give the Police Integrity Commission the power to oversight the New South Wales Crime Commission. This will mean that one body will oversee all major New South Wales major law enforcement agencies. The bill will give the Police Integrity Commission powers to detect, investigate and prevent serious misconduct within the New South Wales Crime Commission. Those powers are equal to the level of oversight the Police Integrity Commission has of New South Wales police officers. The bill dramatically expands the current scope of the oversight of the New South Wales Crime Commission.

Currently the New South Wales Crime Commission is oversighted by the Independent Commission Against Corruption. The commission has a mandate to investigate possible corruption within the Crime Commission. The bill will give the Police Integrity Commission power to investigate not only possible corruption but also any misconduct, with referral to focus on serious misconduct. Further, the Police Integrity Commission will be given power to investigate any misconduct of crime commission officers, even if the misconduct occurs off duty. I seek leave to incorporate the rest of my second reading speech in *Hansard*.

Leave granted.

The Police Integrity Commission also will be given the power to investigate not just current officers and activities of the Crime Commission, but its unfettered power will extend to investigating past officers and past activities of the commission. Such a level of oversight brings the New South Wales Crime Commission into line with oversight already in place for New South Wales police officers. This move will better match the oversight measures of the New South Wales Crime Commissions to those of its federal counterpart. Currently the Australian Crime Commission is oversighted by the Australian Law Enforcement Integrity Commission, and soon the New South Wales Crime Commission will be oversighted by the Police Integrity Commission.

It is entirely appropriate that a major law enforcement body such as the NSW Crime Commission be subject to this stringent level of oversight. This will instil public confidence in the corruption resistance capability of the commission. Further, the Police Integrity Commission is the appropriate body to carry out this oversight function. This view is also one shared by the Law Society of New South Wales. When the Government first outlined its intention to have the Police Integrity Commission oversight the NSW Crime Commission, the President of the Law Society of New South Wales, Mr Hugh Macken, released a statement welcoming the news. He stated:

We are pleased that the Minister has taken the time to consider our concerns and is making arrangements for the Police Integrity Commission to be overseeing the management, operations and conduct of the NSW Crime Commission.

This will bring the NSW Crime Commission in line with the NSW Police Service, thereby saving on the additional costs that would be incurred by the creation of an alternative body.

This will also enhance the public's confidence in the NSW Crime Commission and in the integrity of its staff.

Mr Macken went on to state that he thought this move reached a balance between maintaining the important role of the NSW Crime Commission and appropriate oversight. He said:

The Police Integrity Commission was well placed to ensure that the operations of the NSW Crime Commission are appropriate to, whilst not constraining, its important operational activities in the critical work it performs in waging the ongoing war against organised crime in this State.

The Police Integrity Commission has ten years experience overseeing the NSW Police Force, and it has the standing powers of a royal commission. The bill, as proposed, will not affect current references to the Independent Commission Against Corruption that relate to the NSW Crime Commission. However, the Independent Commission Against Corruption will have the power to refer any matters arising from its current reviews to the Police Integrity Commission in the future. This bill represents a major reform to the accountability and transparency of our key law enforcement agencies.

I now will go briefly through the proposed amendments. Schedule 1 of the bill sets out the proposed amendments to the Police Integrity Commission Act 1996. These include amending the definitions of the Act to include officers of the NSW Crime Commission and a definition of misconduct of a NSW Crime Commission officer. It should be noted that these definitions capture the activities of former NSW Crime Commission officers. Further, the bill specifically proposes to insert sections 13B

and 13C, which gives the Police Integrity Commission the power to oversight the NSW Crime Commission and the authority to allocate dedicated staff, including an assistant commissioner to work on NSW Crime Commission matters.

Section 19 of the Police Integrity Commission Act is to be amended to allow the Police Integrity Commission not to be required to consult with the NSW Crime Commission if it intends to use the provisions of the Criminal Assets Recovery Act 1990 in relation to an investigation affecting the NSW Crime Commission. Amendments to section 61 will be made also to ensure that the current secrecy provisions of the NSW Crime Commission Act do not impede a Police Integrity Commission investigation into the NSW Crime Commission. A new part, to be called part 4B, will be inserted into the Police Integrity Commission Act to provide for complaints to be made against NSW Crime Commission officers. This part will allow the Police Integrity Commission to refer complaints about the NSW Crime Commission back to the commission itself for resolution if the complaints are minor in nature. The part will also allow the Police Integrity Commission to take action and report to the Minister and Parliament if it is dissatisfied with the manner in which the NSW Crime Commission has dealt with a complaint.

Section 99 of the Police Integrity Commission Act is to be amended to ensure that the Police Integrity Commission reports separately on its activities in overseeing the NSW Crime Commission. A new note will be inserted after section 130 to make it clear that the Police Integrity Commission can investigate the management committee of the NSW Crime Commission. Other provisions in the amending Act provide for arrangements to be made between the Police Integrity Commission and the Independent Commission Against Corruption about investigation of matters where there may be some overlap in jurisdictions. In particular, transitional provisions are made to ensure that existing matters about the NSW Crime Commission that are being dealt with by the Independent Commission Against Corruption will continue unaffected by this bill.

Provision has also been made to ensure that any matter arising out of the existing investigations may be referred in future to the Police Integrity Commission by the Independent Commission Against Corruption if it thinks that is necessary. Let me reiterate that this bill will ensure that officers of the NSW Crime Commission will be subject to the same stringent oversight arrangements as are currently in place for officers of the NSW Police Force. In conclusion, the Government is pleased to bring forward this bill to ensure that the public's confidence in the integrity of the NSW Crime Commission remains strong and that the NSW Crime Commission itself is able to continue its important work in fighting serious and organised crime in this State. I commend the bill to the House.

Pursuant to sessional orders business interrupted and set down as an order of the day for a later hour.

QUESTIONS WITHOUT NOTICE

CENTRAL COAST WATER COSTS: TILLEGRA DAM FUNDING

The Hon. MICHAEL GALLACHER: My question is directed to the Minister for Lands, Minister for Rural Affairs, and Acting Minister for the Central Coast. Is the Minister aware that Central Coast residents were told last week that they would have to pay about \$90 extra a year for electricity? That is an additional burden on Central Coast residents who are already struggling with rising petrol prices and interest rates. Given that the State Government revealed in the 2008 budget papers that only \$26 million of the total net cost of \$344 million for the Tillegra Dam project will be funded, will the Minister now come clean and reveal to Central Coast ratepayers how much he intends to charge them to build this dam?

The Hon. TONY KELLY: This is obviously a question for the Minister for Water Utilities. I will ensure that I pass the question to him for an answer.

FINANCIAL SERVICES SECTOR

The Hon. AMANDA FAZIO: My question without notice is directed to the Minister for State Development. Will the Minister inform the House about Government initiatives to advance financial services in New South Wales?

The Hon. Melinda Pavey: Move to Queensland.

The Hon. IAN MACDONALD: Typical! I am pleased to be able to tell the House that the financial services sector in Sydney and New South Wales is performing well, despite volatility in global financial markets. Sydney is Australia's financial services capital and a leading financial centre in the Asia-Pacific. Finance and insurance is the third largest industry in New South Wales, contributing \$33 billion to the State's economy in 2006-07. It is one of the fastest growing industries in our State. Members on this side would know that the New South Wales Government has keenly supported the financial services industry, working to attract new global institutions and high-value, high-skill global functions to Sydney. This creates jobs and contributes to the expansion of other sectors.

The Iemma Government is working hard to ensure the continued growth and development of this important sector. I am pleased to be able to tell the House that next month the New South Wales Government,

working with the Commonwealth Government, will host a high-level summit on the future direction of Australia's financial services sector. The Prime Minister and Premier Iemma will be the keynote speakers at this important event, which I will also attend. About 80 leaders in the finance industry, government and academia will participate in this roundtable discussion. We want their views on how to enhance Australia's financial services sector. The event is designed to identify the strengths of the sector and practical strategies for its development.

In particular, the summit will identify areas of comparative advantage, consider issues affecting the international competitiveness of the sector and examine strategies to improve our standing as a regional financial services hub. The summit aims to identify how we can further capitalise on export opportunities. The extent to which the financial services sector is able to tap into its export potential depends on a combination of developments in the market, in policy and regulation in Australia and abroad, and in leadership from within the industry. One session of the summit will focus on the barriers financial services exporters face as they seek to expand their businesses. We want to identify practical strategies that can put New South Wales on the best path to enhancing its competitiveness as a financial centre. This means looking at the roles of government, regulators, financial institutions, industry associations and other stakeholders.

I hope that representatives of financial institutions who are active in foreign markets can discuss their experiences and the barriers they have confronted in establishing and operating in these markets. As Minister for State Development, I approached the Prime Minister and offered to host this important event. It is appropriate that this forum is being held in Sydney. Sydney is host to 53 of the 55 authorised deposit-taking banks in Australia, plus all of the 10 foreign subsidiary banks and all of the 31 local branches of foreign banks in Australia. Soon to be added to this group is the Industrial and Commercial Bank of China, the world's largest bank by market capitalisation.

Just last month, during his visit to China, the Premier announced this significant addition to Sydney's financial sector. The establishment of this bank here underlines Sydney's reputation as a growing financial services hub. The summit will bring together leaders in financial services to enhance Australia's financial services industry. The Iemma Government is strongly committed to further developing Sydney as a global business and financial centre in the Asia-Pacific. We will continue to promote the strengths of New South Wales while astutely managing the State's economy to ensure a stable and attractive business environment.

SYDNEY TRAFFIC INTERRUPTIONS

The Hon. DUNCAN GAY: I direct my question to the Minister for Roads. Is the Minister aware that under his watch over the past three days there have been four major interruptions to traffic in Sydney? Does the Minister accept responsibility for not having a proper plan in place, which allowed minor incidents to become major incidents? Does he admit that on each of these occasions commuters were left without proper warning? When will the Minister stop trying to blame others and accept that the fault ultimately lies with him? Will he apologise to the people of Sydney for the chaos he has caused because of his inability to manage his portfolio? Will he give a guarantee that we will not have a repeat of this appalling situation?

The Hon. ERIC ROOZENDAAL: Sydney is Australia's only global city with more than five million people. Like many international cities, we face a number of challenges with our road network. Unfortunately there is no network in the world that can sustain major incidents on major arterials. A 32-tonne crane recently fell off the back of a truck on Southern Cross Drive. It took substantial effort to resolve that issue because the crane had to be moved by another crane. That is the sort of challenge that every network in the world faces. Overnight a fruit truck lost its load on the Pacific Highway. These are the challenges that the network faces.

The closure of the M5 East tunnel this morning was a serious traffic incident. The Government acknowledges the inconvenience and frustration caused to motorists. At approximately 7.00 a.m. the Roads and Traffic Authority was advised of a computer malfunction in the M5 East tunnel. The computer system involved operates the plant for the M5 East, which includes the safety controls for the tunnel. Of course, that also includes the fire protection and air-circulation systems. I am advised that unfortunately the computer failure also affected the back-up server, thereby disabling that additional system. As a result, the tunnel was closed in both directions to ensure the safety of motorists.

Clearly, as Minister for Roads, I understand the frustration and inconvenience caused to motorists this morning. However, when the safety systems in the longest road tunnel in New South Wales are not operating we have no choice but to stop motorists entering the tunnel for their own safety. The Roads and Traffic Authority

with the assistance of the police implemented traffic diversions to accommodate the morning traffic. The Transport Management Centre also activated electronic message signage en route to the tunnel to advise motorists of the closure and appropriate detours. This morning Transport Management Centre staff have been adjusting traffic signals on adjacent roads to manage the surrounding network. Vehicles within the closed area were guided out under Roads and Traffic Authority and police direction. Computer technicians were called to the site immediately to identify the faulty components and they are working as quickly as possible to rectify the situation. I am advised that the tunnel has now been re-opened. The Roads and Traffic Authority will also be reviewing the incident with the M5 East operators and will be conducting a systems audit. The safety of motorists is paramount in these types of incidents, and tunnels cannot be reopened until all the safety systems are fully operational and available.

TEENAGE SELF-HARM

Reverend the Hon. Dr GORDON MOYES: I ask the Minister for Lands, on behalf of the Minister Assisting the Minister for Health (Mental Health), the following question without notice. Is the Minister aware of the problem of self-harm, which can include intentional cutting, burning, scolding, banging or scratching one's own body, breaking bones, pulling hair out, or ingesting toxic substances, and which is a problem symptomatic of underlying mental and emotional distress? Is the Minister aware of the recent study "Injury Among Young Australians" conducted by the Australian Institute of Health and Welfare, which describes a 51 per cent increase in young women intentionally harming themselves—predominantly teenage girls aged 15 to 17 years—and also a 27 per cent increase among young males, who are turning to self-harm as a response to mental pain, and that young people living in very remote areas were hospitalised for intentional self-harm at twice the rate of young people living in cities? Will the Minister please indicate what specific measures are being taken? [*Time expired.*]

The Hon. TONY KELLY: I thank the honourable member for his very well thought out and important question. I undertake to get a speedy response from the Minister concerned.

NEWCASTLE COURTHOUSE INFRASTRUCTURE

The Hon. KAYEE GRIFFIN: I address my question to the Attorney General. What are the latest plans to renew and redevelop courthouse infrastructure for the people of Newcastle?

The Hon. JOHN HATZISTERGOS: The Government has a proud record of building and expanding the infrastructure of the New South Wales justice system. In 2008-2009 the Government will spend \$46.1 million to improve facilities at New South Wales courthouses, building on the Government's proud record of courthouse refurbishment and construction in rural and regional locations, which include opening a new \$5 million courthouse in Blacktown; building a new \$9.7 million Children's Court at Broadmeadow; an \$11.5 million complex at Mt Druitt; a new \$21.2 million courthouse at Bankstown; and building additional courtrooms at Orange, Moree and Nowra.

Last month I announced the completion of a major feasibility study into the upgrade of court facilities in Newcastle, and the development of a justice precinct. I am pleased to advise that last week the Attorney General's Department met with stakeholders in the Hunter region, including representatives from the Hunter Community Legal Centre, the University of Newcastle, the Law Society, the Bar Association, the Hunter Chamber of Commerce and the Lord Mayor of Newcastle, to discuss the refurbishment and redevelopment of court facilities in this important New South Wales city and to brief them on the feasibility study produced by the department to show how this can be achieved. The feasibility study considers several different ways in which the court infrastructure of Newcastle can be renewed, including the creation of a Newcastle justice precinct along with the co-location of the State courts with those of the Commonwealth Government, which is currently planning the redevelopment of its Federal Court and Family Court facilities.

I am pleased to inform the House that the Newcastle community has responded with enthusiasm to the Government's plans. The Hunter Courts Working Group Chairperson and Newcastle Law Society President, Catherine Henry, welcomed the support of the State Government and the chief executive officer of the Chamber of Commerce, Peter Shinnick, has praised the planning efforts of both the Federal and State governments, saying:

We look forward to knowing what the preferred site is and how the precinct will interact with the remainder of the CBD of Newcastle.

The Deputy Vice-Chancellor (Research) of the University of Newcastle, Professor Barney Glover, has also endorsed the project, saying:

The physical proximity of the School, the Courts and related Government services would create opportunities for involving the judiciary and the profession in a form of collaboration which would be unique in Australian legal education ...

The University hopes that it will be possible to take advantage of this exciting and mutually beneficial opportunity, and we look forward to being involved in the next phase of planning.

It is clear that the Newcastle community has expressed its commitment and appreciation of the Government's work to improve the justice system in its region. This is in stark contrast to the destruction wrought by the Coalition when it was last in power.

The Hon. Michael Gallacher: Here we go. You never let us down. There is always a little bit of poison in every one of your answers

The Hon. JOHN HATZISTERGOS: Do you know how many courthouses the Coalition closed in a single day? The Coalition has the record—39 courthouses closed in a single day. Regional areas suffered badly under the Coalition's razor gang.

The PRESIDENT: Order! I call the Hon. Melinda Pavey to order.

The Hon. JOHN HATZISTERGOS: I have mentioned this before but I will say it again for the edification of the honourable member. I went and looked at some of these courthouses. I went with the Hon. Tony Catanzariti to Jerilderie. Jerilderie courthouse is a beautiful old courthouse. It has closed and become a library.

The PRESIDENT: Order! The Hon. Melinda Pavey will cease interjecting.

The Hon. JOHN HATZISTERGOS: As I have said before, the only penalties coming out of that place are overdue book fines.

The PRESIDENT: Order! The Hon. Melinda Pavey will cease interjecting.

The Hon. JOHN HATZISTERGOS: There are other locations as well. The people of Burrinjuck lost their courthouse. Murrumbidgee lost Tocumwal; Myall Lakes lost Tea Gardens; and Coffs Harbour lost Dorrigo Local Court. Many of those were just sold off, turned into cafes, art galleries and venues for gardening clubs. [*Time expired.*]

LEGAL DRINKING AGE

Reverend the Hon. FRED NILE: I ask the Attorney General a question without notice. Is it a fact that the Senate Community Affairs Committee, on which the Rudd Government has a majority of members, has recommended in its report yesterday that State governments raise the drinking age to 21 years in the light of evidence that at this age the brain is more resilient to the adverse effects of alcohol? Will the Government introduce legislation as a matter of priority to give effect in New South Wales to this increased drinking age of 21 years, which is the legal drinking age in the majority of the States in the United States of America? Will the Government also support my private members bill, the Liquor Amendment (Drinking Age) Bill 2008, to increase the legal drinking age to 21 years to reduce binge drinking and excessive alcohol consumption?

The Hon. JOHN HATZISTERGOS: There are lots of things I follow, but the Senate Community Affairs Committee has not been on my watch list in the recent past. As the honourable member has referred my attention to it, I will look at it. However, I point out to him that my department does not administer the Liquor Act.

EDUCATION AND TRAINING DEVELOPMENTS

The Hon. TREVOR KHAN: My question is directed to the Minister for Education and Training, the Hon. John Della Bosca. Will the Minister update the House on the latest developments in his portfolio?

The PRESIDENT: Order! In accordance with Standing Order 64 the question is out of order.

MIRROOL CREEK ENVIRONMENTAL PROTECTION AND WATER SUPPLIES

The Hon. TONY CATANZARITI: I address my question to the Minister for Lands. Will the Minister provide details of the Government's plan to assist Murrumbidgee Irrigation Ltd to ensure water supplies for local producers and better environmental protection of Mirrool Creek near Griffith?

The Hon. TONY KELLY: I thank the member for his ongoing interest in practical initiatives to improve the environment. The Iemma Government is committed to working with industry to ensure the best possible outcomes for the environment and for Murrumbidgee producers. This is why I recently travelled to Griffith and joined the Hon. Tony Catanzariti and the Chairman of Murrumbidgee Irrigation, Dick Thompson, to announce the appointment of Murrumbidgee Irrigation Ltd as reserve trust manager of Mirrool Creek, near Griffith. The new Crown reserve over Mirrool Creek is an excellent environmental initiative to protect the sensitive riparian environment in cooperation with the Department of Lands and other stakeholders. The Mirrool Creek and Little Mirrool Creek reserve is an important part of the Murrumbidgee Irrigation Area that covers around 3,624 square kilometres. The new reserve extends about 96 kilometres and contains around 1,378 hectares of environmentally significant Crown land.

The Mirrool Creek and Little Mirrool Creek reserve is an important part of the Murrumbidgee Irrigation Area that covers 3,624 square kilometres. The new reserve extends about 96 kilometres and contains around 1,378 hectares of environmentally significant Crown land. The new reserve at Mirrool Creek and Little Mirrool Creek will form essential corridors for drainage and provide water supplies to irrigation holdings located in close proximity to the city of Griffith within the Murrumbidgee Irrigation Area. The creek systems provide drainage from the north-eastern areas within the boundaries of the former Yanco and Mirrool irrigation areas and subsequent water supply to the western areas, particularly the Wah Wah stock and domestic and irrigation districts.

The two creek systems will be reserved for rural service purposes. However there is a fundamental environmental protection to this reserve also. Murrumbidgee Irrigation will be responsible for the provision of water through this natural creek corridor in an environmentally sensitive way, as well as undertaking environmental remediation and improvement works related to vegetation and earthworks on the creek lands. Such works will also help prevent unnatural water flows and breakouts, preventing damage to adjoining low lying Crown and other freehold lands.

This action may also prevent the growth of additional nuisance and noxious weeds along the creek systems. The company as trust manager will be responsible for this function on my behalf under the Crown Lands Act. The creek corridor is vital to the company's land and water management plan that will improve biodiversity to the wider community. This is a great outcome for the local environment and for the customers of Murrumbidgee Irrigation in essential crop and agricultural industries worth many hundreds of millions of dollars.

It is an example of the Iemma Government working with industry and their communities, and coming up with practical environmental solutions. It is not the black and white, us versus them approach of the Greens—but a pragmatic, cooperative approach delivering environmental gains by empowering the community to take a more active role in the management of river ways and sensitive environmental lands. It is a commonsense approach that we have taken elsewhere to perpetual leases and Crown roads that does not necessarily seek to manage lands according to tenure, but is focused on long-term sustainable outcomes.

In conclusion, I thank Tony Catanzariti for his role in achieving this excellent environmental result. It demonstrates why many in country New South Wales see Country Labor members as effective environmental practitioners—not tied to outmoded ways of thinking like some of the watermelons over there, and I do not include the Hon. Ian Cohen. Only Country Labor can deliver these sorts of results, balancing the environment with other considerations like social outcome, and economic sustainability, and, importantly, working with industry to achieve these balanced outcomes.

NATIVE FORESTS

Ms LEE RHIANNON: I direct my question to the Minister for Primary Industries. As the Minister responsible for Forests NSW, is the Minister aware of the financial performance of native forests operations as distinct from plantation operations? If so, what were the native forests operation profit or loss in 2006-07 and the preceding four years? If the Minister does not have this information in the House, will he agree to release it to the public? If not, can he provide reasons why not?

Reverend the Hon. Fred Nile: This can be discussed at the estimates committees.

The Hon. IAN MACDONALD: Yes, that quite clearly could be a question. I have received questions along these lines over the last few years. There is no denying the fact that the native forests operation does operate at somewhat of a loss. That has been known for many years. Native forest timbers in the areas under the jurisdiction of Forests NSW are quite small compared to what they were in years gone by with massive additions to the national estate over recent years, but I am of the view that Forests NSW does have a small loss from its operations.

This industry has many thousands of workers and many new mills in many towns that provide solid employment to many people. They are important contributors to many local economies right up and down the coast, out around the Brigalow and down in the red gum. The Government will support those communities and will continue to have a sustainable harvest within our forestry operations. The Government will continue to support that industry and will not be bullied by the Greens on every area of primary industries they can raid. Yesterday they sought to destroy coal industry jobs. Before that they were after jobs in electricity generation and energy and today is forestry day. They ask questions directed at the heart of forestry jobs. The Government will not yield to the Greens' tactics on that.

The Government will continue to have a sustainable forest products industry in the native forestry industry. The Government has regenerated that industry with at least \$130 million-odd investment from the Commonwealth in new technology. A massive range of wonderful products is coming from the forest products industry that did not exist when the Coalition was in government. The industry had no value-adding then. This Government has made it a value-added, global industry. That is the effect of the financing, funds and assistance put into the native forest industries along the coast and across the State by this Government and the Federal Government.

Ms LEE RHIANNON: I ask a supplementary question. Given the Minister's stated commitment to sustainable harvests, is it preferable business practice that the financial performance of its plantation operations should be separate from its native forests operations?

The Hon. IAN MACDONALD: What would the member know about business practice? She spends all her time coming into the House knocking business.

Ms Lee Rhiannon: Point of order: Mr President, I draw your attention to Standing Order 91 referring to imputations and improper motive. Once again he is refusing to answer the question by distorting the Greens' position and my personal position.

The Hon. IAN MACDONALD: To the point of order: I have answered the question. I said there is a small loss but we are prepared to wear that on the basis of protecting jobs and farmers in the bush. We are prepared to do that. There is no question about it.

The PRESIDENT: Order! Obviously during question time the level of cut and thrust between members is more robust than during other proceedings. However, I remind members that Standing Order 91 (3) states that members should not make imputations against other members.

The Hon. IAN MACDONALD: She does not have great business knowledge. I do not think that is an imputation; it is a fact. The details of forestry operations are contained in the report. The Greens have staff. They can go and do their homework.

EFFICIENCY DIVIDEND

The Hon. GREG PEARCE: My question is directed to the Treasurer. Is the Treasurer committed to continuing the efficiency dividend recommended in the audit of State revenues and expenses, previously implemented in the budget? Why has the current budget failed to include the additional efficiency dividend of 1 per cent in 2011-12?

The Hon. MICHAEL COSTA: We are committed to the efficiency dividend.

ROAD SAFETY TRIAL

The Hon. PENNY SHARPE: My question is addressed to the Minister for Roads. Will the Minister update the House on the latest road safety trial on New South Wales roads?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for her question and interest in this matter. As members know, road safety is a major priority for the Iemma Government. While we can never be complacent, the road toll for 2007 was the lowest since World War II. But there is always more work to be done. That is why the Minister for Police joined me yesterday to launch Australia's largest road safety trial using satellites. We always need to stay ahead of technology when looking at ways to help motorists stay safe on roads in New South Wales.

The 1 million intelligent speed adaptation project will involve 100 cars, state-of-the-art in-car technology similar to satellite navigation devices and up to four globe positioning satellites. Last year in New South Wales 139 people lost their lives on our roads because of speed-related accidents. Speeding is a factor in around 40 per cent of all fatal crashes. Speeding is the biggest killer on our roads. This is the type of technology that could help cut the road toll and save lives.

The trial is being carried out by the New South Wales Centre for Road Safety. The Iemma Government formed the centre last year to improve road safety in New South Wales. The Government is deeply committed to improving road safety. That is why we have a record \$4 billion Roads budget. That is also why a record \$141 million is being invested on road safety initiatives next year. The trial will help motorists stay within the speed limit. To put it simply, satellites tell a device mounted on the dashboard what the speed limit is at the exact location of the car. The trial is about using technology in a practical way to improve road safety and help save lives. The maps being used in the trial have been developed by the Roads and Traffic Authority and are much more accurate than those formerly used in vehicle-based satellite navigation systems. Wollongong, Shellharbour and Kiama will be the New South Wales locations for the trial. Other States are doing their own trials but ours is by far the largest.

Of course, there are further benefits to this technology aside from lowering the risk of a speed-related crash. The best way to avoid a speeding fine is not to speed, and this technology encourages just that. I advise the House that the trial will begin in July and is expected to run for about 18 months. I welcome the trial and look forward to the outcome and what the future holds for this technology.

SAVANNAH CAT IMPORTATION

Mr IAN COHEN: My question is directed to the Minister for Primary Industries. Does the Minister plan to make representations or submissions to the Federal environment Minister requesting a prohibition on the importation of Savannah cats? Is the Minister concerned that the introduction of Savannah cats may pose a significant threat to New South Wales biodiversity, and domestic and stock animals, which would be counter to the aims of protecting native fauna and flora under the New South Wales State Plan Priority E4?

The Hon. IAN MACDONALD: This is a very good question by Mr Ian Cohen. I am totally opposed to the importation of Savannah cats, as well as other crossbreed cats, which, if they escape into the environment, will be extremely destructive to the environment, and particularly to Australian marsupials. Unfortunately I am not in control of the Companion Animals Act, under which this issue falls, but certainly I will convey the question to the Minister for Local Government. Mr Ian Cohen can rest assured that any influence I am able to exert in relation to this matter will be very much in support of the member's comments.

TEACHER STAFFING PROCEDURES

The Hon. JOHN AJAKA: My question is directed to the Attorney General, Minister for Justice, and Acting Minister for Education and Training. With the planned phase-out of service transfers for teachers, does the Government now propose to implement differential pay for teachers to work in schools outside metropolitan areas?

The Hon. JOHN HATZISTERGOS: I am not sure I understand the question. At the moment these matters are the subject of discussions in the Industrial Relations Commission. However, I can provide some details that might elucidate the honourable member's understanding. The Government is determined to ensure that students in New South Wales public schools are taught by qualified, quality teachers. New staffing procedures commenced from term 2 this year to meet the needs of school communities. I understand that the Opposition did not say anything against the changes, although it tried to muddy the waters. While the previous staffing procedures provided some limited opportunities for selecting classroom teachers, feedback from many school communities and principals was that more schools wanted to play a part in selecting the most appropriate teacher for their school.

We have taken the good parts of the previous procedures and strengthened them with new initiatives. Unfortunately, after a number of negotiating sessions, the union rejected the department's proposals. Improvements needed to be made to the existing staffing procedures, so on 12 March 2008 the director general advised the union and teaching staff that new staffing procedures would be implemented from term 2 in 2008. The director general has offered to include the new procedures in a staffing agreement with the union. As I indicated, the department and the union are currently in conciliation on the issue in the Industrial Relations Commission.

The new procedures maintain the centralised staffing system, and teachers' award rights are unaffected. The improvements to the staffing arrangements will over time enable more schools that wish to do so to play a greater part in selecting the most appropriate teacher for that school. The improvements will also give experienced and new teachers more opportunities to apply for jobs in schools in which they want to teach. This, however, will be done in the context of ensuring that teachers' rights to transfer are protected in cases where the teachers have worked in remote schools, have genuine and compassionate reasons to move, or have become excess to the school's needs because of changes to enrolments or curriculum.

COMMODITY EXPORTS

The Hon. HENRY TSANG: My question is addressed to the Minister for Mineral Resources. Can the Minister update the House on the most recent forecast of the Australian Bureau of Agricultural and Resource Economics on the value to Australia, and in particular to New South Wales, of commodity exports?

The Hon. IAN MACDONALD: The Australian Bureau of Agricultural and Resource Economics [ABARE] this week released statistics that show New South Wales and, indeed, Australia are currently in the midst of a record mining and resources boom. Yesterday's *Australian* newspaper reported:

The China-led boom will boost Australia's export revenue by at least \$58 billion in the coming year, equivalent to almost \$3000 for every person in the country ... "

This is proof of the tremendous and positive effect the mining boom is having on each and every one of us. I should note that before last night's changes the Australian Bureau of Agricultural and Resource Economics predicted that mineral exports would soar by 50 per cent in 2008-09 to \$178 billion. As the *Australian* mentioned, analysts now expect this mining boom to bring our national trade account back into surplus for the first time in six years.

We can expect a 37 per cent lift in average mineral prices over the coming 12 months, led by increases in coal, iron ore, oil, aluminium and gold, following an 8 per cent rise in 2007-08. In our commodity exports we have had a 74 per cent lift in thermal coal and a 123 per cent uplift in metallurgical coal. Significantly higher global coal and mineral prices have resulted in the value of New South Wales mineral production increasing from \$12.3 billion in 2006-07 to an estimated record of over \$13 billion in 2007-08. The value of New South Wales coal production alone—the States' largest mining sector—has risen by about \$1 billion to over \$9 billion in the same period. New South Wales coal exports totalled 91.5 million tonnes in 2006-07, valued at \$6.2 billion. This is expected to rise to around 100 million tonnes in 2007-08, valued at \$7.5 billion.

Coal is the single largest export from New South Wales in value terms. The Australian Bureau of Agricultural and Resource Economics is still expecting a 12 per cent rise in the price of rural commodity exports—that is, if the drought situation improves. Obviously, with 62 per cent of New South Wales in drought and weaker prices for rice, wheat and other products, this prediction is in jeopardy. The *Australian Financial Review* yesterday predicted that Australian commodity exports will soar by 40 per cent next financial year to a record \$212 billion, driven by a lift in the prices of coal, iron ore and crude oil. The Australian Bureau of Agricultural and Resource Economics predicts that the value of iron ore production will rise by 72 per cent, on a volume increase by 18 per cent. China has pushed iron ore and coking coal to our most valuable exports; the price of coking coal tripled earlier this year because of continued strong steel demand from China. Indeed, it has increased again in recent times.

Trade is essential to the prosperity of New South Wales and China, and we have seen our economic relationship go from strength to strength. In 1972 our bilateral trade was worth just \$113 million; in 2006-07 it was \$15.4 billion. In fact, China is now this State's, and Australia's, largest trading partner. In 2007 China became the world's second largest exporter. Australia is the world's largest exporter of coal, and New South Wales accounts for 39 per cent of Australia's coal export output. The unprecedented mining boom in New South Wales has brought new investment and created jobs in regional areas. It has also increased export income to the State, with coal being the number one export in New South Wales in value terms.

The value for coal production was estimated at \$8.1 billion in 2006-07, and it is predicted to increase significantly to around \$9.4 billion in 2007-08 on the back of significantly higher coal prices. Total mineral royalties for New South Wales are expected to exceed \$900 million for 2008-09, an increase of \$400 million over 2007-08. The minerals industry employs 47,000 people directly and supports over 200,000 jobs throughout the State. New mineral discoveries have provided an economic and employment boost to many regional and rural areas, including Orange, Parkes, Cobar, Nyngan, West Wyalong, and in the south-west of the State.

OIL PRICE INCREASES

Ms SYLVIA HALE: I address my question to the Minister for State Development. Given recent and ongoing increases in the price of oil, has the Minister's department prepared any projections of the effect of these increases on State development—for example, on trucking costs? What infrastructure, such as rail electrification projects, will the State require if oil price increases or reductions in supply result in disruptions to food supply chains in this State?

The Hon. IAN MACDONALD: There is no doubt that higher fuel prices are having a major impact on our economy. Higher prices will definitely have an effect on consumers, rural producers, and others. In future years that effect will be compounded by the emissions trading scheme, which will result in further price increases to every business and consumer across the State. The Government is currently conducting modelling on the emissions trading scheme to keep informed in response to the green paper that is to be released on about 6 July.

There is evidence of this impact in the fishing industry where fewer products are coming in as fishers reduce their time at sea, and consequently their catch, because of high fuel prices. Graham Turk and others associated with the Fish Markets made that clear to me yesterday when I spoke to them. It is also probably having an affect on transport and it will sift through the economy in the form of inflationary pressure. I do not have the precise figures but I have read a lot of impact studies on a sector basis. I will endeavour to get a collection of the figures together for Ms Sylvia Hale, which I will then present to the House.

UNIVERSITY OF NEW ENGLAND INQUIRY

The Hon. RICK COLLESS: My question is directed to the Acting Minister for Education and Training. Is the Minister aware of the impasse between the chancellor and the vice chancellor of the University of New England? Is it a fact that the chancellor, Mr John Cassidy, has lost the confidence of the senior management at the university, including the vice-chancellor, Mr Allan Pettigrew, resulting in an inquiry to be conducted by Sir Laurence Street? Is the Minister aware of the close personal relationship between the chancellor and the member for Northern Tablelands, particularly in relation to election funding? Will this relationship affect the impartiality of the process of reappointing the chancellor, which is due to occur later this year? What are the terms of reference for the inquiry to be conducted by Sir Laurence Street, and what immediate action is the Minister taking to resolve this situation?

The Hon. JOHN HATZISTERGOS: University governance, as the honourable member would know, is a matter for the university. The University of New England can establish its own processes to deal with whatever issues confront it. The imputation against the member for Northern Tablelands reflects more on the Hon. Rick Colless than it does on the member for Northern Tablelands.

VEXATIOUS LITIGANTS

The Hon. MICHAEL VEITCH: My question is addressed to the Attorney General, and Minister for Justice. Will the Attorney General update the House on initiatives to address the problem of vexatious litigants?

The Hon. JOHN HATZISTERGOS: The Government is committed to protecting members of our community and the courts from vexatious litigants. That is why the Government is acting to bring forward reforms to make it easier for the courts to deal with persons who frequently and persistently seek to commence legal action without reasonable grounds, or for improper purposes. Vexatious litigants wreak havoc on innocent people, using the court system to harass, intimidate, and cause great expense with legal action that has no merit. Vexatious litigants abuse the justice process by pursuing un-meritorious applications, raising spurious defences, refusing reasonable settlement offers, failing to pay costs after being ordered to do so, and launching frivolous appeals. They are almost always self-represented and have no money to pay any costs awarded against them.

The courts are there to administer justice and help people to resolve their disputes. They are not there to allow people to run legal vendettas against the world. By misusing the courts vexatious litigants cost not only the targets of the legal action, but also legitimate court users who are delayed access to the courts. There are currently 13 people whom the Supreme Court has declared as vexatious. Some of these individuals have instituted over 100 court actions. These vexation litigants can sue anyone and everyone they come into contact with, including, but not limited to, members of their immediate families, neighbours, tradespeople, government departments, large corporations, former employers, doctors, and lawyers.

The Government's reforms will be introduced this week and will adopt the national model legislation on vexatious litigants. The States of Queensland and the Northern Territory have already adopted the national model laws. I understand that the States of South Australia and Tasmania are considering similar laws. The reforms will allow the Land and Environment Court and the Industrial Relations Commission to make vexatious litigant orders against people commencing proceedings in their jurisdictions; to expand the range of people with standing to institute vexatious litigant proceedings, including the Solicitor General, a registrar, the person who is being sued, or another person who has sufficient interest; to allow the court, when deciding to grant a vexatious proceedings order, to consider proceedings instituted by the person in any other Australian court or tribunal; and to allow for vexatious proceedings orders to be made against people acting in concert with vexatious litigants.

The reforms will also change the test to which the court uses to decide if someone is a vexatious litigant from "habitually and persistently" conducting vexatious proceedings to "frequently" conducting vexatious proceedings. Someone who has been declared a vexatious litigant will not be allowed to start any subsequent legal proceedings without first seeking the leave of the court. The Government has consulted with heads of jurisdiction and the legal profession on the reforms, and the key stakeholders have welcomed the changes. Hugh Macken, President of the New South Wales Law Society, said:

[I] support the bill and applaud the Government for introducing this legislation which will assist the courts in preventing the abuse of the judicial system.

This is an important reform, which I hope will receive the broad support of the Parliament when the legislation is introduced.

ROCK THE SCHOOLS TOUR SPONSORSHIP

Dr JOHN KAYE: My question is directed to the Acting Minister for Education and Training. Is the Minister aware that mobile phone, hair care products and videogame manufacturers are using their sponsorship of the *Rock The Schools Tour* to promote their products to school students? Is the Minister concerned that commercial product promotion in schools is incompatible with the educational mission of those schools and risks undermining the integrity and independence of the schools?

The Hon. JOHN HATZISTERGOS: I will take the question on notice.

SCHOOL ZONE FLASHING LIGHTS: NORTH STRATHFIELD PUBLIC SCHOOL

The Hon. DON HARWIN: My question is directed to the Minister for Roads. Will the Minister detail the result of the Roads and Traffic Authority's investigation of the option of installing flashing lights outside the Strathfield North Public School? Have funds been made available for the installation? When does the Roads and Traffic Authority expect the installation to be completed?

The Hon. ERIC ROOZENDAAL: Members would be well aware that the Government has implemented a \$46.5 million program to install the latest flashing light technology into appropriate school zones around the State. As part of that process the Government is also installing a number of speed cameras, and the revenue raised by the speed cameras will go back to the funding of more school zone flashing lights.

The Hon. Duncan Gay: Can't you put up warning lights without installing a speed camera?

The Hon. ERIC ROOZENDAAL: There are a number of school zones with flashing lights. Wherever there is a camera there is a set of flashing lights as well. The Hon. Duncan Gay displays yet again his ignorance. Wherever there is a speed camera there is a set of flashing lights as well to alert drivers. In addition to those sites, there are a number of other flashing light sites to encourage drivers to slow down. It is important to understand when talking about school zone safety that the Government takes a comprehensive approach to this matter. The approach includes overpasses, pedestrian fencing to stop children crossing roads, "wombats" or raised crossings, signalised lights, pedestrian crossings and over 1,000 lollipop personnel, who assist children each morning and afternoon to cross roads.

ROAD TRANSPORT INDUSTRY SAFETY COMPLIANCE

The Hon. IAN WEST: My question is addressed to the Acting Minister for Industrial Relations. Will the Acting Minister advise the House on what the Government is doing to improve the compliance of the road transport industry with the industrial laws of New South Wales?

The Hon. ERIC ROOZENDAAL: I thank the Hon. Ian West for his question and his ongoing interest in workplace issues. On 1 December 2006 new workplace safety measures came into effect requiring the road transport industry to take greater responsibility for road safety, including safety induction training and safe driving plans. The New South Wales Industrial Relations Commission, following a test case involving major industry parties, approved these measures. The new measures apply to all transport operators who engage long distance truck drivers. "Long-distance truck drivers" are defined as drivers exceeding 500 kilometres in any one shift—

The Hon. Duncan Gay: Point of order: I seek some clarification on a matter. The Road Transport Legislation Amendment Bill is listed to come before the House and the Minister is talking about matters that may fall within the leave of that bill. In fact, I believe they do.

The PRESIDENT: Order! The standing orders provide that only bills that are outside the Order of Precedence do not fall within the anticipation rule. The Minister should not canvass matters that are relevant to a bill that will soon be before the House.

The Hon. ERIC ROOZENDAAL: The new measures apply to all transport operators engaged in long distance truck driving, which is defined as drivers exceeding 500 kilometres in any one shift in a vehicle with a gross mass of over 4.5 tonnes.

The Hon. Duncan Gay: Point of order: The Minister's answer clearly relates to a bill that is listed before the House.

The PRESIDENT: Order! In the time available I am unable to assess the contents of the bill. I will take the point of order on notice and rule upon it at a later time.

Later,

The PRESIDENT: Order! A point of order was taken earlier by the Deputy Leader of the Opposition on the basis that an answer by the Minister anticipated debate on a bill that was before the House. I have now had an opportunity to assess the bill and the question that was asked. The response of the Minister for Roads was perfectly in order in the sense that it was relevant to the question asked. However, the question was anticipating debate on the bill and is, therefore, out of order.

BEECHWOOD HOMES

Reverend the Hon. FRED NILE: I ask the Attorney General, representing the Minister for Housing, a question without notice. Is it a fact that hundreds of families are facing financial disaster as a result of the collapse of Beechwood Homes? Will the Minister indicate the actions the Government is taking to ensure that those families will be able to use their house plans and that their houses will be completed according to their contracts?

The Hon. JOHN HATZISTERGOS: The question should be more properly addressed to me as representing the Minister for Fair Trading. As to the issues relating to Beechwood Homes that the member referred to in his question, I understand the Minister for Fair Trading already has made extensive public statements, including in radio interviews, about the Government's proposed actions. Those matters are on record. Bearing in mind the member may not be fully aware of those statements, I will take the question on notice and obtain an answer for the House.

NEPEAN HOSPITAL MENTAL HEALTH STAFF SAFETY

The Hon. DAVID CLARKE: My question without notice is directed to the Acting Minister for Industrial Relations. How does the Minister intend to address safety issues for mental health nurses at Nepean Hospital, with assaults on nurses currently occurring twice a month and some nurses suffering from

post-traumatic stress after physical assaults from ice addicts? Why did a WorkCover representative who visited the ward on 10 April find the management's approach satisfactory, when duress alarms are not working, there are no on-site security officers to assist nurses under attack, and nurses are expected to search for drugs on patients regardless of the condition or size of those patients? Why have WorkCover inspectors allowed mental health nurses to work under such dangerous conditions? What will the Minister do to improve the health and safety aspects of this hospital workplace?

The Hon. ERIC ROOZENDAAL: The Hon. David Clarke has asked a very specific question. It is appropriate that I take it on notice.

RURAL COMMUNITY TECHNOLOGY CENTRES: COMPUTER ACCESS

The Hon. GREG DONNELLY: My question without notice is addressed to the Minister for Rural Affairs. Can the Minister provide details of the Office of Rural Affairs initiative that is providing computers to rural communities?

The Hon. TONY KELLY: Access to computers and information technology is a major issue confronting many people in rural New South Wales. Many in the community, particularly the aged and the poor, still have little contact with computers and do not know the difference they can make to their everyday lives. For the aged, this lack of access to computers compounds the problems of isolation and loneliness. For children of those less economically advantaged, it often leads to greater social problems and can entrench intergenerational inequality. While some Opposition members may accept this situation, Labor is committed to addressing these inequalities. I am pleased to inform the House that my Office of Rural Affairs began a program in May to provide computers for struggling rural communities. The program was developed through the 85 community technology centres that are already in existence around regional New South Wales. Through this initiative the centres will be able to increase their number of computers and upgrade their current ones.

The computers, which were decommissioned by the Department of Lands, have been given a second life through this program. However, there are many more small towns, villages and community groups around the State that are unable to access the 85 community technology centres. The backbone of these communities is the not-for-profit organisations, which are staffed in the main by elderly volunteers—the very people I described at the outset as those least likely to possess computer skills. The initiative has only just begun and already the Office of Rural Affairs has assisted eight individuals and groups over four weeks.

A great example of the benefit of this initiative is the three computers that went to amateur horse groups after the equine influenza outbreak. The outbreak has resulted in onerous but necessary record keeping with regard to horse transportation. The record keeping was a costly impost for amateur horse enthusiasts at the low end of the income spectrum, of which there are a great number in rural New South Wales. The provision of these renovated computers has allowed members of a Tamworth group who lacked the resources to comply with these new regulations to continue with their passion. Further, the Tamworth group has agreed to assist other riding groups across the State to comply with the necessary regulations.

Computers have also been provided for historical society small country museums, environmental groups and neighbourhood centres. My office was advised of one instance of a grandmother with a husband afflicted by cancer. During his illness, she has learned computer skills from scratch and is now regularly emailing her children and grandchildren in Melbourne, as well as acting as secretary and record keeper of the Maclean Historical Society. This is a wonderful initiative and I can think of no better use for these computers than assisting needy community groups to access the age of information technology.

WORLD YOUTH DAY PERFORMANCE AUDIT

Ms LEE RHIANNON: My question without notice is directed to the Treasurer. Would the Treasurer support the New South Wales Auditor-General conducting a performance review of World Youth Day and the expenditure of public money in relation to the activities of the World Youth Day Coordination Authority and other relevant New South Wales agencies involved in preparing for and organising the event? If not, why not?

The Hon. MICHAEL COSTA: It is clear that the Ms Lee Rhiannon does not understand the Public Finance and Audit Act or the role of the Auditor-General. Performance audits are matters for the Auditor-General. Certainly the Government can make requests—

The Hon. Duncan Gay: Your recent announcements on the Auditor-General have been a movable feast.

The Hon. MICHAEL COSTA: We had to change the Act, as the Deputy Leader of the Opposition knows. The Opposition voted for those changes. In fact, the Opposition suggested the changes and we took the suggestions on board. We had to alter the powers. The Government cannot direct the Auditor-General to do anything. The Auditor-General has scope within the Act to undertake performance audits, but such decisions are for the Auditor-General to make. The Auditor-General will have to weigh up performance audits in this area as against other areas of government. I should have thought that, on balance, other areas of government would be of greater significance than World Youth Day. It is not for me to know what is in the mind of the Auditor-General, but one area I could suggest is the disruption of port activity in New South Wales. The Greens are very keen to undertake audits in areas that suit their ideological interests. We all know what is going to happen in two weeks time—the Greens will support a campaign to disrupt port activity and undermine economic activity and jobs in the Hunter. Government resources will be required to monitor and police that campaign because of the conscious policy of the Greens for people to be arrested, as I have reported to the Parliament previously.

As I pointed out yesterday, the Greens will have people singing to entertain who have been arrested and placed in cells. I suggested a range of songs that they may sing, members might recall. I understand that the Day of Action group has published a list of articles that people might like to bring with them to the event. One suggestion is for people to bring books so that they people do not become bored when they are supporting their colleagues in prison. I could make a number of suggestions for the sorts of books that these people might take with them. The *Dr Seuss* series of books would probably be appropriate for the Greens for two reasons: first, the illustrations would reflect the state of mind of many of the people involved; and, second, the language would probably be at a level comprehensible to many Green activists.

If honourable members have further questions, I suggest that they put them on notice.

OCEAN TRAP AND LINE FISHERY WILDLIFE TRADE OPERATION DECLARATION

The Hon. IAN MACDONALD: I speak further to an answer I gave yesterday to a question from Mr Ian Cohen about the current wildlife trade operation declaration for the ocean trap and line fishery. I informed the House that the New South Wales Government had implemented new restrictions on commercial fishing to help protect grey nurse sharks at the Green Island-Fish Rock near South West Rocks and the Magic Point near Maroubra aggregation sites. I can now confirm that additional restrictions at Manta Arch, South Solitary Island, and at The Steps-Anemone Bay, North Solitary Island, have been implemented.

The new arrangements for commercial fishing at each of these aggregation sites ban the use of commercial ocean fishing methods that have been identified as being a moderate to high risk to grey nurse sharks, namely, all setlines, bottom-set handlines and jigging. These fishing methods cannot be used within 500 metres of the Solitary Islands and Magic Point aggregation sites and within 1,000 metres of the Green Island-Fish Rock aggregation sites and connecting corridor. Burley has been banned from use within 1,000 metres of the Solitary Islands and Magic Point aggregation sites and within 1,500 metres of the Green Island-Fish Rock aggregation sites and connecting corridor.

The actions of the New South Wales Government to restrict commercial fishing and protect grey nurse sharks are consistent with the ocean trap and line fishery strategy of the New South Wales Department of Primary Industries. The actions are also consistent with the terms of the Wildlife Trade Operation approved by the Commonwealth Government under the Environment Protection and Biodiversity Conservation Act 1999. I am advised that the New South Wales Department of Primary Industries is confident that it has met Commonwealth requirements for the extension of its Wildlife Trade Operation declaration and fully expects it to be renewed.

CENTRAL COAST WATER COSTS: TILLEGRA DAM FUNDING

The Hon. TONY KELLY: Earlier in question time the Leader of the Opposition asked me a question about Central Coast water costs. The Independent Pricing and Regulatory Tribunal regulates the water and sewerage businesses of Gosford and Wyong councils, and the tribunal has not included Tillegra Dam in calculating the water bills of Gosford or Wyong councils. In March this year Hunter Water completed the final stage of a strategic pipeline linking the water supply systems of the Central Coast and the Hunter. This pipeline

provides drought security for the Central Coast. The Central Coast councils may choose to purchase water from Hunter Water and the principles for calculating prices will be determined by the Independent Pricing and Regulatory Tribunal.

ROCK THE SCHOOLS TOUR SPONSORSHIP

The Hon. JOHN HATZISTERGOS: During question time today Dr John Kaye asked me a question relating to the sponsorship and promotion of commercial enterprises at schools. There are many examples of private sector companies providing additional resources and support for schools. This practice has occurred for generations. Examples include the Commonwealth Bank's school saver program, the NRMA's youth safety forums, and corporate sponsorship of spelling bees, and debating and reading competitions. There is an appropriate level of local decision making in schools, allowing principals, teachers and school communities to determine the resources they use to teach the curriculum. To support teachers and schools in their decision making, the Department of Education and Training has produced a policy document entitled "Sponsorship of School and Departmental Activities—Policy Statement and Guidelines". The policy covers key areas such as appropriateness of potential sponsors, acceptable forms of acknowledgement, authority to negotiate and approve sponsorships, and monitoring and reporting responsibilities. Teachers are trained and skilled in determining the resources that will work best for their students and they take this responsibility very seriously. Schools are also advised to consult with their school community, including parents, prior to entering into any sponsorship arrangements.

Questions without notice concluded.

THREATENED SPECIES CONSERVATION AMENDMENT (SPECIAL PROVISIONS) BILL 2008

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Tony Kelly, on behalf of the Hon. John Hatzistergos.

Motion by the Hon. Tony Kelly agreed to:

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

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

COURTS AND CRIMES LEGISLATION AMENDMENT BILL 2008

CHILDREN (CRIMINAL PROCEEDINGS) AMENDMENT BILL 2008

Messages received from the Legislative Assembly agreeing to the Legislative Council's amendments.

[The President left the chair at 1.05 p.m. The House resumed at 2.30 p.m.]

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Precedence of Business

Motion by Reverend the Hon. Fred Nile agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith relating to the conduct of the business the House.

Precedence of Business

Motion by Reverend the Hon. Fred Nile agreed to:

That Government Business take precedence for the remainder of the sitting.

POLICE INTEGRITY COMMISSION AMENDMENT (CRIME COMMISSION) BILL 2008

Second Reading

Debate resumed from an earlier hour.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [2.34 p.m.]: I lead on behalf of the Opposition on the Police Integrity Commission Amendment (Crime Commission) Bill 2008. The Opposition opposes the bill. We do not often oppose police-focused legislation, but will sometimes try to finetune it based on the information we have received from police on the front line. This situation is unique in that the Opposition will steadfastly oppose this bill—not because we believe there is no need for oversight of the New South Wales Crime Commission but because there must be scrutiny external from the organisation to ensure public confidence in an organisation that has not yet reached its full potential in serving the people of New South Wales in tackling organised crime.

The Opposition believes the Government could take a different approach to this issue. The steps it took in coming to the decision to entrust the Police Integrity Commission [PIC] with responsibility for overseeing the Crime Commission were fundamentally flawed from the outset. I therefore ask the Government to reconsider its position. I recognise that the matter to which I will refer is before the court, but I will not in any way transgress into discussing that matter, which involves Mark Standen, a senior official at the New South Wales Crime Commission. That being said, it is important to put some information on the record about events after Mark Standen's arrest on 2 June and to raise a number of concerns about his appointment to the commission. I will also address concerns about the public perception of the Crime Commission and the need for the Government to address them.

On 2 June the assistant director of investigations of the New South Wales Crime Commission, Mr Mark Standen, was arrested for his involvement in the manufacture of \$120 million worth of amphetamines. The matter is now before the court. As I said, I will say no more other than to make that observation. An announcement was made about the arrest late on 2 June. The next day, on behalf of the Opposition and in recognition of the difficulties with the arrest that were about to unfold, I said that we needed a judicial inquiry entrusted with the powers of a royal commission to examine not only this matter but also a number of other matters relating to the Crime Commission. I stand by that statement.

Of course, the Government accused the Opposition of sensationalising the matter and indulging in a knee-jerk reaction. Minister Campbell tried to hose the issue down by saying that the Government had confidence in the Crime Commission and that there were no problems. He said that it was a one-off and that it involved one rotten apple in the barrel, so there was no need for an inquiry. The Government subsequently said it would refer the matter to the Independent Commission Against Corruption. When it was revealed the following day that Mr Standen allegedly had a relationship with a woman who worked in the assessment area of the Independent Commission Against Corruption, the Government said it would send the matter to the Police Integrity Commission. That announcement was made on 5 June. Within three days we went from the arrest and the Minister's saying that it involved only one bad apple and that there was no need for concern to a reference to the Independent Commission Against Corruption and then the Police Integrity Commission.

The Opposition's response to the situation was correct and consistent with the debate before the House. The Police Integrity Commission and the New South Wales Crime Commission have in many instances worked collaboratively in organised crime investigations in New South Wales. Many of the high-level investigations that the commission has undertaken in the past have included allegations that members of the New South Wales Police Force have been involved in organised crime. That has led to collaboration between the Police Integrity Commission and the Crime Commission in investigations. Both bodies have extraordinary powers that I suggest members of the public and, indeed, the Parliament entrust to them in the belief and knowledge that they will be used properly and that they are the tools required to tackle organised crime.

We are not talking about shoplifters or people involved in low-order crime, such as street-level drug crime. We are talking about highly organised and intelligent networks that operate beyond State and national boundaries. To operate in this environment, organised crime networks need information and contacts within law enforcement agencies. It is that allegation that drags in either members of the New South Wales Police Force or some other organisation, perhaps even the Australian Federal Police, as we have seen in some instances that I will discuss later. That being said, the Opposition supports the Police Integrity Commission's and the Crime Commission's use of their highly controversial powers provided there is no question about the integrity of the organisation or its ability to conduct the investigation thoroughly.

It is extremely important to the Opposition that the Crime Commission continue its work targeting organised crime. It is extremely important that from today—given that this is the Government's response to the arrest of Mr Standen on 2 June and the identification of problems in the system—every current investigation by the Crime Commission and other agencies that is before the courts and every investigation that takes place not be tainted with any suggestion of improper conduct because the Government has refused to test allegations that go beyond the Standen matter. In the past, the Opposition raised allegations that involved members of the New

South Wales Police Force, and Task Force Bax eventually found its way through to the court system. It was found that police officers identified in that investigation were unfairly treated and subsequently the police officers were awarded compensation by the courts for the way in which the investigation was conducted.

It is not just Bax or the matter involving Mr Standen. In the past couple of days we have heard fresh allegations in the Sydney media about other high-profile criminal identities linked to Mr Standen. I understand these are not currently related to the matter before the court; they are fresh allegations about an improper relationship between this man and those criminal identities. We are told that this legislation will enable the Police Integrity Commission to investigate the allegations, but I do not believe that such a move by the Government is of assistance to the Crime Commission as it tries desperately to clear the cloud that hovers over its ability and its conduct.

There are other investigations. Operation Emblem was raised in the estimates process, and it has been raised in the public domain. Despite the promise by the former Commissioner of Police, Mr Ken Moroney, to make available the recommendations of the Emblem inquiry—for members' edification, it was an investigation into the conduct of an internal affairs investigation involving police who have subsequently been identified at the Police Integrity Commission—questions remain about the process by which the Crime Commission allowed listening device warrants to simply roll over. The allegation is that due diligence, currently in place for every other use of listening devices, was not applied in this instance. Allegations are that the Government has refused to conduct some sort of scrutiny. This was exemplified by the fact that Ken Moroney agreed, when asked during the estimates process, to make available recommendations of the Emblem inquiry. After he left the estimates process, and following recommendations from the Crime Commission, those recommendations have never been revealed. Again, we are concerned about the conduct of that investigation. The Government has not taken reasonable steps to remove from this organisation—which should be at the forefront of investigating organised crime, using its special coercive powers to do so—any question or taint of impropriety. The Government has refused to do that, and continues to do so.

Real concerns have been raised about a matter honourable members are familiar with: seven kilograms of cocaine were put on to the streets as part of a controlled operation. Media reports suggest that the controlled operation of the release of the seven kilograms of cocaine did not follow proper process, that it did not follow the normal chain of events relating to prior reporting, and that a degree of verbal agreement was given by senior people in the Crime Commission to run this controlled operation on the streets of New South Wales. I suspect that is very similar to the concerns raised by some people in the matter that resulted in the Emblem inquiry, where due process normally afforded to investigations—if the information I have received is true—does not appear to apply to the Crime Commission in the same way.

The seven kilograms of cocaine was put on to the streets in a controlled operation under the stewardship of Mr Standen, the man who was arrested on 2 June. One kilogram was retrieved; six kilograms were lost. Any subsequent attempt to find how six kilograms were lost on the streets during the controlled operation does not rate a mention. It was not worthy of any comment by the Government at the time and it appears it is not worthy of the Government even at this stage. There was a suggestion of a leak from within the Crime Commission; that a colourful racing identity by the name of Les Mara, a former professional footballer, together with other offenders, had been tipped off that they were going to be arrested by the Crime Commission, and they fled overseas. It was then alleged, through a whispering campaign, that the leak was a Federal police officer. Again, there was no follow-up and no scrutiny, and every time questions are asked of the organisation the shutters come down, the secrecy provisions are pulled out, and this House is told that as this is an ongoing investigation it is not entitled to any scrutiny or accountability.

It is unacceptable that, following the arrest of Mark Standen on 2 June, we have the same attitude within the New South Wales State Government. Of course, the Government will say today that the PIC is an outstanding organisation and that it will be able to conduct independent investigations into the Crime Commission. We can hear all the words now. But I remind honourable members that when the royal commission into the New South Wales Police Force commenced in 1994, with the subsequent formation of the Police Integrity Commission, it was written in stone that there had been no relationship between personnel in the New South Wales Police Force, the PIC and the royal commission personnel. It did not matter how hardworking you were within the New South Wales Police Force, what your level of integrity was or whether you came from internal affairs; you were not suitable. It was deemed to be of the utmost importance that there be complete independence between the royal commission, the subsequent Police Integrity Commission and the New South Wales Police Force. How the Government has changed its tune now! With the PIC working collaboratively on many operations with the Crime Commission—highly secretive organisations with extraordinary powers—public confidence in the ability of the Crime Commission to continue to operate goes out the window.

This legislation is, in my view, playing into the hands of organised crime figures and their highly paid legal assistants by suggesting there is no problem with the Crime Commission and that the PIC will simply take care of all the problems into the future. It is inexcusable for the Government to take full advantage of events that have occurred in the past few weeks on the Central Coast to take the focus off this Crime Commission issue. I assure members of the Government that it will not go away. It will continue to linger and, what is worse, it will continue to blight the good work of Crime Commission officers into the future. Questions need to be asked independently, not through the PIC or the ICAC; they need to be asked independently through a judicial inquiry with royal commission powers to delve into the culture of the organisation.

The culture of the Crime Commission has moved away from what we want, that is, the untouchables attacking organised crime in New South Wales, around this country and indeed internationally working with other agencies. It has become an extension of the Australian Taxation Office because far too often it is about sitting down with organised crime figures and negotiating an outcome with respect to the forfeiture or seizure of assets. They agree on a formula where they take 50 per cent each and count their losses. I would rather they spent more time using coercive powers to deal with organised crime to bring in offenders, force them to answer questions, and if they fail to do so, hold them in contempt until such time as they answer the questions, as Justice Wood did with Louis Bayeh and the like.

The Crime Commission has lost its way: it has become more focused on the villain's cash than the villain's crime. It was not that long ago that the Crime Commission would have up to 40 or 50 New South Wales police officers working in three teams within its command. This is when the Government supported the Crime Commission in its fight against organised crime. It no longer has up to 50 officers working in three teams; it has one team of about 15 officers. I am told that the professional responsibility command has pulled out of the Crime Commission and is now being replaced by crime agencies. This is passed on to us through networks we rely on because the Crime Commission is not open to the same degree of transparency as other organisations.

The Government cannot walk away from its responsibility. I hold the Government singularly accountable for the culture of the Crime Commission shifting from putting criminals behind bars to taxing. No doubt in reply the Minister will speak about arrests and charges, but at the end of the day the organisation could do so much more. I do not believe that anything the Minister has said or will say addresses the potential of this organisation to deal with organised crime. Capital expenditure funding for the Crime Commission in the budget this financial year has been reduced by 40 per cent. The Government does not support the Crime Commission. Its argument will be that it may have cut the budget, but it will ensure that the Crime Commission will seize more assets: get more money from villains. The Crime Commission has become more about seizing money than about taking the gloves off to attack organised crime in New South Wales.

We have been told that the Police Integrity Commission and the Independent Commission Against Corruption are playing a role, although we know little more than that because the Government knows it is in a mess. It has not explained to the public of New South Wales how Mr Standen—who got a guernsey many years ago in the Stewart royal commission and was identified as a corrupt officer—was head hunted to become the assistant director of investigations at the Crime Commission. This is the guy who, many years ago, was identified in the Stewart royal commission as being a corrupt officer by his own admissions. He disappears off the face of the earth, was then in Customs, then in the Federal police, and suddenly he appears on the radar as the assistant director of investigations at the Crime Commission. How was he appointed to such a position when Mr Bradley was a solicitor at the time and also involved in the Stewart royal commission?

I recognise that the commissioner, Mr Bradley, was not involved in that segment of the Stewart royal commission when Mr Standen got a guernsey, but surely there is an index of all the people who appeared before the Stewart royal commission that would have been a ready reckoner for any future employment. We have not heard anything from the Government. Again, other issues on the Central Coast distract it while Rome—the New South Wales Crime Commission—is burning. The biggest winners are members of organised crime, who are rubbing their hands together knowing that the place is in absolute disarray. The public is right to ask questions. How does this man get to be in such a position? Who head hunted him? Who was the Minister at the time? I think it was Mr Whelan but I stand to be corrected; it may well be someone else. When he applied for this position, was he identified at the time as someone who was involved in the Stewart royal commission?

I do not care whether it was Mr Whelan or the Minister in the previous Government. Was Mr Standen identified and was he known before his appointment and subsequent to his appointment as a corrupt official who was identified at a royal commission? Nothing was said about the fact that this officer would know the identity and whereabouts of every undercover police officer and their families throughout New South Wales and indeed

this country. In his official capacity he would know the identity of every registered informant used by the Crime Commission, not only in New South Wales but throughout the country and internationally. He would know the lot. We are told that he is in a secluded cell in some part of a jail complex and nobody talks to him. We need far more information than that.

We need to be assured that every police officer and his or her family is safe; that every informant currently working collaboratively with the Crime Commission is safe to continue his or her work; and that every operation currently underway and every operation that has taken place over the last 10 years has not been compromised. Allegations that surround investigations like those undertaken by Task Force Bax and Operation Emblem will not go away by simply flicking this across to the PIC. It is my view that the Government should listen to the New South Wales Police Association, which wants an independent standing body to investigate allegations relating to the Crime Commission. The Government should listen to what the public wants and what the Opposition wants: support for the Crime Commission to focus on organised crime today, tomorrow and into the future. Before we can move forward, it is extremely important to deal with the past to ensure there are no lingering doubts, no future investigations, and no matters before the court. It cannot be left to the secret police boys club that exists between organisations like the PIC, the Crime Commission, the ICAC, and to a far lesser extent those covered by the investigative powers of the NSW Ombudsman.

All these agencies have extraordinary inquisitorial powers to ask questions that members of the New South Wales Police Force are not able to ask. We entrust these organisations with a proper use of these powers and we want the Government's assurance that it is taking all the necessary steps to restore the public's faith in these organisations, which has now reached rock bottom. The Opposition opposes the bill because, as I said at the outset, the Government has got it wrong for the public but more so for the Crime Commission for today and for the future. It is extremely important that the Government gets it right. I firmly believe we need a judicial inquiry with the powers of a royal commission, independent of the PIC and the ICAC, that can delve into allegations relating to the Crime Commission, expose them and return to the public the confidence it wants in the Crime Commission so that it can go forward and do its work. We need that investigation and we need it now. As was the case with Justice Wood's royal commission into the New South Wales Police Force, I would like the judicial inquiry to make a series of recommendations to ensure that the necessary oversight is in place.

It is just not a case of having regard to current allegations about, and the culture that exists at, the Crime Commission; it is important that we look to the future. I suggest that a judicial inquiry should consider the formation of a standing investigative body to oversee the powers of such extraordinary organisations as the Independent Commission Against Corruption, the Police Integrity Commission, the New South Wales Ombudsman, and the New South Wales Crime Commission.

It is well known that from time to time criminals try to muddy the waters and besmirch the names of investigators conducting significant and serious investigations on behalf of such organisations. But the damage that has been done to them in the last couple of weeks has far outstripped any allegations made about them in the past. The Government has muddled around trying to decide who will conduct these investigations, and in doing so has done nothing to restore the confidence of the public. There is no alternative for the Government.

The Opposition is opposing the bill not for party political reasons. We are opposing the bill in the hope that Crime Commission officers will be able to continue their work without blight against them. We oppose it also because the New South Wales public need assurance that the untouchables at the Crime Commission are given every support to target organised crime without the taint of corruption or ineptitude. The Opposition opposes the bill.

Reverend the Hon. FRED NILE [3.01 p.m.]: The Christian Democratic Party supports the Police Integrity Commission Amendment (Crime Commission) Bill 2008, which will give the Police Integrity Commission [PIC] jurisdiction to detect, investigate and prevent serious misconduct and corruption within the New South Wales Crime Commission. The Government has advised that the Independent Commission Against Corruption [ICAC] is the current oversight body of the New South Wales Crime Commission. However, the Government advises further that the powers of the ICAC in that regard are limited to investigation and prevention of potential corruption only. It was news to me when I read that. As a member of the Committee on the Independent Commission Against Corruption I was never advised that the ICAC had that active role. It seems to me that no organisation has had oversight of the New South Wales Crime Commission. The Government now seeks to correct that anomaly.

If the Government's contention is correct, that the ICAC was the oversight body of the New South Wales Crime Commission, it would seem that the ICAC was not aware that it had that power. There seems to be some confusion in that regard. When the committee next meets with the commissioners and inspectors of the ICAC I will ask them what they understood their role to be.

The Leader of the Opposition referred to the events at the New South Wales Crimes Commission that led to the bill being introduced. We know that the case against a former assistant director of the New South Wales Crime Commission, Mike Standen, is before the courts at the moment, but we know also of other allegations that prisoners have been released early on the recommendation of officers of the Crime Commission, that some investigations have not proceeded to conclusion, and that certain court cases have failed to lead to prosecution. Such allegations raise many questions. Have officers of the New South Wales Crimes Commission been involved in corrupt behaviour? Has bribery and corruption been occurring? As the saying goes, where there is smoke there must be fire. I find it difficult to accept that the blame for all those allegations can be laid at the feet of one person; that no-one else had knowledge of these things. After all, investigators and assistant directors work in teams.

There is no doubt that the better result would be that another organisation be appointed as the oversight body, as suggested by the Leader of the Opposition. The weakness in the decision to have the Police Integrity Commission do the oversighting is that it looks as if police will be investigating police. Should the ICAC be the oversighting body? I would ask the Government to give consideration to that suggestion and to ensuring that the ICAC is given the necessary powers to carry out that role. The Police Integrity Commission should be left to concentrate on the role for which it was established rather than have the added burden of having to oversight the New South Wales Crime Commission.

The danger that I see in this proposal—and there have been instances of this happening overseas—is that sophisticated members of organised crime are able to penetrate bodies such as the Crime Commission and even the Independent Commission Against Corruption. In the recent case—and I acknowledge that corruption may not have been involved on this occasion—a female associate of the offender finished up working at the Independent Commission Against Corruption. Whether that person had access to confidential information or not is not known. The point is that no organisation is immune from penetration. People in organised crime are skilled in this, and at compromising people in such organisations, making them beholden as servants to organised criminals. That is what happened in the Crime Commission, and people involved in crime have been able to get away with it. Of great concern is that the names of confidential informants of the Crime Commission are now known to people in organised crime. Are the lives of the informants at risk? And what is even more serious, are the activities and identities of undercover police assigned to penetrate organised crime groups being revealed by people working in the Crime Commission?

I was surprised when it was announced that the former assistant director of the New South Wales Crime Commission who is currently under investigation has a gambling addiction and other problems. Surely there is some monitoring of staff in sensitive bodies such as the Independent Commission Against Corruption, the Crime Commission and the Police Integrity Commission. That the former assistant director had a gambling addiction seemed to have little effect on his role and future role in the organisation. I acknowledge that staff monitoring raises issues of privacy and so on, but I believe it is important that staff in these organisations are monitored to assess their potential for blackmail because of a gambling or drug addiction, or sexual activity.

Although I support the bill, I ask the Government to give consideration at some time in the future to reviewing whether the Police Integrity Commission or some other organisation is the appropriate body to carry out this oversight role. Because of reservations about police investigating police—nothing to do with dishonesty—it may be preferable that the ICAC is given the necessary powers to undertake this role. The officers who work in these bodies should be beyond reproach and trustworthy, and be able to keep information secure and confidential. I support the bill.

Ms SYLVIA HALE [3.10 p.m.]: The Greens we will not oppose the Police Integrity Commission Amendment (Crime Commission) Bill 2008, but we note that this insufficient and ill-considered response will probably not result in appropriate oversight. For too long the New South Wales Crime Commission seems to have been inadequately supervised. Many of the comments about the commission paint a picture of an insular and secretive organisation. I wonder whether changing the oversight body will produce any positive results. The object of the bill is to amend the Police Integrity Commission Act 1996 to enable the Police Integrity Commission to investigate and otherwise deal with misconduct by officers of the New South Wales Crime Commission. The commission is currently oversighted by the Independent Commission Against Corruption [ICAC]. Clearly, the ICAC oversight proved unsatisfactory to the extent that a senior Crime Commission officer was charged with serious criminal offences and the ICAC failed to detect his corrupt behaviour.

The Government claims that transferring the oversight to the Police Integrity Commission will increase the scrutiny to which the Crime Commission is subject because the Police Integrity Commission can investigate

serious misconduct as well as corruption. This will bring the Crime Commission into line with all other law enforcement bodies in New South Wales. Whether having the Police Integrity Commission act as a watchdog or whether the Police Integrity Commission will do a better job than the ICAC is not known. Crime Commission officers will be subject to the same reporting requirements that currently apply to officers who are the subject of matters referred to the Police Integrity Commission by the New South Wales Police Force. That may be an improvement. Certain public officials, including the New South Wales Crime Commissioner and Commissioner of Police, will be under a duty to report any such suspected misconduct to the Police Integrity Commission. One would hope so.

Misconduct may be dealt with or continue to be dealt with under this Act even though any Crime Commission officer involved has ceased to be a Crime Commission officer. Any person may make a complaint to the Police Integrity Commission about a matter that involves, or may involve, misconduct by a Crime Commission officer. Obviously, the bill has emerged following the arrest of Mark Standen, an assistant director of the New South Wales Crime Commission. His role was supposedly to reduce serious crime, but it is alleged that he himself was involved in a pseudoephedrine import scheme. Pseudoephedrine is a precursor to the manufacture of methamphetamine and crystal methamphetamine hydrochloride, otherwise known as speed or ice. He is reported to have had a gambling problem that Crime Commission officers allegedly were aware of but overlooked. Even more worrying is the fact that Standen had been charged 30 years earlier for disposing of cannabis without reporting he had seized it. Despite all this, he somehow managed to be transferred to the Australian Federal Police and then to the New South Wales Crime Commission. Clearly, any oversight that was occurring was totally inadequate and, in effect, the operation was brought to the attention of New South Wales authorities by police in overseas jurisdictions. The New South Wales Police Association has called on the Government to establish a standing oversight body for the New South Wales Crime Commission. The New South Wales Police Association media release on this issue states:

Police are entrusted with special powers to enable us to do the job of protecting the community. With that comes proper oversight in the form of the Police Integrity Commission (as well as the Ombudsman) so the community can have faith that those powers are used properly.

The Crime Commission have been granted extraordinary powers which are critical to their role in investigating organised crime. These powers go far beyond those entrusted to police and accordingly it is even more critical that the Crime Commission should, as a matter of public policy, be subject to a standing oversight body to ensure those powers are not abused and they too are held accountable for their actions.

The Opposition has called for a new oversight body and a royal commission inquiry. The Greens endorse those requests. We know there is a crossover in staff between the Police Integrity Commission and the Crime Commission and that some people have worked for both agencies. This may be true also of staff of the ICAC and the Crime Commission. In the absence of a more comprehensive solution to the oversight problem, the Greens do not oppose allowing the Police Integrity Commission to act as the oversight body because it will probably do no harm, given its somewhat stronger powers than those of the ICAC. The Government should appoint an inspectorate. The Greens agree with the Coalition that if an inspectorate is established, no person who works for the Police Integrity Commission, the Crime Commission or the ICAC should work for the inspectorate. The Government should have considered this matter more thoroughly and carefully before legislating. The Greens would seriously have considered supporting any amendments proposed by the Opposition but, in the absence of any such amendments, we support the bill—despite the Government not giving it proper consideration.

The Hon. HENRY TSANG (Parliamentary Secretary) [3.16 p.m.], in reply: I thank honourable members for their contributions to the debate. In response to a matter raised by the Leader of the Opposition, the Police Integrity Commission is the appropriate body to carry out this oversight function. It has 10 years experience overseeing the New South Wales Police Force and has the standing powers of a royal commission. It is an entirely appropriate and efficient use of resources to capitalise on the existing expertise of the Police Integrity Commission, rather than create a new agency or inspectorate. In response to Reverend the Hon. Fred Nile, the Independent Commission Against Corruption [ICAC] has always had the general power to oversight the Crime Commission, as has the Ombudsman—hence, the Crime Commission's referral, and that of the Minister, of the Standen matter to the ICAC from September 2007. Two New South Wales Crime Commission matters are currently before the ICAC.

As to concerns raised by Ms Sylvia Hale, the Government has requested the ICAC to undertake a comprehensive review of the Crime Commission's internal corruption prevention procedures. I expect that the Crime Commission will fully implement any recommendations that the ICAC may make about improving its corruption prevention capacity. By giving the Police Integrity Commission the power to oversight the New

South Wales Crime Commission's activities and officers, the bill will give the people of New South Wales confidence in the integrity and corruption resistance of the Crime Commission. Further, all major New South Wales law enforcement agencies will now be oversighted in the same way and by the one body. This consistency and accountability is an important step forward. I reiterate the following points. The Government fully supports the important ongoing work of the New South Wales Crime Commission in fighting serious and organised crime. The Government also supports the important oversight role of the Police Integrity Commission in the detection, investigation and prevention of corruption and misconduct. I commend the bill to the House.

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

The House divided.

Ayes, 24

Mr Brown	Dr Kaye	Mr Tsang
Mr Catanzariti	Mr Kelly	Ms Voltz
Mr Cohen	Mr Macdonald	Mr West
Mr Costa	Reverend Nile	Ms Westwood
Mr Della Bosca	Mr Obeid	
Ms Fazio	Ms Robertson	
Ms Griffin	Mr Roozendaal	<i>Tellers,</i>
Ms Hale	Ms Sharpe	Mr Donnelly
Mr Hatzistergos	Mr Smith	Mr Veitch

Noes, 16

Mr Ajaka	Mr Gay	Mrs Pavey
Mr Clarke	Mr Khan	Mr Pearce
Ms Cusack	Mr Lynn	
Ms Ficarra	Mr Mason-Cox	<i>Tellers,</i>
Mr Gallacher	Reverend Dr Moyes	Mr Colless
Miss Gardiner	Ms Parker	Mr Harwin

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Henry Tsang agreed to:

That this bill be now read a third time.

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

MARINE SAFETY AMENDMENT BILL 2008

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [3.27 p.m.], on behalf of the Hon. Michael Costa: I move:

That this bill be now read a second time.

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

Leave granted.

New South Wales has a 2,140 kilometre coastline, 12,500 square kilometres of navigable waters and covers an area of 800,000 square kilometres. It is home to 6.6 million people, 87 per cent of whom live in areas adjacent to the New South Wales coastline. There are more than 450,000 licensed recreational vessel operators and some 217,000 registered recreational boat owners, and more than 18,000 of these operate on Sydney Harbour. In total, the marine industry estimates that more than 1.5 million people enjoy the State's waterways each year. The boating industry in New South Wales is estimated to be worth more than \$2 billion per year.

Boating and other on-water activities provide a source of enjoyment and a livelihood for many New South Wales families. The majority of people who go boating act responsibly. However, the aquatic environment is not without its risks. Tragically, since 1992, more than 275 people have been killed and more than 630 people have been seriously injured as a result of boating activities on New South Wales waterways. This represents an average of 17 fatalities and 41 serious injuries per year. As the affordability and popularity of recreational boating in New South Wales increases, so does the potential for user conflict and accidents on the water. Just recently we saw the risks that exist on the water with a tragic incident on Sydney Harbour that resulted in the death of six people.

Last year two fatal incidents on Sydney Harbour resulted in the deaths of five people. These incidents demonstrate the importance of the Government continuing to look at new ways to improve the safety of New South Wales waterways. The Ports and Waterways portfolio is accountable for building a strong safety culture and reducing the potential for user conflict on New South Wales waterways. As part of my commitment to this responsibility, I propose a number of amendments to the Marine Safety Act that are designed to enhance the safety of the State's waterways. The amendments proposed in the Marine Safety Amendment Bill 2008 will achieve better safety outcomes in a number of areas.

Firstly, this bill proposes various changes to penalty provisions to ensure they adequately reflect the seriousness of the offence committed and to ensure consistency with other legislation. For example, the current penalty for negligent, reckless or dangerous navigation that results in death or grievous bodily harm will be increased so that it is consistent with the penalties for similar offences on the roads. The bill will introduce an imprisonment term for reckless or negligent navigation resulting in death or grievous bodily harm. The current penalty provisions for driving a vessel at 10 knots or more or a personal watercraft at any speed without a licence will also be toughened. The purpose of a boat licence is to ensure that the operator of a power-driven vessel travelling at speed has demonstrated a basic knowledge of waterway rules and safe boat operation.

Unlike roads legislation, the current penalty regime for driving a vessel when disqualified from holding a licence does not address the issue of repeat offences. This bill introduces an imprisonment option for repeat offences of driving a vessel while disqualified so as to reflect the seriousness of this offence. This amendment will again introduce consistency with similar offences under the roads legislation. Another proposed amendment relates to the penalty for negligent, reckless or dangerous navigation on larger vessels such as trading vessels. Since the safety consequence of this offence is far greater on a large vessel than on a small recreational vessel, a sliding scale of penalties, depending on the type of vessel, will be introduced.

A number of other amendments to penalty provisions in the Marine Safety Act are also proposed. These include the penalties for operating an unregistered or unsafe vessel and creating excessive vessel wash. Such amendments are necessary to ensure penalties adequately reflect the seriousness of the offence committed and to ensure consistency with the roads legislation. The bill seeks to further improve safety outcomes on New South Wales waters by giving New South Wales Maritime and New South Wales Police Force officers certain direction-giving powers. The purpose of these powers will be to maintain general on-water safety and to prevent damage to property on or in the vicinity of navigable waters. For example, these powers will enable New South Wales Maritime and New South Wales Police to direct the master of a vessel not to cross a coastal bar during dangerous conditions.

This power could also be used to direct a vessel operator to refrain from entering an area being used for a special aquatic event such as the swim leg of a triathlon. Providing this direction-giving power will implement recommendations by the New South Wales Coroner. Currently there is a deficiency in the legislation that enables a person with a suspended or cancelled New South Wales boat licence to legally operate a power-driven vessel in New South Wales waters by using a boat licence from another State. Current legislation also allows a person with a suspended interstate boat licence to obtain a New South Wales boat licence to operate in New South Wales and possibly his or her home State. This is clearly inappropriate from a safety point of view and is inconsistent with licence requirements on the roads. Therefore, it is proposed that the legislation be amended to ensure that any person with a cancelled or suspended boat licence from any State or Territory in Australia cannot legally operate a vessel in New South Wales.

National boating fatality studies conducted on behalf of the National Marine Safety Committee for the period 1992 to 2004 concluded that the most common contributing factors in fatal boating incidents were error of judgement and alcohol. Alcohol was involved in at least 35 per cent of fatalities investigated in the earlier study, and 40 per cent in the later study. The later study found that 47 per cent of vessel operators involved in fatal boating incidents were positive for alcohol. It is clear the consumption of alcohol has the same safety implications on the water as on the road. Despite this, the current alcohol and drug provisions on the water are inconsistent with those that apply on the roads. This situation is clearly inappropriate. The general water traffic provisions in the Marine Safety Act in relation to alcohol, speeding, distance-off and negligent navigation type offences do not apply to any type of Defence Force vessel. This is appropriate for commissioned Defence Force vessels, which are formally designated as an operational warship in order for them to carry out their day-to-day functions.

However, this is not appropriate for non-commissioned vessels such as small supply-type vessels, which may be used like any other vessel on the harbour to transport goods or persons on the water. This bill introduces amendments to clarify that non-commissioned Defence Force vessels should be required to comply with the Marine Safety Act. It is not intended that this provision apply to Defence Force personnel who are engaged in military exercises. This amendment will also serve to preserve the current application of general water traffic laws to non-commissioned vessels contained in the Maritime Services Act 1938 and the Water Traffic Regulations. I also note the New South Wales roads legislation does not exempt vehicles belonging to the Australian Defence Force from its operation. This amendment will therefore also ensure consistency between the legislation that applies on the road and the water. The Marine Safety Act currently provides for the continuation of existing certificates and licences through the marine safety licence framework. These include vessel registration certificates, survey certificates for commercial vessels, boat driving licences and marine pilots' licences.

The arrangement whereby a vessel greater than 30 metres in length can be operated without a pilot in a pilotage port provided the master holds a certificate of local knowledge will now be included. Greater efficiency in port operations will also be achieved through a number of changes to provisions relating to harbourmaster and marine pilots. Currently, in order for a pilotage vessel to move within a pilotage port without a pilot on board, a written exemption order must be provided to the relevant harbourmaster under a sub-delegation from the New South Wales Maritime chief executive. As this process is unnecessarily cumbersome, it is proposed that the Marine Safety Act be amended to allow such a vessel to move within the port without a pilot on the basis of a verbal approval from the harbourmaster provided the movement is recorded in the ship's log. This bill will also provide the option for more than one person to be appointed to exercise the harbourmaster's functions to ensure that a harbourmaster is available at all times.

These proposed amendments to pilotage and harbourmaster provisions in the Marine Safety Act will improve efficiencies and simplify the administration of both roles. New South Wales Maritime has consulted extensively with the port corporations in relation to these amendments. The proposed amendments will also allow for the making of regulations in relation to the crew to be carried on a commercial vessel. Appeals and reviews of crewing determinations will be subject to appeal by safety crewing committees in the first instance and, if necessary, to the Administrative Decisions Tribunal. In addition to improving safety on the State's waterways, another key aspect of this bill is the introduction of a number of amendments to facilitate the implementation of the National Standard for Commercial Vessels. This standard will be the principal technical standard for commercial vessels and is gradually replacing the Uniform Shipping Laws Code. The progressive development of this standard is a national initiative, which provides a common national standard for the design, construction, crewing and operation of commercial vessels.

Under the current provisions of the Marine Safety Act, New South Wales Maritime is responsible for the inspection of public ferry wharves and can, if necessary, issue a notice to improve, or prohibit the use of, a wharf. To improve the effectiveness of this process, the proposed amendments will allow New South Wales Maritime to require a report from an appropriately qualified engineer to satisfy itself that a wharf complies with the relevant design, construction and safety requirements. It is also proposed that New South Wales Maritime be provided with statutory protection from liability when it relies on such certificates. The increasing popularity of boating in New South Wales and its possible adverse safety consequences have resulted in a clear need for ongoing evaluation of the marine safety legislation. This bill highlights the New South Wales Government's commitment to improve the safety of New South Wales waters and the administrative efficiency of its legislation. I commend the bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [3.27 p.m.]: The Opposition will not oppose the Marine Safety Amendment Bill 2008. Every now and again, even in politics, you get a shock, and one of the greatest shocks you can get in this place is to find that Joe Tripodi has actually done some work—or probably his hardworking staff and the department—and has come up with something sensible. For a long time we have heard about problems, particularly in Sydney Harbour, but certainly within the whole maritime area in general. In fact, when the Minister for Ports and Waterways was in denial following the tragedies on Sydney Harbour, as many members will remember, he had a couple of goes at spin and pretending he was doing something.

On 21 May he said he had increased the patrols on Sydney Harbour but, sadly, later that day his spokeswoman had to say that the Minister may have overstated that announcement and that, if he had, he apologised. All the Minister was going to do was take staff away from the day patrols and put them onto the night patrols. It did not get any better. On 4 June he indicated at his press conference that surveillance would be increased from 6 per cent to 15 per cent and later on in the same press conference he said it would be increased to 150 per cent. Shortly after that press conference, in question time he indicated it would be 100 per cent—I am sure the Parliamentary Secretary, who is representing the Minister, would be surprised to know that. No wonder people are worried about what he has been doing, because we have seen 18 deaths on Sydney Harbour since 2000, and six of them occurred in the past month or so. In addition, a budget cut has recently been announced.

Given that background, when we heard this bill was in the pipeline we were not expecting much. I admit that it is much better than we expected and, in fact, addresses many of the concerns raised with the Opposition by the professionals in the industry who must use the harbours and waterways of this State. As the Opposition spokesman on this portfolio area, I have had meetings with these people to discuss their problems. The ferry captains are worried on the job every day. It is mayhem on the harbour. The fishermen and the harbour pilots also have problems. Many of their concerns relate to recreational use of the harbour. Some of those problems have been addressed and some have not.

For example, one of the key concerns involves harbour pilots guiding car containers coming into Sydney in the dark or at dusk. Many people have decided the best way to commute is by kayak, but kayaks do not have a radar image. Often pilots guiding very long ships with a tug find that there are people in the wrong place and without warning lights on their vessels. Mast lights on sailing ships also get lost in the lights of Sydney. Ours is a beautiful harbour city. But at night when lights are on in buildings and on the streets a light on the top of a mast is hard to find. As I said, night surveillance is also a problem.

Although the provisions in this bill are good, nothing is of any use if it cannot be enforced. The Government still has not implemented an effective enforcement regime. The word on the harbour is that with

the exception of the odd police patrol there is very little maritime law enforcement presence so people can pretty well do what they want, particularly at night. That is a concern. As I said, this legislation contains several good measures. Bringing the recreational boating licence requirements in line with drivers licence requirements is a good, commonsense move. It was certainly sold to the Opposition by many people. That is another move for which we applaud the Minister. Concern was also raised about a "shamateur" operation involving people forming clubs to bypass the rules applying to the hire of boats and proper safety standards. This bill addresses many of the situations that we were concerned about.

The pilots raised the concerns that remain unaddressed. The pilots group is forthright and good. It is well intentioned and its key concern is marine safety. The Greens have tabled amendments that address some of its concerns. The Opposition will deal with them on their merit in the Committee stage. We are persuaded by some of the Greens' amendments and we are interested to hear their arguments. There are also some that we are definitely not persuaded to support. When I indicated that the Opposition was thinking of moving amendments, and that it would look at the Greens' amendments, the Minister and his staff telephoned one of the peak bodies—Shipping Australia. Shipping Australia is a well-respected, outstanding organisation. Its representatives were bemused by the phone calls from the Minister and his staff about the bill and the recalcitrant shadow Minister.

Its representatives were not aware that a bill existed, so they certainly they had not been consulted by the Minister. They were bemused that the first contact the peak group had from the Minister and/or his staff on the bill related to me and that it was not a request for their opinion about the bill that was being developed. My hopes that perhaps Joe Tripodi had started to work again, and was finally behaving professionally, were blown out of the window. He was back to his good old ways; he was re-enacting his halcyon days at Newcastle. It was harder to move him out of Newcastle in those days than it was to move the *Pasha Bulker*. Without labouring the point, the Opposition finds much about the bill that is appealing and we certainly will not oppose it. However, we will carefully examine the Greens' amendments and we are persuaded that some of them deserve support.

Ms LEE RHIANNON [3.38 p.m.]: The Marine Safety Amendment Bill 2008 has some merit, but it contains a major flaw that casts great doubt on the ability of the Minister for Ports and Waterway to act responsibly in his portfolio, given that safety should always be paramount and the terrible accidents that have occurred recently in Sydney Harbour. Surely any legislation introduced in this House should be designed to improve safety, not to undermine it. The bill has some serious problems. The Greens' dealings with the Minister's office in respect of the bill have added to our concerns rather than allayed them. The Minister's staff have tried to minimise the impact of the changes on the handling of commercial vessels when they enter ports in Sydney and the rest of New South Wales. As a result, the Greens do not believe the bill should pass in its current form. Minister Tripodi is willing to jeopardise marine shipping by allowing commercial vessels longer than 30 metres to enter New South Wales harbours without the assistance of experienced pilots. That is the essence of the problem.

Minister Tripodi's failure to put safety first increases the likelihood of a major shipping accident in Sydney Harbour or in other ports. That is the essence of the problem we are dealing with. The grounding or collision of a major tanker in any New South Wales port would be catastrophic for human life, the environment and, indeed, the economy. Even a minor accident could have an impact because regional economies are often built around their local ports. The prospect of massive tankers entering the harbour without highly trained pilots on board—especially in the era of globalised shipping, with dangerous work conditions, flags of convenience and cut-price crews—is extremely worrying and unacceptable.

One of the lines the Government has come up with is that these are merely minor administrative changes to cut red tape. I suggest to staffers who use those arguments when they brief us that that is when our alarm bells ring. So often those words hide deep flaws, and that is certainly the case when we look closely at this bill. If the Government is sincere that the changes are minor and administrative ones to cut red tape, surely it will have no problem in supporting the Greens' amendments to replace the open slather changes with more tightly refined exemptions. The Greens' amendment to allow ships to move without a pilot when they are being moved along a wharf from one berth to another takes into consideration the Government's desire to achieve that, if that is all it wants to achieve. We will see from the Government's response to our amendment whether that is the case or whether it is trying to deregulate the way commercial vessels move in and around our ports.

We have been provided with some useful information by people in the marine industry. One of the people who contacted us is Michael Fleming, Director, Port Services Division, Australian Maritime Officers Union. The Australian Maritime Officers Union represents the professional interests of marine pilots, port

control officers, ferry masters, tugboat masters and masters of commercial vessels daily engaged in port operations in various ports along the coast of New South Wales. Mr Fleming has said that the proposed amendments to the Marine Safety Act include provisions for ships to move within New South Wales ports without licensed marine pilots being in control. That is the association's clear understanding of what this legislation does. There can be no argument about that, even though when we first raised that with Government representatives I found there was a bit of muddying of the waters about the real impact of the changes. Mr Fleming stated:

This is another example of the Minister failing to consult with all stakeholders including experienced professional mariners who daily keep New South Wales safe and operational.

Those terrible accidents on the harbour were heart wrenching. I know the Minister is sympathetic to people whose loved ones have lost their lives, but he is winding back safety with these measures. Mr Fleming further stated:

The Minister has failed to consult with us and our members on what appears to be significant changes to the Marine Safety Act and this has raised serious concern from professional mariners.

The Minister has also failed to consult on his plans to close down the Port Control Tower at Millers Point, servicing Sydney Harbour against major objections of port operators.

I know that issue is not before us now but the Greens see it clearly linked to safety. I flag it because it should be on the public agenda. What is going on with plans to close the port control tower? I hope the Minister will provide members, the public and the stakeholders with more information. The Australian Maritime Officers Union has called on the Minister not to proceed with the proposed amendments to the Marine Safety Act until all stakeholders are consulted. That is a reasonable request and a request the Minister would be wise to accede to. Every time the Government blunders ahead, failing to consult with people who are critical to a piece of legislation—in this case critical to the safety of our harbours—it does itself so much damage, as well as potential damage to the State.

The Greens will be moving an amendment during the Committee stage. We have not had those massive disasters where thousands of litres of oil are spilled, as has occurred overseas, so complacency creeps in. It could easily happen, because these commercial vessels—if this legislation goes through—will be allowed to move around Sydney's ports and other New South Wales ports without an experienced and licensed pilot. There could well be an accident. While I understand oil tankers have double hulls, commercial container vessels do not have double hulls and the threat of a spillage of tonnes of oil is real. That environmental, and subsequent economic, damage is too horrible to contemplate. I am shocked that the Government would allow these measures in this legislation.

The Greens see the job of marine pilots as vital. Their jobs need to be protected. They are important for their ability to interpret accurately the effects of currents and tidal influences; for their expertise in navigation in close proximity to land and in narrow channels. They obviously have an understanding of local traffic. They have the ability to work effectively with local authorities and they have the language ability to deal with shore services, which allows efficient coordination at all stages of the movement of commercial vessels into and around harbours. They have the expertise of handling tugs and they can provide extra persons on the bridge to assist with navigating the ships. There is such a range of reasons that I am amazed they could ever be regarded as unnecessary, and in the context of the terrible accidents recently in Sydney Harbour one wonders what this Government is thinking.

In most other States it remains compulsory for pilots to undertake the work of moving ships once they come into port. In Darwin it is compulsory for all craft over 25 metres. In Queensland it is compulsory to have pilots for all ships 50 metres long or more. In Western Australia it is compulsory except for ships not exceeding 150 gross registered tonnage. In Victoria pilots must be engaged for vessels that are 35 metres in length or more. Again, I ask: What is going on with the Government here? The role of pilots has evolved in marine history. They have a critical role in safety. I acknowledge there are some positive aspects in this bill, but we cannot call it a marine safety bill unless these proposed amendments with regard to pilots are passed.

The Hon. HENRY TSANG (Parliamentary Secretary) [3.48 p.m.], in reply: I thank honourable members for their contributions to debate on the Marine Safety Amendment Bill. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Ms LEE RHIANNON [3.50 p.m.]: I seek leave to move Greens amendments Nos 1, 2 and 3 in globo.

The Hon. Duncan Gay: I would like them put seriatim.

The CHAIR (The Hon. Amanda Fazio): Order! Ms Lee Rhiannon may move the amendments in globo and the Committee will vote on the amendments seriatim.

Ms LEE RHIANNON [3.50 p.m.] by leave: I move Greens amendments Nos 1, 2 and 3 in globo:

No. 1 Page 25, schedule 1, lines 10-12. Omit all words on those lines. Insert instead:

- (a) the vessel was moved:
 - (i) while being warped along a wharf from one berth to another adjacent berth along the same quayline, or
 - (ii) in response to an emergency involving a threat to life or property, and

No. 2 Page 26, schedule 1, lines 11-19. Omit all words on those lines.

No. 3 Page 63, schedule 1, lines 24-28. Omit all words on those lines.

Amendment No. 1 relates to the role of pilots. Section 74 (2) (a) would be deleted and replaced with the words in the amendment. The effect of the amendment is that people who are not pilots will move the vessel along the wharf or in response to an emergency involving a threat to life or property. The word "warped" means moving a vessel along the wharf. There is flexibility in that people who are not pilots will have a minimal role in moving a boat if necessary, but not in a way that would jeopardise safety—if the vessel is not moving a long distance in the harbour. That is essentially the difference. The amendment achieves the Government's goal of flexibility. The amendment provides for minimal movement of commercial vessels, when necessary. The current wording is too wide. When commercial vessels enter the harbour, non-pilot employees can be used to move the vessels, which is too risky. Therefore, I urge members to support Greens amendment No. 1.

Greens amendments Nos 2 and 3 refer to the harbourmaster. The widespread feeling is that this position and other senior managerial positions in NSW Maritime, Sydney Ferries and Ports are not always allocated on merit. Accusations have been made that there are jobs for the boys. There is a perceived dearth of commercial maritime credentials and too often managerial levels are stacked with former Navy and Army people, many of whom have been unqualified, but appointed to the job. Clearly this has a flow-on effect on the quality of advice that the Government receives. As a matter of urgency it must receive advice from trained pilots, mariners and others with experience in the commercial shipping industry. People involved in the industry underline time and again how different the experience is between people with a naval background and those with a commercial background. Clearly there is a need for a change in these positions: the harbourmaster position structure must be changed.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [3.54 p.m.]: I requested that questions be put on the amendments seriatim because the Opposition is persuaded by Greens amendment No. 1, but it is not totally persuaded by Greens amendments Nos 2 and 3. As correctly detailed by Ms Lee Rhiannon, Greens amendment No. 1 is a step in the right direction. It refers to warping a ship. For those who are not experts, it means walking the ship along the wharf. Shipping Australia contacted me concerned that the Minister's office had led it to believe that we were going to limit the warping of a ship to 30 metres. Shipping Australia correctly pointed out that many of the ships at berths are more than 50 metres long so that limiting it to 30 metres would mean that some ships would not be able to move the full length of the ship, let alone the length of a wharf.

At some loading facilities the ship must be moved to get the right balance within the load. At other wharfs the loading might be completed and it gets to the provisional part of the ship. It is a matter of moving it

out from under the loader to keep things happening and allowing the providores to come in. I have spoken to Shipping Australia, which is happy to be able to warp the ships along the full length of the quay. The amendment states:

- (a) the vessel was moved:
- (i) while being warped along a wharf from one berth to another adjacent berth along the same quayline,

That is a step in the right direction. It is not quite where the Government wants to be: *carte blanche* and wholesale removal of pilots from every situation. Some people from Shipping Australia said that if a tugboat were involved or the movement of a ship away from the wharf in a harbour were involved, they would feel happier with a pilot involved. Greens amendment No. 1 is a responsible amendment. It is midway between where we were to where the Government wants to be. Keeping in mind safety, that is where we should be. For that reason the Opposition is persuaded to support the amendment No. 1. It is self-evident that the Opposition would support the second part of the amendment, that the vessel should be moved in the event of an emergency involving a threat to life or property.

With respect to Greens amendments Nos 2 and 3, whilst the Opposition has received persuasive arguments from the pilots, it has received contrary arguments from the Government, Shipping Australia and others. We found the government representatives to be decent people and we are not sure whom to believe. We are concerned that we might become involved in an industrial situation. I certainly hope that the amendments within the bill have not put us into that industrial situation. However, given the fact that there are compelling arguments on both sides, we have decided not to oppose the Government's amendments in the bill. Therefore we will not support Greens amendments Nos 2 and 3. For the sake of clarity I indicate that the Opposition supports Greens amendment No. 1, but not Greens amendments Nos 2 and 3.

The Hon. HENRY TSANG (Parliamentary Secretary) [4.00 p.m.]: Before the Deputy Leader of the Opposition makes a final decision about Greens amendment No. 1, I will seek to convince him otherwise. The claim that the definition of "movement and movements in and out and around a port without a pilot" needs to be spelled out is impractical. Exemptions are already granted under section 79 of the Ports and Maritime Administration Act. The kinds of movements referred to in this context are minor moving of vessels within the port. The bill formalises the current exemption.

In May 2005, the harbourmaster of each New South Wales port was sub-delegated the power to exempt a vessel from the requirement to have a pilot on board. Harbourmasters already have extensive safety powers in relation to all vessel movements and operations within their port, and issue directions in relation to these matters. In this regard I refer honourable members to sections 87 to 91 of the Marine Safety Act. As with these other extensive powers, harbourmasters will exercise the additional power diligently, and they have full responsibility for any such minor vessel movements. Safety is preserved because the harbourmaster is appointed by, and accountable to, the Minister.

It takes a great deal of experience to become a harbourmaster. Their job—their reputation—rests on the safety record of the port during their time in the role. Their overwhelming incentive is to ensure safety. It is ludicrous to think harbourmasters may have an incentive to reduce safety. Anyone who suggests that completely misunderstands the harbourmaster's role. Greens amendment No. 1 does not achieve what is necessary because it does not reflect the current delegated exemption power that harbourmasters have. Harbourmasters already have a wide direction-giving power relating to vessel movements in a port. The legislation formalises this, and thus increases the accountability of harbourmasters. Harbourmasters base all directions on safety considerations and are ultimately accountable to the Minister for each direction. Every decision not to require a pilot would be the subject of consideration of the merits of the situation. The Government opposes the Greens amendments.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [4.02 p.m.]: As erudite and persuasive as the Hon. Henry Tsang is, he has not persuaded me on this occasion; indeed, almost the opposite is true. His comment that the legislation includes exemptions certainly does not resonate with my knowledge of the situation. His comment that we should accept that someone appointed by the Minister should have *carte blanche* also does not resonate with my knowledge of the situation.

Ms LEE RHIANNON [4.03 p.m.]: Further to Greens amendment No. 1, I remain concerned that we could probably lose the amendment. I appreciate the support of the Coalition, but we are aware that so often the

Government is able, through various means, to get the numbers in this House. We are dealing with such an important issue of public safety here—

The Hon. Greg Donnelly: What do you mean by "various means", Lee?

Ms LEE RHIANNON: I thank the Hon. Greg Donnelly for the interjection. It is extraordinary that he would put himself in a position to allow me to get on record the deals he did last week in passing, as a matter of urgency, a firearms bill to wind back national uniform firearms laws that ensured a great degree of public safety in this country. When the Hon. Greg Donnelly needed the numbers to pass key pieces of legislation to do with planning the first stage of the restructuring of the electricity industry, it was there for everyone to see—and the Hon. Greg Donnelly knows that.

The CHAIR (The Hon. Amanda Fazio): Order! Ms Lee Rhiannon should ignore interjections.

Ms LEE RHIANNON: We believe Greens amendment No. 1 is a reasonable compromise. Industry representatives tell us it would be very rare that a ship would need to move up or down a wharf; generally it would be a crane doing the moving rather than the ship. But, in the event that a ship did need to warp a short distance, the Greens amendment would allow this to be done without a pilot. The Government claims that the provision in the bill is merely an administrative change to bring the law into line with current practice. While it is possible to gain a pilotage exemption certificate under current law, this is a rigorous process comprising a written and oral examination checked by a pilot. There are strict conditions around the time frames, types of vessels, and nationality of the captain. The Government's spurious claim that these changes are merely an alignment of the law to bring it into line with industry practice, and with the provisions currently in force relating to pilotage exemption certificates, has too often been parroted by Government members in seeking to say that this is not a problem.

Some of the people in the industry who have approached us suspect that the proposed changes to pilotage laws are to avoid the impacts of any industrial action, and to allow the ports to keep functioning if industrial action takes place. The ports corporations are currently bound to provide a suitable number of appropriately trained pilots. But these changes, if the legislation is passed unamended, enable operations to continue while maintaining the port safety operating licence. If that occurred, it would be like pre-emptive strike breaking.

The Hon. Greg Donnelly: Lay it on, Lee.

Ms LEE RHIANNON: I acknowledge the Hon. Greg Donnelly's interjection—

The CHAIR (The Hon. Amanda Fazio): Order! I remind members that interjections are disorderly at all times and, as I have said previously, only tend to lengthen debates rather than shorten them.

Ms LEE RHIANNON: Thank you for the reminder, Madam Chair. In conclusion, it is important that we remind ourselves of the nature of the commercial vessels we are talking about. We are talking about vessels that are carrying on board thousands of tonnes of heavy oil. As I said in my second reading speech, while oil tankers are double-hulled, cargo ships are not. There could be just 25 millimetres of steel between the enormous amount of oil and the water. Clearly, the role of a pilot is absolutely vital. There are 4,500 shipping movements in Sydney each year with a pilot on board. The skill and experience of these pilots would have prevented many major disasters.

In question time today I asked a question concerning the *Pasha Bulker*. Once again, the Treasurer refused to answer. I will not revisit his usual bag of tricks to avoid doing his job in this House. However, the *Pasha Bulker* is a reminder to us of the enormous pressure that masters are under because of commercial reasons. Clearly, there were faults in that instance but the captain should not bear full responsibility for what occurred. If a ship owner demands that the crew sail without a pilot, they have little choice. At the end of the day, the driving factor is the commercial interest of the shipping company to get in and out of port as quickly as possible. I commend the Greens amendments to the Committee. I hope members will seriously consider that what we are dealing with here is a bill that, if passed unamended, could jeopardise marine safety in our ports.

Question—That Greens amendment No. 1 be agreed to—put.

The Committee divided.

Ayes, 20

Mr Ajaka	Mr Gay	Ms Parker
Mr Clarke	Ms Hale	Mrs Pavey
Mr Cohen	Dr Kaye	Mr Pearce
Ms Cusack	Mr Khan	Ms Rhiannon
Ms Ficarra	Mr Lynn	<i>Tellers,</i>
Mr Gallacher	Mr Mason-Cox	Mr Colless
Miss Gardiner	Reverend Dr Moyes	Mr Harwin

Noes, 21

Mr Brown	Reverend Nile	Ms Voltz
Mr Catanzariti	Mr Obeid	Mr West
Mr Costa	Mr Primrose	Ms Westwood
Mr Della Bosca	Ms Robertson	<i>Tellers,</i>
Ms Griffin	Mr Roozendaal	
Mr Hatzistergos	Ms Sharpe	
Mr Kelly	Mr Smith	Mr Donnelly
Mr Macdonald	Mr Tsang	Mr Veitch

Question resolved in the negative.

Greens amendment No. 1 negatived.

Question—That Greens amendment No. 2 be agreed to—put and resolved in the negative.

Greens amendment No. 2 negatived.

Question—That Greens amendment No. 3 be agreed to—put and resolved in the negative.

Greens amendment No. 3 negatived.

Schedule 1 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Henry Tsang agreed to:

That the report be now adopted.

Report adopted.

Third Reading

Motion by the Hon. Henry Tsang agreed to:

That this bill be now read a third time.

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

ASSENT TO BILLS

Assent to the following bills reported:

Exotic Diseases of Animals Amendment Bill 2008
Western and Crown Lands Amendment (Special Purpose Leases) Bill 2008

Coal and Oil Shale Mine Workers (Superannuation) Amendment Bill 2008
Environmental Planning and Assessment Amendment Bill 2008
Building Professionals Amendment Bill 2008
Strata Management Legislation Amendment Bill 2008
Filming Related Legislation Amendment Bill 2008
Fines Amendment Bill 2008
First State Superannuation Amendment Bill 2008
Workers Compensation Legislation Amendment (Financial Provisions) Bill 2008

CRIMES (FORENSIC PROCEDURES) AMENDMENT BILL 2008

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.19 p.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

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

Leave granted.

I am pleased to introduce the Crimes (Forensic Procedures) Amendment Bill 2008.

The purpose of the bill is to amend the Crimes (Forensic Procedures) Act 2000 to expand the circumstances in which DNA profiles can be matched on the DNA database.

There are currently 7 indexes on the DNA database. These indexes contain DNA information taken from different sources. They are comprised of a crime scene index, suspects index, volunteers (limited purpose) index, volunteers (unlimited purpose) index, offenders index, missing persons index and unknown deceased person index. Matching between these indexes is only permitted in certain circumstances as outlined in section 93 of the Crimes (Forensic Procedures) Act 2000.

DNA identification has become one of the most valuable tools for police in investigating crime and identifying people. The amendments in this bill will further assist law enforcement officers in using DNA evidence to catch criminals and solve crimes.

The bill permits the DNA profile of a suspect to be matched with a DNA profile on the "suspects index" of the DNA database and also permits the DNA profile of an unknown deceased person to be matched with a DNA profile on the "unknown deceased persons index" of the DNA database.

The bill enables the regulations to prescribe a person or body as a "responsible authority" of a participating jurisdiction for the purposes of Part 12 (Intestate enforcement) of the Principal Act and also permits the Attorney General to enter into a wider array of arrangements with the responsible authorities of one or more of participating jurisdictions to permit the matching of DNA information and the transfer of other information following any positive match.

I now turn to the detail of the bill.

Schedule 1 [1] clarifies the operation of the matching table in section 93 of the Crimes (Forensic Procedures) Act 2000. This technical amendment ensures that the matching table can be read both horizontally and vertically and maintain its symmetry. The effect is that the matching permitted by the table is abundantly clear.

The table to schedule 1 [1] adjusts the table in section 93 of the Act in the following ways:

Firstly, it allows a DNA profile on the "suspects index" of the DNA database to be matched with another DNA profile on the "suspects index". As the law currently stands no such matching is allowed. This is an invaluable tool for police as it ensures that any suspects who may have fraudulent or multiple identities cannot escape detection.

As required under s121 of the Act, the Ombudsman has conducted a thorough review of the Forensics legislation. In their review they have recommended that matching between profiles within the suspect index be permitted. They outline two main benefits of such matching:

One, the management of the DNA database will be improved by knowing exactly how many individuals are on the suspect index. The change allows duplicates to be identified and removed from the database. It will also improve the efficiency of the database by streamlining the data kept on it.

Two, any inconsistencies in the data on the database, for example, where suspects provide a false name, can be detected and dealt with. Criminals will no longer be able to use false identities in an attempt to avoid being matched through their DNA.

Secondly, it clarifies that a DNA profile which has been placed on the volunteers (limited purpose) index is permitted to be matched with a DNA profile in the crime scene index, offenders index, missing persons index or unknown deceased person index. However, such matching is only allowed if it is carried out for a purpose for which the DNA profile was placed on the volunteers (limited purpose) index.

The volunteers (limited purpose) index contains DNA profiles from victims and others who volunteer their DNA profiles to help fight crime or find loved ones. The purpose of these amendments is to make it abundantly clear that appropriate protections are in place for these volunteers. This legislation clarifies that when a volunteer provides a sample of their DNA, it can only ever be used for a specific purpose, and that is the purpose for which it was collected. It cannot be stored or matched against any other database, except for the purpose as specified at the time of collection.

Thirdly it clarifies that a DNA profile that is on the volunteers (unlimited purposes) index is permitted to be matched with a DNA profile on the offenders index.

Lastly, the table to schedule 1 [1] permits matching of a DNA profile of an unknown deceased person to be matched to the DNA profile of another unknown deceased person on that index. Currently no such matching is permitted. This amendment will assist police in an event such as an explosion or a terrorist attack where it may be difficult to identify body parts and where it might be necessary to match unknown deceased DNA to other unknown deceased DNA.

Schedule 1 [2] through to 1 [6] relate to the sharing of DNA information with other jurisdictions. The changes, although technical, provide the Attorney General with the flexibility to enter into a greater variety of arrangements to share DNA information with other jurisdictions while retaining important protections in relation to how such information can be used.

New South Wales is currently matching and sharing DNA information with the Australian Capital Territory, the Commonwealth, South Australia, Western Australia, Tasmania and Victoria. Matching is conducted by the CrimTrac Agency, a Commonwealth body which controls the National DNA Database. CrimTrac will now be named in the Act as the body that does so.

We also have an arrangement to share DNA data concerning specific investigations with Queensland.

These agreements will be retained, however, these amendments allow for greater flexibility in entering such arrangements. The validity of our current arrangements is ensured by the saving provisions in schedule 1 [7].

The new section 97 provides that the arrangements with other jurisdictions may be entered into only for the purposes of investigating, or conducting proceedings for, an offence against the law of this State or those jurisdictions, or the identification of missing or deceased persons. If CrimTrac is a party to an arrangement or an arrangement is made bilaterally with CrimTrac, like the one New South Wales has now, CrimTrac can be authorised to compare New South Wales DNA data with DNA data from another jurisdiction. CrimTrac can also be authorised to inform New South Wales agencies and other jurisdiction's agencies of any matches that it finds.

Information transmitted under any such arrangements may not be used except for one of these purposes.

Section 97 of the Act limited the transmission of data from the database under certain circumstances. The proposed amendments in this bill allow the Attorney General to conclude more nuanced agreements for transmitting DNA to other jurisdictions and ensure that such transmission is appropriate to the circumstances. The proposed amended section 97 still ensures that DNA data can only be used for limited purposes once it is transmitted.

This Government is committed to reducing rates of crime, particularly violent crime. This bill implements election commitments concerning the DNA matching table and matching suspect profiles. The bill will ensure that New South Wales can effectively share DNA information with other jurisdictions and that police in New South Wales can adequately utilise the available technology.

I commend the bill to the House.

The Hon. JOHN AJAKA [4.19 p.m.]: The Crimes (Forensic Procedures) Amendment Bill 2008 amends the Crimes (Forensic Procedures) Act 2000 in order to:

- (a) clarify the circumstances in which it is permissible to match DNA profiles, and
- (b) permit a DNA profile on the suspects index of the DNA database to be matched with another DNA profile on that index, and
- (c) permit a DNA profile on the unknown deceased persons index of the DNA database to be matched with another DNA profile on that index, and
- (d) enable the regulations to prescribe a person or body as a responsible authority of a participating jurisdiction for the purposes of Part 12 (Interstate enforcement) of the Principal Act and to include CrimTrac as a responsible authority in relation to the Commonwealth, and
- (e) set out the circumstances in which the Attorney General may enter into arrangements with participating jurisdictions for the transfer of information from the DNA database of this State to those jurisdictions and the transfer of information to this State from those jurisdictions, and
- (f) set out the purposes for which any transferred information may be used.

The Opposition does not oppose the bill. At present there are seven indexes on the DNA database: crime scene index, suspects index, volunteers (limited purposes) index, volunteers (unlimited purposes) index, offenders index, missing persons index, and unknown deceased persons index. Limited methods for matching between the indexes are afforded under section 93 in a complex matrix between the indexes. At present the terminology that

governs the operation of the matrix in sections 93 (1) and (2) is confusing and problematic. The bill will amend this terminology to ensure that the table can be read both vertically and horizontally while maintaining its symmetry.

Under changes in the bill the following elements in the matrix will be amended. Matching will be allowed "only if within purpose" between the crime scene index and volunteers (limited purposes) index, which was previously not allowed. Matching will now be allowed within the suspects index and between the suspects index and missing persons index. Matching will occur between the volunteers (limited purposes) index and suspects index. This was previously only allowed for a certain purpose. The offenders index may be matched "only if within purpose" with the volunteers (limited purposes) database and can be matched with the volunteers (unlimited purposes) index. Previously no matching was allowed between these indexes. The missing persons index can now be matched "only if within purpose" to the volunteers (limited purposes) index. This previously was not allowed. The unknown deceased persons index now allows for matching within the index and the ability to match with the volunteers (unlimited purposes) index has now been limited to "only if within purpose".

The Government claims that these changes are made to improve the integrity of the database, to provide clarification to volunteer DNA sample conditions and to assist in matching the DNA of unidentified persons in terrible catastrophes, such as explosions or terrorist attacks. The changes proposed by the Government seem reasonable and the clarification of the operation of section 93 brings more clarity to the legislation. The definition "responsible authority" in section 95 is also amended to take into account the Commonwealth CrimTrac, which is also defined in this section. Further changes are made to recognise the role of CrimTrac and New South Wales interjurisdictional roles under amendments to sections 97 and 109. These changes are made to provide greater flexibility and improve the ability of the Attorney General to transmit information from the New South Wales database to other jurisdictions in order to be used for defined purposes.

It is argued that the bill will assist police and law enforcement agencies in the fight against crime and make DNA tools more accessible in identifying criminals. These changes will allow DNA information to be shared between States more easily and will also provide for the use of DNA matching across more strands in the matrix and deliver better information outcomes. However, the Government should ensure that this information is protected and safeguarded. The Government must ensure that integrity in the database is maintained and privacy is paramount. As previously indicated, the Opposition does not oppose the bill.

Reverend the Hon. FRED NILE [4.23 p.m.]: The Christian Democratic Party supports the Crimes (Forensic Procedures) Amendment Bill 2008. The use of DNA to identify suspects or criminals is most important in the fight against crime. As occurred with fingerprint examination and identification, the identification database has been updated and improved through the use of DNA. The bill will amend the Crimes (Forensic Procedures) Act 2000 with respect to the matching of DNA profiles and the sharing of DNA information with other jurisdictions. It makes clear the circumstances in which the DNA profiles and the DNA database can be matched against each other. It is spelt out in the legislation, which seems complicated. Item [1] of schedule 1 amends section 93 of the principal Act to clarify that a DNA profile that has been placed on the volunteers (limited purposes) index is permitted to be matched with the DNA profile in the crime scene index, offenders index, missing persons index or unknown deceased persons index, but only if the matching is carried out for a purpose for which the DNA profile was placed on the volunteers (limited purposes) index.

I accept that is the legislation, but I do not accept those limitations on the use of DNA. DNA profiles should be readily available to identify persons involved with criminal activities, such as rape or murder. DNA indexes should be used to build up a profile library for comparison purposes. For example, DNA from a crime scene could be compared with all the DNA indexes in the library, the DNA of prisoners and so on. Further, police should have the authority to obtain DNA samples from people and the samples should not be listed in a limited purposes index. I hope that further down the track the Government will review these restrictions, which prevent DNA indexes being used in the best possible way in the fight against crime.

A DNA profile on the volunteers (limited purposes) index is not permitted to be matched with a DNA profile on the suspects index, the volunteers (limited purposes) index or the volunteers (unlimited purposes) index. Again, I do not support those limitations. The bill clarifies that a DNA profile on the volunteers (unlimited purposes) index is permitted to be matched with a DNA profile on the offenders index and the DNA profile on the missing persons index is permitted to be matched with a DNA profile on the suspects index. The amendment also permits the matching of a DNA profile on the suspects index with other DNA profiles on that index and the matching of a DNA profile on the unknown deceased persons index with other DNA profiles on that index. Currently, such matching is not permitted in either case. I do not understand why these obstacles

have been put in place, given that they restrict the effective use of DNA test results from a multitude of crime scenes. Pressure has been applied by privacy groups, the Law Reform Commission and the Greens, who are not happy about the use of DNA. The Government should show courage and bring in effective legislation that gives police the DNA weapons they need to carry out their duties, solve crimes and identify bodies, which may be those of missing persons. The Christian Democratic Party supports the bill, but asks the Government to review the limitations in due course.

Dr JOHN KAYE [4.28 p.m.]: I speak on behalf of the Greens to the Crimes (Forensic Procedures) Amendment Bill 2008. DNA technology has delivered some benefits in both crime detection and protecting the rights of accused. I draw attention to the Innocence Project in the United States of America, in relation to which a number of people on death row have, on the basis of DNA evidence, been proved to be innocent of the crime of which they were convicted. To that extent DNA evidence is a step forward. However, contrary to what Reverend the Hon. Fred Nile says, this is not a case of *deus ex machina*; this is not perfect technology working without flaws that arrived on the surface of the planet. There is no question that two sets of issues arise with DNA technology. The first is the case of false positive where positive identification occurs and it is wrong. The problem is that the identification of DNA is a technology and DNA is a complex entity, and because of the way it is presented in courts, DNA evidence tends to carry more authority in courts than the reliability of the technology would suggest. That is the first warning.

The second warning that ought to be sounded when we talk about DNA evidence relates to privacy. Mr John Ajaka mentioned this briefly at the end of his contribution on this bill. It is a serious issue. The collection of DNA samples is in many senses a deeply personal thing because it involves the recording of one's entire biological programming. When an authority holds a DNA sample it holds a complete replica of one's entire body chemistry. The point is that there are serious privacy issues because of the detail of information that is acquired, including information unrelated to criminality or otherwise or unrelated to identifying someone as a certain individual or otherwise. The information may relate to genetic diseases or it may relate to other personal issues of the person whose sample is held that is not of relevance to the authority holding it.

I turn now to address the question raised by Reverend the Hon. Fred Nile about why privacy activists and the Greens are concerned about DNA. It is not because of its efficacy in fighting crime; it is because of the nature of seemingly irrelevant information that is held in the DNA databases that can expose people to adverse consequences. We have already had discussions about insurance companies using DNA samples and DNA analysis to identify who is appropriate to hold an insurance policy and to adjust premiums according to genetic predisposition.

Reverend the Hon. Fred Nile: This will be held by the police, not by insurance companies.

Dr JOHN KAYE: Thank you, I acknowledge the interjection, but we know about things held by the police. We spoke earlier today about four, or maybe six, kilograms of cocaine held by the New South Wales Crime Commission that ended up on the streets of Sydney. That a database is held by police is no guarantee that information on that database will not be leaked to the public. There are real risks associated with holding the entire biological programming of an individual and allowing that information to leak out into the public.

I turn now to the specific details and provisions within the bill. As has been said by other members in this debate, the provision dealing with the use of DNA will increase the efficacy of the use of DNA, and in some senses that is a positive thing. However, the Greens sound caution in respect of the implications for privacy, the implications where false positives occur and the consequences of the authority that DNA evidence holds when it comes to court.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.33 p.m.], in reply: I thank honourable members for their contributions on the Crimes (Forensic Procedures) Amendment Bill 2008. Members know that this is not a terribly controversial bill but I will respond to a couple of issues that were raised in the debate. The Hon. John Ajaka talked a lot about the importance of privacy. It is important to know that the Act does not permit the taking or the use of DNA samples for the purposes of establishing the identity of a person. The changes do not authorise police to take a person's DNA merely for the purpose of checking if they are on the database or to figure out who they are. They do, however, ensure that suspects on the database cannot escape being linked to a certain criminal activity by using fraudulent identities.

The Greens raised a number of privacy issues. I will quickly run through how the matching table and indexes will work. The Act authorises a series of indexes, which are lists of DNA profiles and associated data.

These indexes are divided by where the DNA profiles in them come from. Some come from suspects, others from objects at crime scenes and some from volunteers trying to find missing loved ones amongst other sources. Proposed section 93 has the table that sets out the types of profiles that can be matched against each other. This can have policy implications. For example, we do not want people who give their profiles for the limited purpose of finding a loved one to find themselves being investigated for a crime. We believe this would deter people from coming forward in tragic circumstances. In some ways that picks up on some of the issues raised by Reverend the Hon. Fred Nile. The Government continually keeps under review the different types of DNA profiles that may be matched with each other. Volunteer limited-purpose DNA samples serve a very important purpose and we need to ensure they continue to be available. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by Hon. Penny Sharpe agreed to:

That this bill be now read a third time.

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

CRIMES (SENTENCING PROCEDURE) AMENDMENT (LIFE SENTENCES) BILL 2008

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.36 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

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

Leave granted.

There are 17 inmates left in New South Wales who were sentenced to imprisonment for life prior to the 'truth-in-sentencing' reforms in the late 1980s and early 1990s. Of these, nine are inmates serving life with non-release recommendations. The remaining inmates are those remaining who have either applied for redetermination and been refused or who have not yet applied. At the time when they were sentenced, these inmates were subject to the release on licence scheme which meant that they could be released on licence after serving around 8 - 12 years. The truth in sentencing reforms meant that from 1990 onwards, offenders sentenced to life imprisonment, served the rest of their life in prison. However to avoid the "life means life" provisions from having retrospective effect, the Greiner Government's reforms provided that offenders who had been sentenced to life before "Truth in Sentencing" regime could have their sentences redetermined.

Inmates serving a life sentence could therefore apply to the Supreme Court to have their sentences redetermined. Unfortunately, there was no limit on the number of times an offender could seek a redetermination. Every time they made an application, the families of the victims had to go through the stress and trauma of preparing themselves mentally, writing Victims Impact Statements, and appearing in court. And often after enduring that stress they would find that the offender would withdraw their application at the last minute. The Government has brought forward this bill to address this problem. No longer will old life sentence inmates be able to repeatedly seek sentence redeterminations. The purpose of this legislation is clear, offenders should have only one opportunity for a redetermination. They should not bring an application for redetermination until they are ready to have it heard.

This bill continues to allow offenders to apply to the Supreme Court to have their life sentence redetermined, but puts a stop to multiple applications. They will now only be able to have one opportunity to apply to be re-determined. If upon an application by an inmate, the Supreme Court declines to set a non-parole period, or a fixed term sentence, then subject to appeal, that will be the end of the matter—the offender will have to serve the term of his natural life in prison.

This amendment to the Crimes (Sentencing Procedure) Act will not be retrospective. Each of the remaining offenders will be allowed one final determination, regardless of whether or not they have previously made an application. They will however only get one more chance. This strikes the right balance between protecting victims and ensuring existing court orders are respected and preventing any unfair impact. Central to the reforms in this bill is where an offender makes an application, but then wishes to withdraw it. The offender will now only be entitled to withdraw the application with the leave of the Court. If leave is granted, the Supreme Court may direct that the inmate cannot make a further application for a specified period of time and then they will only be able to withdraw with the leave of the court.

The Crown can also oppose any application by the offender to withdraw, and seek to have the redetermination application heard. The Court, when considering whether to grant leave, to withdraw, or reapply, will be required to take into account and give substantial weight to, how many previous applications have already been made and subsequently withdrawn. Importantly, the Crown, where an application is withdrawn, will be able to ask the Court to prevent the inmate from reapplying within a specified period of time.

These proposals relating to withdrawals will prevent Judge shopping and will make offenders reconsider withdrawing 'on a whim' without any real grounds, or repeatedly withdrawing their application. It is a fundamental principal of sentencing that the offender should have certainty in relation to the sentence that is to be imposed and that it be dealt with as expeditiously as possible. This is also true for victims and these proposals will allow the Court to take into account the delays and consequent hurt and anguish that is brought to bear on victims when such applications are made and not promptly brought to finality. Through this bill, the message to applicants is clear—you will have only one chance at redetermination, and you should not apply until you are ready to be heard.

I also want to put on the record that nothing in this bill allows those inmates who have already had their sentence redetermined to have any further redeterminations. Furthermore, where the Supreme Court has already ordered that an offender is not to reapply for a redetermination for a certain period, nothing in this bill allows for them to seek another redetermination before the court ordered period has expired. The legislation currently provides that upon an application for a redetermination of a sentence, the court is to have regard to all of the circumstances surrounding the offence for which the sentence was imposed, as well as a number of other factors including matters such as any reports on the offender made by the Review Council, and any other relevant reports prepared after the offender was sentenced, that are available to the Supreme Court, the need to preserve the safety of the community, and the age of the offender at the time the offender committed the offence and also at the time the Supreme Court deals with the application.

This bill adds another additional specific factor for consideration, which the court should give substantial weight to, namely the culpability of the offender in the commission of the offence, and whether the offence was in the worst category of cases. This will ensure that the Court turns its attention to the objective features of the offence and whether it was so heinous a crime as to fall within the worst-case category. The terminology is consistent with section 61 (1) of the Crimes (Sentencing Procedure) Act, which provides for the imposition of mandatory life sentences in worst case category offences.

In this provision the Government wants to make it clear that some crimes are so terrible that, despite any progress that has been made by an offender since they have been in custody, the offender should never be released and should die in prison. Some offenders, if they were being sentenced today under 'truth in sentencing', would still deserve a life sentence. I now turn to the bill in detail:

Schedule 1 [2] restricts to one the number of further applications that an existing offender may make to the Supreme Court for a redetermination of his original life sentence. Applications made on or after 17 June 2008 (being the date of announcement of the proposal) are to be covered by the restriction. Applications made before that date, and applications that are duly withdrawn, are not to be counted. The new clause also provides that if, in disposing of an application made on or after 17 June 2008 by an existing offender for a redetermination of his or her original life sentence, the Supreme Court declines to set a specified term or a non-parole period for the sentence, the offender is to serve the existing life sentence for the term of his or her natural life.

Schedule 1 [3] amends clause 6 of schedule 1. It applies only to applications lodged before the announcement. It allows the Supreme Court, if it declines to set a specified term or a non-parole period in determining an application by an existing offender for a redetermination of his or her original life sentence, to direct that the offender may never re-apply to the Court, or may not re-apply for a specified period. If the Court makes no such direction, the clause precludes the offender from re-applying for a period of 3 years. Clause 6 will not apply to any applications made on or after the date of announcement.

Schedule 1 [4] allows an existing offender to withdraw an application to the Supreme Court for a redetermination of his or her original life sentence only with leave of the Court. The Court's decision on an application for leave to withdraw such an application is not appealable. If the Supreme Court grants leave to withdraw an application, the offender who made the application may only make a further application for a redetermination of life sentence with the leave of the Court and, if the Court so directs, may not make the further application for a specified period of time. In considering whether to grant leave to withdraw an application or to make a further application, the Supreme Court must have regard to and give substantial weight to the number of times the offender has previously withdrawn an application for a redetermination of the life sentence. If the Supreme Court refuses to grant leave to an existing offender to make a further application for a redetermination of his or her original life sentence, new clause 6A provides that the offender is to serve the existing life sentence for the term of his or her natural life.

Schedule 1 [6] allows an appeal to the Court of Criminal Appeal in relation to an application for leave to make a further application for a redetermination and a direction that an offender may not make a further application for a specified period of time.

Schedule 1 [7] allows the Court of Criminal Appeal, in allowing an appeal against a decision of the Supreme Court to refuse an application for leave to make a further application following the withdrawal of such an application, to determine the further application.

Schedule 1 [5] requires the Supreme Court, when considering an application by an existing offender for a redetermination of his or her original life sentence, to have regard to and give substantial weight to the level of culpability of the offender in the commission of the offence for which the sentence was imposed and the heinousness of the offence.

The Homicide Victims' Support Group, Victims Of Crime Assistance League (VOCAL), and enough is enough have all been consulted about and have indicated that they support the proposed changes. The Attorney General also recently met with Gary Connell and his sisters, and the Government acknowledges both the trauma they have been through and the contribution they have made to these changes. The family victims of these inmates have suffered enough. Old wounds were opened anew every

time an inmate lodged an application, and the families had to relive the horrific crime, which took their loved ones from them. We are giving the victims certainty that they will only have to go through one redetermination of sentence and will not be put through the roller coaster of emotions when the offender applies but then withdraws on the eve of the hearing. Under these reforms the victims will be given certainty and will not have to suffer time and time again.

I commend the bill to the House.

The Hon. JOHN AJAKA [4.36 p.m.]: The Crimes (Sentencing Procedure) Amendment (Life Sentences) Bill 2008 amends the Crimes (Sentencing Procedure) Act 1999 in order to restrict to one the number of further applications an existing offender may make to the Supreme Court for a redetermination of his or her original life sentence; to require the Supreme Court when considering such an application to have regard and give substantial weight to the level of culpability of the offender in the commission of the offence for which the sentence was imposed and the heinousness of the offence; and to allow an existing offender to withdraw such an application and make a further application only with leave of the Supreme Court. The Opposition does not oppose the bill.

The bill appears to be partly in response to a number of applications by high-profile prisoners who have sought a redetermination of their sentences, only to withdraw such applications at the eleventh hour, to the significant distress of the families of the victims. With life sentence redetermination legislation the Government has previously attempted to ensure that certain prisoners would never be released. Attempts to "cement in" certain prisoners initially failed and the Government had to revisit the whole issue. It should be noted that these types of laws are susceptible to High Court challenge and it would not be surprising if this new law became the subject of a High Court challenge.

These amendments are designed principally to ensure that those remaining prisoners serving life sentences can make only one application for redetermination. This will avoid frivolous applications for determination being made and the last-minute withdrawal of such applications. The result of this will be to give the families of victims some degree of finality. That, of course, is the paramount consideration. But also it stops the court's time and resources being wasted. My understanding is that 17 prisoners remain in New South Wales prisons who were sentenced to imprisonment for life prior to the introduction of the truth in sentencing legislation in 1989.

It has been suggested that one adverse effect of this legislation might be that because they feel it is the only chance a prisoner has, many judges may grant applications for redetermination. Whilst judges may set longer non-parole periods than in other cases, they may, nevertheless, give such prisoners a chance to be released. However, in the interests of and in fairness to families of victims, it is imperative that any frivolous applications cease so that, if a serious application that has merit is lodged, it will proceed without an eleventh-hour withdrawal. As I said earlier, the Opposition does not oppose the legislation.

Reverend the Hon. FRED NILE [4.40 p.m.]: The Christian Democratic Party supports the Crimes (Sentencing Procedure) Amendment (Life Sentences) Bill. This House has been debating legislation dealing with these issues for many years. Attempts were made during the late 1980s and early 1990s to enact effective legislation to ensure that the sentence handed down by the judge was in fact the sentence served, especially if the judge determined that the offender was never to be released. Those words should not be regarded as symbolic and without any legal validity. Lawyers argue that they have no validity and that they are simply words on the sentencing document that are read out by the judge. However, the community believes that those words should mean what they say—that is, that the offender will never be released. That issue has created tension for years.

The offenders who are the subject of this bill have been taking advantage of legislation of this type, particularly of the 1989 truth in sentencing legislation. They repeatedly lodge applications with the Supreme Court for a redetermination of their original life sentence. This legislation will restrict them to lodging only one application. The reason for that is obvious; that is, it will relieve the pressure on the victim or victims, or the relatives of the victim or victims. For that reason the legislation has the support of the Homicide Victims Support Group, the Victims of Crime Assistance League and Enough is Enough; they have all indicated that they support the proposed changes.

Many of us have been told by the relatives of victims about the heartache they experience when convicted persons lodge these applications, causing them to face the trauma all over again. I refer to people such as Garry Connell and his sisters. It is clear that when such applications are made, the victims or their family must endure great trauma. The victims have already suffered enough and an application for sentence redetermination simply opens old wounds, forcing families to relive the crime that took their loved ones. They

feel helpless, but they also want to ensure that the sentence is upheld. They are not lawyers; they are simply family people. The victims I have spoken to over the years express great frustration about their inability to influence sentence redetermination. This legislation will give the families of victims some certainty in the future. This is important and overdue legislation, and I am very pleased to support it.

Ms SYLVIA HALE [4.45 p.m.]: The Greens cannot support this bill. There may be a case for limiting applications for redetermination, but to limit it to only one regardless of any change in circumstances is indefensible. That being said, victims of heinous crimes should not have to go through the stress of the perpetrator lodging multiple applications with the court or lodging applications and then withdrawing them at the last moment.

If the bill had provided that lifers had an automatic right to lodge an application for a redetermination of sentence—but could not lodge frivolous applications—and could lodge a subsequent application should there be a significant change in circumstances, the Greens would have considered supporting it. Not to allow an application for a redetermination is to ignore completely the rehabilitative component of sentencing—a component that is supposed to be integral to any sentencing regime.

The 17 inmates who were sentenced to life imprisonment before the truth in sentencing regime was established can apply to the Supreme Court to have their sentence redetermined. There is no limit on the number of times those offenders can apply for a redetermination. Prisoners convicted prior to the enactment of truth in sentencing laws have an advantage over those convicted and sentenced to life imprisonment after those laws were enacted. Someone sentenced today has only one right of appeal against a sentence and no redetermination application is allowed. However, the court can take into account the age of offenders when considering an appeal against a sentence.

The bill provides that pre-truth in sentencing offenders will now have only one opportunity to apply to have their sentence redetermined. This will affect only eight of 17 offenders because the other nine already have restrictions on being able to apply for a redetermination as a result of Bob Carr's legislation that has resulted in them being cemented in their cells forever. Some of the eight have already applied one or more times, and some have not applied at all. Under this bill, from now on these inmates will be able to apply for sentence redetermination only once. Applications lodged prior to 17 June 2008 will not be taken into account.

When an inmate makes an application but it is withdrawn, the bill provides that the Crown will be able to ask the court to refuse to entertain the application, to prevent the inmate from reapplying within a specified period or to refuse leave to withdraw the application. The bill provides that the Supreme Court when giving consideration to such an application must have regard and give substantial weight to the offender's level of culpability in the commission of the offence for which the sentence was imposed and the heinousness of the offence.

The Greens note that the Homicide Victims Support Group, the Victims of Crime Assistance League and Enough is Enough all support this bill. It is certainly horrible that the family of a victim may be subjected to a court case that is withdrawn at the last moment, and that it is possible for that to occur more than once. This bill will not affect the situation of certain inmates who are, in effect, locked up for life.

Bronson Blessington and Matthew Elliot have been serving life sentences since they were teenagers. Without condoning their crimes, which were utterly repulsive, to say, as the Government has done, that age is a consideration or that progress in rehabilitation is a consideration that can be taken into account only after 30 years of incarceration—that is, when these inmates are in their mid-40s—is to refuse to take into account genuine changes in circumstances. Elliot and Blessington—young people serving life sentences with a not-to-be-released recommendation—effectively become eligible to have their sentence redetermined only if they are about to die or have some accident that renders them incapable of movement.

Members know that Peter Breen, a former member of this place, has written and spoken extensively on the case of Blessington and Elliot. Surely the possibility of at least one chance of sentence redetermination should be extended even to a never-to-be-released inmate who committed the crime for which he has been incarcerated when in his teens. However, this bill is more relevant to those serving lesser sentences—that is, to eight of the 17 affected inmates.

Another possible factor that should be considered to permit an application for a redetermination of sentence is the inmate's health. What if a prisoner develops a brain tumour or dementia? Are they to be looked

after in a prison hospital until their sentence elapses or are they to die there? If they have high health-care needs will Justice Health happily absorb this cost? I know the view of the Council for Civil Liberties is that this legislation takes a sledgehammer approach to the problem and that limiting redetermination hearings to only one does not allow for a change in circumstances. The Law Society, when contacted, did not wish to comment given the shortness of notice of the bill. Once again, the Government has given scant regard to genuine consultation. The Law Society simply felt it was not worth commenting. As we have seen in the past day or so, the Government quite blithely ignores the opinions of the Law Society and similar professional groups. We saw an example of that last night.

The Greens note that the judiciary has refused applications for redetermination. I cite the case of Cribb, who has applied several times for redetermination, only to be refused each time. The Greens recognise the pain and suffering caused to the families of the people he murdered because of the number of applications, one of which was withdrawn at the eleventh hour as proceedings were about to start. Offenders who have been applying for sentence redetermination will, under these new provisions, need to think very carefully about when they apply because they will have only one chance. There is also the possibility of appeal to the Court of Criminal Appeal after a redetermination hearing based on points of law. At least the Government has left that right of appeal in place.

The Greens deplore the haste with which this bill has been introduced. It has made it impossible for us to prepare amendments relating to exceptional circumstances. What has happened over the past two weeks is extraordinary. Significant legislation—in this case legislation that impacts directly on people's lives and their future prospects, legislation that I believe is contrary to the motivations that underlie sentencing considerations—has been introduced without adequate time to consider amendments or to consult with relevant interest groups. That is deplorable on the part of the Government, but it is par for the course for a government that sees its electoral salvation in thumping the law and order drum.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [4.52 p.m.]: It is always good to follow the Greens in debate on these sorts of matters. It makes it clear in people's minds that voting in support of the Crimes (Sentencing Procedure) Amendment (Life Sentences) Bill 2008 is the right way to go. The Greens talk about the Council for Civil Liberties and in the same breath they say they recognise the pain and suffering of the victims and they deplore the haste of the passage of the legislation. It is really having a shilling each way. The thing I find hardest to swallow from the Greens is that we hear more about the eight or nine persons this legislation will affect rather than the countless lives that have been destroyed as a result of the actions of these animals. On 18 April 1979 Neville Wran called Cribb "a monster". Neville Wran was a barrister who spent many years in the courts prior to coming into Parliament. He referred to this guy as "a monster".

These debates are interesting. With the passage of time, we step back and look at things in a clinical way, as if we are talking about names in an historical perspective. We are talking about Cribb and Janine Balding—name after name. Blessington's name was mentioned. They are just names on a page—until members take some time from their busy schedules to travel some distance to talk to victims. When some members make a contribution to these debates they can, hand on heart, say, "I took the time out to speak to one of the victims, one of the people involved." Not so long ago I had the good fortune to travel to the North Coast to speak to people involved in the matter of John Ernest Cribb. I met Maggie Cooper, the sister of Valda Connell's husband, Paul.

I sat down and talked with Maggie. She is a very reasonable woman, a journalist by profession, a woman who would be best described as a moderate in her views and a woman who is of one mind in relation to this matter. We often hear the expression, "We recognise the pain." This woman has felt the pain. She has seen the pain in her family. She has seen her nephew, Gary Connell, the son of Valda Connell, grow up in this family that was devastated and destroyed. When you speak with these people you are then in a position to say with some seriousness that you recognise the pain and suffering. You are there at the sharp end talking to them and hearing what has happened to them.

Let us not forget the type of person we are talking about when we talk about John Ernest Cribb. In 1978 he kidnapped, raped and murdered Valda Connell, who was 39. She was in the presence of her daughter Sally and son Damien Connell. Sally was 10 and Damien was four. Over a period of a couple of days he terrorised them. He raped Valda and, to make sure that she acceded to his sexual demands, he threatened the children so she agreed to the sexual assault. Then, before her very eyes, he murdered her two children before murdering her. This is the piece of filth that some people feel deserves some sort of compassion and understanding. He does not deserve anything of the sort. I have spoken to Maggie Cooper in the past couple of days. The family does not

want any opportunity for these sorts of people, once they have been convicted, to find legal loopholes—like snakes that find their way through the grass—and to find angles by which to torment families the way this animal has tormented the Connells.

There are others out there that we do not talk about as regularly. Horrific as that murder was, the murders these other people have committed are just as bad in the devastation they have caused. I become increasingly frustrated when I hear these glib comments, "We recognise the pain and suffering" and, "Let us talk about the rights of these people in jail." Stuff their rights for what they have done to families and to the community! These offences rip away at all of us. I find it hypocritical of people to suggest that the Council for Civil Liberties has got it right and we have to stand up for the principles. Such people should take the time to visit some of these victims, to look into their eyes and to tell them that defending the civil rights of these animals is a legitimate debate. I do not think it is. If you spent the time talking to them, you would agree that it is not. The Opposition does not oppose this bill.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Justice, and Acting Minister for Education and Training) [4.57 p.m.], in reply: I thank honourable members for their contributions to the Crimes (Sentencing Procedure) Amendment (Life Sentences) Bill 2008. I will respond to some of the issues raised by Ms Sylvia Hale, who is the only member who spoke in opposition to this legislation. In my view, this legislation strikes an appropriate balance. It is now more than 17 years since the truth in sentencing legislation was passed. During that period there have been ample opportunities for people who were sentenced to periods of life imprisonment before the changes occurred in 1989 to be able to make applications to the court and to have those applications resolved. A small number have either not made applications or have made applications and they have been repeatedly refused.

What we have had in recent times on the part of Cribb and on behalf of others is a new phenomenon: the concept of being able to make an application, prepare the application, take it right to the doorstep of the court, play with the emotions of victims and, at the very last minute, decide for one reason or another—be it judge shopping or something else—that they will not proceed with the application, with no explanation to the court and with no apology to many of the stakeholders who have an interest in the matter.

With this legislation an offender gets one chance and one chance only. If the offender decides to withdraw, then the leave of the court is required. If granted leave and the offender wants to come back again, leave is required again but in obtaining that leave the court is entitled to take into account any previous applications and the withdrawal of those applications, so that there can be finality, particularly for the victims. Any other offenders sentenced for a crime these days are given only one opportunity to present their cases to the court, to have their sentence passed, subject of course to any appeal. Many of these people have had a lot more opportunities, and 17 years on it is timely that we say that there will be only one further opportunity and that is it. If they fail, that is the end of the matter. If they want to withdraw, they will have to explain, particularly in the context of previous applications, and if they have received leave to withdraw and want to make another application, they need the leave of the court to come back.

Ms Sylvia Hale says that circumstances can change and offenders can change. There is a very simple answer: If offenders think they are going to change and that they have a better opportunity down the track, they should not make an application until they have changed. It is very simple. They should not waste their opportunity or waste the time of victims; they should reform themselves and test whether they have met the prerequisites for a redetermination. Inmates need to take this into account when deciding to make an application. There are no free goes any more. They cannot keep seeing if they have Judge X or Judge Y, whether it is raining outside, whether the tea leaves are right, to decide whether they want to proceed with the application. They must make their application, have it determined and bear the consequences if they fail. That is what this legislation prescribes. It is very balanced. It gives courts the opportunity to reflect on all aspects of offenders, in particular, their involvement in the crime and the heinous role they played in the commission of a crime as a substantial ingredient in the exercise of whether there is going to be a redetermination.

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

Motion agreed.

Bill read a second time.

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

Third Reading

Motion by the Hon. Henry Tsang agreed to:

That this bill be now read a third time.

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

ROAD TRANSPORT LEGISLATION AMENDMENT BILL 2008

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.04 p.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

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

Leave granted.

The main purposes of the Road Transport Legislation Amendment Bill 2008 are to introduce a new penalty regime for novice drivers who commit certain driving offences, to improve the enforcement processes when drivers fail to pay a toll when using a motorway, and to introduce a nationally agreed regime to manage heavy vehicle driver fatigue and speeding compliance. The measures in the bill will further improve the safety of young drivers by building on those already implemented by this Government. I add that the Government is very proud of its record in reducing road fatalities, particularly those involving young people. The provisions in the bill will also improve the enforcement of tolling by extending the period to commence a toll offence prosecution to make it consistent with time limitations in other road transport offences detected by cameras, allowing non-contentious evidence to be tendered into court by a certificate, and to make it easier for a toll operator using camera technology to determine whether a vehicle is driven in contravention of the requirement to pay a toll at the time the vehicle passes the toll collection point.

The Government has consulted widely with the Roads and Traffic Authority, New South Wales Police Force, the Motor Accidents Authority, the New South Wales Parliament's Stay safe committee, the Commission for Children and Young People, the New South Wales Youth Advisory Council, the NRMA and the community on the safety of young drivers. As a consequence of that wide consultation, the Government has done much work and has made the tough decisions needed to improve the safety of novice drivers. The decisions include limitations on the use of certain high-powered vehicles, passenger restrictions, the way P-plate signs are to be displayed and the banning of the use of any form of mobile phone by novice drivers. In addition, on 1 July 2007, following a suggestion from the NRMA, the Government adopted a zero tolerance approach to speeding by P1 drivers.

A P1 driver now faces a minimum three-month licence suspension for any form of speeding. Also forecast were further changes that will see on-the-spot licence suspension and confiscation for speeding in excess of 30 kilometres per hour over the limit. This followed evidence that one in ten P1 drivers between July 2005 and June 2006 were caught speeding in their first year of driving. This is an unacceptable figure, which the zero tolerance approach clearly addresses. The message to young drivers is clear: slow down or lose your licence. Preliminary crash data for 2007 has shown that the initiative is already delivering road safety benefits. Fatal crash involvements of P1 drivers in 2007 declined by 35 per cent compared with 2006.

I turn now to the details in the bill that relate to novice drivers. One of the key elements of the bill is to extend the current licence suspension powers of the police to include certain novice driver offences. Currently, any driver speeding in excess of 45 kilometres per hour above the limit runs the risk of having his or her licence suspended and confiscated by the police at the roadside. The bill sees this power extended to learner or provisional drivers speeding in excess of 30 kilometres per hour above the limit. There can be little argument put forward by a learner or provisional driver that committing this type offence was an unintended mistake. A new and inexperienced driver travelling at this speed is a recipe for disaster.

The bill also extends the police power to include the offence of a learner driver driving unaccompanied by a supervising driver. In New South Wales, as in all other jurisdictions, learner drivers are required by law to drive with a supervising driver who holds a full Australian licence. This is obviously a sensible measure, as it recognises that learners do not have the necessary skills to drive a vehicle on their own—that goes without saying. Learners who drive unaccompanied not only put themselves in danger but also pose a serious threat to all other road users. In fact, it can be argued that a learner who drives unaccompanied should be deemed as driving unlicensed, which can incur penalties of up to \$3,300 and 18 months imprisonment. Unfortunately, the number of learners who were detected driving unaccompanied has increased sharply in recent years, with 5,178 offences recorded over the past year. That is an unacceptable and intolerable number, given that these drivers are supposed to be learning how to drive. In the circumstances, it is appropriate that harsh measures be taken to deter learner drivers from this unacceptable behaviour.

Immediate roadside licence suspension has proven to be an effective contributor to road safety outcomes in New South Wales. This type of suspension action has a dual effect in that it instantly removes irresponsible and dangerous drivers from our roads, while also creating the incentive for drivers to comply with the road rules to avoid the loss of a licence. The suspension remains in place until the matter is heard in court or the charge is withdrawn. Where the police issue a penalty notice, the suspension remains in place for three months.

To reinforce the danger associated with a learner driver driving unsupervised, the bill proposes that the offence no longer attract demerit points. Instead, an automatic disqualification period of three months will apply with the court being able to disqualify for any other period up to a maximum of 12 months. The court may take into account for the purposes of applying a disqualification period any period already served under the roadside police suspension. Licence holders will still retain the right to appeal the roadside suspension or the court conviction. Adoption of this proposal will fulfil one of the initiatives in the Government's State Plan, which is to combat antisocial behaviour through encouraging responsible driving. The measures are sensible policies that will help to further reduce the road toll and, as importantly, better equip young and novice drivers on our roads.

I turn now to the amendments in the bill relating to tolling. The bill will make minor amendments to the Roads Act. The amendments address the needs of motorway operators for the efficient administration of toll enforcement and prosecution and the need to ensure legislation reflects the nature of technology used for that enforcement in a free-flow electronic toll collection environment. Currently, an "approved toll camera" is defined in the Act as being designed to take a photograph of a vehicle that is "driven in contravention of a requirement to pay a toll". However, in a free-flow toll traffic environment using electronic and automated collection it may be difficult for a toll operator to determine whether a vehicle is driven in contravention of the requirement to pay a toll at the time the vehicle passes the toll collection point.

If a toll operator allows the toll to be paid in another manner, as allowed for by the regulations, there is further delay while the toll operator determines whether the toll has been paid in that manner. In reality, it may only be possible to determine whether a vehicle has failed to pay the toll once the registration details of the vehicle have been matched to e-tag or pass accounts held by the toll operator or an e-tag issuer. If the toll operator determines that a vehicle has been driven in contravention of paying a toll, the photograph of the vehicle is important and reliable evidence. It is therefore proposed to amend the definition so that an approved toll camera is a camera that takes a photograph of a vehicle as it is driven past a toll point. This definition will better align the terms of the definition with the practical demands upon toll operators in a free-flow electronic toll collection environment. The amendments preserve the privacy protection over use and disclosure of information acquired for the purpose of toll collection using an approved toll camera.

The bill will also amend the Roads Act 1993 to extend the period in which criminal proceedings for a toll offence may be commenced from six months to 12 months and to extend the certificate evidence provisions of the Act to provide for certificate evidence of non-contentious matters in toll offence prosecutions. In a free-flow electronic toll collection environment, motorway users may have various options for paying the relevant toll. Some users have the amount deducted from their e-tag or may pay the toll by some other manner permitted by the toll operator. The usual practice of the tollway operator is to send a notice requiring payment for a vehicle that has been detected by a toll camera as having not paid the required toll. Operators may also write a second reminder notice offering time to pay the toll. If there is no response or payment, a penalty notice may be issued.

Giving motorists the opportunity and time to pay a toll ensures that legitimate errors can be rectified, for example, the motorist's e-tag may not have been working. Toll operators permit these methods of payment to support the smooth flow of traffic and overall network efficiency. The toll offence provisions of the Roads (General) Regulation provide that the driver of the vehicle passing the toll collection point is liable for failure to pay a toll. However, unless the actual driver is nominated, the regulation provides that the owner of the vehicle is deemed to be the person responsible. In some cases, for example, commercial passenger and goods vehicles, several nominations may be made because many people regularly drive the vehicle. Each time a different driver is nominated there is a time delay. Extending the time to prosecute from six months to 12 months reduces the opportunity for toll evaders to avoid prosecution by taking advantage of delaying the processing of penalty notices until the time limit to commence proceedings has passed.

The change will also make the time to commence a prosecution of a toll offence consistent with other camera-detected road transport offences. To prosecute a toll offence, a prosecutor must prove such facts as the relevant toll, the tollway and identity of the tollway operator, registered operator of a vehicle and matters that appear in or can be calculated from records relating to vehicles using the tollway. This information is not controversial, but must be tendered in court for the prosecutor to discharge the burden of proof. This results in significantly increased costs and unnecessary complexity in what should be a routine court process.

The introduction of certificate evidence provisions in the Act for toll prosecutions will enable the more efficient conduct of proceedings by providing for certificate evidence of non-contentious matters to be tendered in routine court proceedings for those offences. The provisions allow for such evidence to be prima facie evidence of the matters that are certified, and hence leave open that a defendant may seek to challenge these matters in a prosecution, if they wish. Other changes to the Roads Act 1993 include adding the definition of "toll point" to the Act instead of the current term "toll collection point" that is used in the regulations. As many motorways are now operating with a free-flow traffic environment, use of the term "collection" may cause drivers on these motorways to pose a road safety risk by slowing down at a collection point, or even stopping.

I turn now to the amendments in the bill relating to heavy vehicle driver fatigue and speeding compliance. The main purpose is to allow regulations to be made to implement national model legislation in New South Wales, which extends the chain of responsibility concept to all parties in the heavy vehicle industry in relation to these important matters. Members will be aware that since the very early 1990s, New South Wales has participated in the national road transport reform process, which is delivered through the National Transport Commission [NTC]. The Government is committed to improving transport productivity, efficiency and safety in a uniform and nationally consistent manner. The National Transport Commission estimates heavy vehicle fatigue-related crashes cost Australia a staggering \$300 million a year. Heavy vehicle speeding is a related problem.

Roadside enforcement provides an essential immediate response but does not target systemic issues where contracts encourage or coerce drivers to break the speed limit. National Transport Commission research indicates that if all heavy vehicles complied with speed limits, a 29 per cent reduction in heavy vehicle crashes could be expected. Because trucks cross State borders, it goes without saying that a national approach to problems such as heavy vehicle driver fatigue and speeding is essential, especially for New South Wales. Some 80 per cent of Australia's long-distance freight travels on New South Wales roads for at least part of its journey. Strong national solutions to problems, such as driver fatigue and speeding, are critical.

The bill will apply the chain of responsibility provisions, which form part of compliance and enforcement amendments introduced in 2005, to all parties in the heavy vehicle industry to manage fatigue. It also adopts concepts from occupational health and safety legislation, such as general and specific duties. Off-road parties in the transport chain must take reasonable steps to prevent the occurrence of an offence. The legislation will provide for shorter standard working hours than currently exist, with longer and more frequent rest breaks for restorative sleep. Longer working hours and greater flexibility also are permitted under the national model legislation, but they are accompanied by accreditation requirements, safety management systems and increased accountability for the operator and other parties in the chain.

The model heavy vehicle driver fatigue legislation is underpinned by a scientific understanding of fatigue with restrictions on the working of night hours and measures to prevent the accumulation of a sleep deficit. Importantly, it also promotes a rigorous systems-based approach to the management of fatigue-based risk. Penalties imposed under the regulations will adopt a risk-based approach to the categorisation of driver fatigue offences. The bill also allows regulations to be made to ensure that certain off-road parties, such as employers and schedulers, take responsibility for ensuring that a driver is not encouraged, or required, to speed.

The bill makes clear the application of occupational health and safety legislation. The provisions of driver fatigue and speed compliance legislation do not affect the operation of occupational health and safety legislation. In addition, when complying with road law would cause a person to contravene an occupational health and safety law, the person is not required to comply with that road law. The bill also provides that where an act or commission is an offence under road law and occupational health and safety legislation, the offender is not liable to be punished twice, which means that there is no double jeopardy. I trust members will lend their unreserved support to the Government's proposals set out in the legislation. I commend the bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [5.04 p.m.]: I state at the outset that the Opposition does not oppose the Road Transport Legislation Amendment Bill 2008, but we have concerns. It is interesting to note that on a day when we have had our fourth crisis in roads and traffic in three days, the Parliamentary Secretary, not the Minister for Roads, has the carriage of the bill. In many regards this is a good bill. The Opposition supports measures to strengthen police powers to suspend and confiscate learner and provisional driver licences when they speed in excess of 45 kilometres an hour as they are appropriate amendments. Learner drivers caught driving without supervision have their licence automatically suspended for three months or a maximum of 12 months, as directed by the courts. The offence of driving unsupervised will no longer attract demerit points. We agree to changes stating that criminal proceedings for toll offences may commence from six to 12 months as this reduces the time for toll evaders to avoid prosecution. Heavy vehicle changes are the key to this bill, such as fatigue and speeding compliance and having chain of responsibility legislation applying to all parties in heavy vehicle incidents.

When the Minister first introduced the chain of responsibility legislation the Opposition supported it with the best will in the world. We envisaged it as appropriate. However, many members will remember the concerns raised by the road transport industry where companies were unfortunately putting pressure on owner drivers by expecting them to keep to unrealistic timetables. The way to overcome it was to make drivers responsible for their own actions and also make responsible the companies that put pressure on the drivers. That is a laudable approach. Sadly, the Minister decided to engage in base politics.

I sought to raise unforeseen ramifications. For example, in the grain industry, a contractor was working for 18 months to cart grain from a property before a fine was issued for the contract harvester not actually employed by the farmer. The wife of the farmer, who was a partner in the company, was held to be liable for the overloading under chain of responsibility. At that time she was not actually on the farm supervising the contractor's trucks as they left—she was in hospital having a baby. These are the sorts of unforeseen ramifications. Admittedly, that is an extreme example but people in management positions employing others can be caught. When we supported that legislation, it was for the very proper reason, as detailed by the Government at the time, of preventing the circumstance in which subcontractors were put under pressure by owner drivers. Not only was pressure put on these people to break the law and do things they should not do, but people's lives were put at risk, and that was a real issue that needed to be addressed.

The bill introduces important changes regarding driving times and fatigue, which is also laudable. However, in line with bringing in these changes, truck rest areas, or truck stops as they are known, must be provided. These days the trucking industry is not a two-bob-watch industry; it is a professional industry in which people drive rigs, whether they be a straight semitrailer with a bogey and tri-axle, a B-double or a B-triple, ranging in value between \$250,000 and well over \$1 million. These are professional drivers operating for professional companies, and they need to know where they stand.

The legislation is discreet in what it says will happen, and it will depend on the regulations to come into force. I indicate that the Opposition will monitor the regulations when they are in place. If the regulations are inappropriate, the Opposition will move to revoke them. Members may well ask why we would want to do this, given that the bill, on the surface, is sensible legislation. If truck drivers have specified times to drive and

specified distances to travel but they do not have rest areas in which to pull over, how can the legislation be justified? I put to the Parliamentary Secretary, as representing the Government and the Roads and Traffic Authority, that just as under the chain of responsibility the Government would hold a pregnant woman responsible for the overloading of a contractor on her farm, the Government should be also held responsible if truck drivers do not have a place to stop and therefore are forced to drive for longer than they should.

We want to support the legislation, and certainly we will not oppose it based on what we have seen. However, there is a problem regarding truck rest areas. There are not enough of them; indeed, quite a number of truck rest areas along the Hume Highway have been removed. RTA dump sites have now been established in areas where in the past it has been accepted heavy vehicles could pull over. We all know the NIMBY situation, whereby people think, "It's great to have these truck stops, but not in my backyard." One can understand that sentiment, particularly if it involves a truck carrying four decks of sheep or two decks of cattle. When the truck stops on the side of the road, particularly if it is in a suburban area, the smell and noise are undesirable, to say the least.

The drivers of many refrigerated vans leave the motors running during the night to keep the cooling system going. Many of us who have stayed in country motels when travellers have been in adjoining rooms and their trucks have been outside the rooms know well the noise the refrigeration units make; it is not a great noise. On top of that, people of my generation, such as the Hon. Charlie Lynn, who are starting to become the grey nomads and wander the streets in their Winnebagos or converted land cruiser RVs—

The Hon. Charlie Lynn: Troopies.

The Hon. DUNCAN GAY: —troopies, are increasingly wanting to use the truck rest areas as well. Indeed, a conflict is developing, because many of the caravan parks that were once in existence are no longer there; they are prime real estate and people have been moved on. The bill is a great idea, and on the surface it is terrifically sensible, except that it will not work unless we follow through with the detail. We need to know, officially, where these truck stops are, and they must be properly signposted. It is important that as people approach the truck stops they have time to make their decisions. It may well be that the truck stops need to be keyed into the software that goes into the GPS units that are in many of these big rigs—indeed, most vehicles have them today—to indicate by way of icon the size of the truck stops, the rig sizes they are able to handle, and other general information. That is the professional way to approach what is a very professional industry these days, one that is trying to do the right thing.

Another concern is truck changeover areas. Given the success of the mining industry at the moment and the number of jobs it has created, major interstate freighters have told us they are having trouble retaining their drivers. People once said that being a truckie was a job you could get when you could not get another job. I believe that has not been the case for a long time, and it certainly is not the case at the moment. The people who drive these rigs are highly sought after and hard to get, and the operators wish to keep them when they get them. An enormous amount of money is paid to truck drivers in the mining industry. More than \$100,000 for a driver of big dumpers who lives at home and does not travel on the roads is pretty attractive. The trucking companies are therefore looking at changing the industry so that people are able to commute, drive, and stay at home, rather than camp in the rear of the trucks. In many cases it involves the truck driver travelling a certain distance, changing the rig or changing the trailer, and having a defined area in which to stay. In that regard we have not caught up with what is happening in the industry.

Sadly, in the south of the State a life was lost in the transfer of a trailer in what seemed to be an undesirable situation. Let us hope that we will not have more situations like that. That is another reason why we need to have appropriate truck changeover points and rest areas. As I indicated, the Opposition will not oppose the bill but we give notice that we will monitor the regulations and will watch the activity of the RTA in coming up with a workable solution to truck rest areas and timetables that correlate with the timetables that have been put in place. If it does not, the Opposition will move to remove the regulations.

Reverend the Hon. FRED NILE [5.18 p.m.]: The Christian Democratic Party supports the Road Transport Legislation Amendment Bill 2008. We commend the Government for introducing the legislation in response to an increasing number of serious road accidents involving heavy vehicles, semitrailers and so on. The bill introduces a new penalty regime for novice drivers who commit certain driving offences, improves the enforcement processes when drivers fail to pay a toll when using a motorway, and introduces a nationally agreed regime to manage heavy vehicle driver fatigue and speeding compliance. The provisions in the bill will also improve the enforcement by extending the period to commence a toll offence prosecution to make it consistent with time limitations in other road transport offences detected by cameras, and to allow non-contentious evidence to be tendered in court by a certificate.

One of the key elements of the bill is to extend the current licence suspension powers of the police to include certain novice driver offences. Currently any driver speeding in excess of 45 kilometres per hour above the limit runs the risk of having his or her licence suspended and confiscated by the police at the roadside. The bill sees this power extended to learner or provisional drivers speeding in excess of 30 kilometres per hour above the limit. Some would argue that if a driver is 30 kilometres per hour over the limit then he or she should be hit with the full force of the law and even lose their licence.

One of the dangers I have noticed when undertaking long car journeys—and I appreciate that the bill refers to trucks as well—is that there are sections of the highway, particularly the Pacific Highway, where the speed limit of a 110 kilometres per hour suddenly drops to 80 kilometres per hour. If a driver is not alert and misses the 80 kilometres per hour sign he or she will continue to drive at 110 kilometres per hour. That means that the driver, who may not normally speed and endeavours to comply with speed limit signs, has been driving at 30 kilometres per hour over the limit and has been breaking the law because he or she missed the 80 kilometres per hour sign.

I urge the Government to give consideration to reducing speed limits in stages. A speed limit of 110 kilometres per hour should not suddenly drop to 80 kilometres per hour. I suggest the speed limit should drop from 110 kilometres an hour to 100 kilometres per hour and then to 80 kilometres per hour, which would enable drivers to reduce their speed gradually. If the Government does not adopt my suggestion people will continue to exceed the speed limit by 30 kilometres per hour on sections of highways that drop from 110 to 80 kilometres per hour without their knowing it, which could result in them losing their licences.

The bill also extends the police power to include the offence of a learner driver driving unaccompanied by a supervising driver. Learner drivers are required by law to drive with a supervising driver who holds a full Australian licence. This is a sensible measure. The bill reinforces the danger associated with a learner driver driving unsupervised and proposes that the offence no longer attract demerit points. Instead, an automatic disqualification period of three months will apply, with the court being able to disqualify for any other period up to a maximum of 12 months. The automatic disqualification is a dramatic increase in the penalty, but hopefully that will ensure that all learner drivers are in the company of a fully licensed supervising driver.

Toll cameras have caused problems. The bill will amend the definition to provide that an approved toll camera is a camera that takes a photograph of the vehicle as it is driven past a toll point. This definition will better align the terms of the definition with the practical demands upon toll operators in a free-flow electronic toll collection environment. I believe those amendments are valuable and will assist the toll operators of New South Wales, particularly in the Sydney region. The Christian Democratic Party supports the bill.

Ms LEE RHIANNON [5.23 p.m.]: The Road Transport Legislation Amendment Bill 2008 is a sensible bill overall in which a number of useful changes have been made to various transport Acts. Safety has been thoroughly addressed in the bill. It was good to see the work undertaken by the Transport Workers Union [TWU]. I congratulate the Transport Workers Union and its members on their work to ensure the chain of responsibility forms a key part of the bill.

Changes to the Roads Act 1993 to alter the definitions relating to toll cameras, and to extend the time in which proceedings may be brought for an alleged toll offence, have merit. I understand that the changes to extend the time in which proceedings can be commenced from six months to 12 months brings this aspect of the law into line with other traffic offences. The Greens do not oppose this change, notwithstanding problems surrounding identification and administration of tolls. However, when tolls are being considered it is worth remembering the problems faced by commuters who use motorcycles. We also must ensure that changes to the laws and regulations impact on how motorcyclists operate.

The Greens believe that the Government should assist motorcyclists, especially in areas where there is no decent public transport. Motorcycles from the Hills district have approached me. Lack of a decent public transport system means they are disadvantaged in travelling to work, undertaking recreational activities and picking their children up after school. People from the Hills district who travel into the city pay fairly heavy road tolls. Clearly a different toll should be paid for a motorcycle and a car. It is also worthwhile remembering that the majority of motorcycles use less fuel and create fewer emissions than motor vehicles, both in their production and use. Motorcycles also reduce congestion, parking problems and road wear and tear. The Government should not hit motorcyclists for tolls at the same rate as it hits car drivers.

The Hon. Charlie Lynn: Hear! Hear!

Ms LEE RHIANNON: I acknowledge what I assume is support from the Hon. Charlie Lynn. New South Wales is the only State that exacts the same tolls from motorcyclists as it does from car drivers. Change is long overdue. There are serious issues as to exactly how motorcyclists are charged. Most e-tag providers will not issue an e-tag to a motorcyclist. I acknowledge that there is an amount of complexity involved in fitting an e-tag device to a motorcycle but that problem should have been worked out long ago. Even if the E-Toll device is obtained under false pretences—I understand they are by some motorcyclists—it is almost impossible to successfully attach the device to the motorcycle without potentially damaging the E-Toll tag or exposing it to the elements. Motorcyclists have told me that many of the proposed solutions pose safety risks. We are told that the Government is working with the Motorcycle Council, and that is good news but it is taking so long. Solutions can always be found. I am not an expert in this area, but the Government must do more. We look forward to seeing some progress in the near future, as well as a change to the current unfair tolling.

The new trucking regime that extends the chain of responsibility for safety is a significant advance, and has important implications for truck drivers and the general public. The Greens support the move, which we hope will lead to an improved culture of safety within trucking companies. In this chain of responsibility it is important that responsible driving practices are largely moved to the companies that benefit by freight being moved quickly across our roads.

The cost of fatigue and speed-related heavy vehicle accidents is enormous. Any investment the Government makes to lessen the impacts will be money well spent. In the long run it will save money because the cost of accidents on our roads is enormous. The Greens have some concerns about the exemptions and flexibility that will be available to transport companies on the basis that they fulfil various accreditation requirements. The Government and the companies come across as tough on safety, but these measures seem to be convenient loopholes that allow a business-as-usual approach. Although the chain of responsibility has been put in place, we are concerned about the exemptions. We believe more needs to be done in that regard.

The Government says that it wants to appoint a fatigue expert to monitor aspects of this change. We support this proposal. Fatigue is an enormous risk factor for those in the industry and all of us who share the roads with them. Many truck drivers say that the infrastructure does not exist to abide by these changes, particularly given the overall shortage and, in some areas, absence of rest stops. The Government assures us that the newly formed national accreditation body and the Roads and Traffic Authority, which is charged with investigating compliance with these changes, will have sufficient resources and powers. I understand that other States are bringing in similar legislation, which is an important measure because many truck journeys cross borders. About 80 per cent of the trips in New South Wales originated outside the State. We must remind ourselves that heavily loaded trucks are like travelling time bombs. A recent Roads and Traffic Authority study showed that fatal crash rates are about five times higher for heavy trucks than for other types of vehicles.

At a time when fuel prices are skyrocketing, there will be increased pressure on transport companies and, in turn, truck drivers to get materials to market faster and cheaper. This increases the danger for truck drivers and all road users. We must always be mindful of that when considering these matters. While the Greens do not oppose the bill, the Government must address the increasingly moribund road infrastructure, spiralling fuel costs, noise and air pollution, and the dangers posed to other road users. Although we support measures that increase safety on our roads, the most effective way to increase safety on our roads is to put more freight onto rail and coastal vessels. Much of the material that is freighted on trucks does not need to reach its destination the next day. Those goods can be transported by rail and ship in an efficient and climate-friendly way, and future oil stocks will not be drained from the increasing trucking activities on our roads. I congratulate the Transport Workers Union on their work on this measure and for bringing it to the Government for the purpose of this bill.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.33 p.m.], in reply: I thank honourable members who have contributed to debate on the Road Transport Legislation Amendment Bill 2008. We all share a desire to see our roads become increasingly safer places. We all share a desire to see drivers of heavy and small vehicles use our highways with safety. We all share a desire to see our young people slow down. As many speakers have said, we share a respect and admiration for our truckies who, day and night, move the goods upon which we rely for life's necessities and our livelihoods. That is why the Government is moving ahead with this legislation.

Members have raised a number of issues during debate on this bill. I seek to address those issues now. As to E-Toll tags on motorcycles, the Roads and Traffic Authority is in discussion with a number of companies to try to deal with the practical issues. I have been advised that the Minister for Roads will update the House on this issue in due course. The Deputy Leader of the Opposition raised a number of issues about farmers and the

offences categorised under the new fatigue legislation. The offences are categorised according to the extent of the risk. The fatigue legislation categorises offences as a minor risk, a substantial risk, a severe risk or a critical risk. Penalties will increase as the risk increases. Penalties would generally be greater than the penalties under the current legislation. Penalties include infringement notices or fines, court imposed penalties and demerit points. Demerit points will be placed against the drivers record and imposed by the court. A minor risk offence might incur an infringement notice penalty amounting to several hundred dollars, while a critical risk offence, especially by a corporation, could attract a court-imposed penalty. As to the protection of farmers and similar parties from liability, farmers and similar parties are not automatically liable for breaches of fatigue and speed laws by heavy vehicles, as there is no absolute liability. Rather, these laws will prescribe a set of duties for each party in the logistics chain, and if a particular party meets its obligations it is not liable for a breach by another party in the chain of responsibility.

As to truck stops and rest areas, there are more than 1,400 roadside rest areas and truck stop bays in New South Wales and the Roads and Traffic Authority administers approximately 1,100 of them. The standard of rest areas currently provided in New South Wales range from informal hard-stand areas to those providing a range of high-quality facilities, such as the recently opened Yelgun rest area, the Frank Partridge VC rest area at Menangle and the Tarcutta trailer exchange facility at a further cost of \$450,000. The Roads and Traffic Authority is currently finalising the statewide rest area maps, which will be put on the Roads and Traffic Authority website soon. These maps will replace all current rest area information on the website. The Roads and Traffic Authority is preparing a strategy based on the National Transport Commission's guidelines for the provision of rest area facilities to identify needs for enhanced provision of heavy vehicle rest areas. The Roads and Traffic Authority's strategy will be focused on a staged enhancement of rest opportunities on key freight routes across New South Wales, which will provide heavy vehicle drivers with improved stopping opportunities. Through the peak trucking industry bodies, the Roads and Traffic Authority is currently surveying heavy vehicle users of the Pacific Highway. The results of this survey will assist the Roads and Traffic Authority to gauge the need for government involvement in a number of areas, including the provision of trailer exchange facilities on the Pacific Highway.

As to Reverend the Hon. Fred Nile's comments about the zero tolerance approach being extended to learner drivers, on 1 July 2007 the Government introduced a zero tolerance approach to speeding by provisional P1, or red P-plate, licence holders. Under the changes a P1 driver who commits any speeding offence is suspended for a minimum period of three months. By including learner drivers in the zero tolerance measures, the Government is sending a clear road safety message to novice drivers that speeding at any level will not be tolerated. It promotes in the very first stages of the licensing scheme that the speed limits must be complied with or loss of licence will result. Obviously, the changes are driven by the overrepresentation of young people in our roads statistics. I thank all members for their contributions to the debate and I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That this bill be now read a third time.

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

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2008

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.38 p.m.], on behalf of the Hon. Michael Costa: I move:

That this bill be now read a second time.

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

Leave granted.

The Statute Law (Miscellaneous Provisions) Bill 2008 continues the established statute law revision program that is recognised as a cost-effective and efficient method for dealing with amendments of the kind included in the bill. The form of the bill is similar to that of previous bills in the statute law revision program. Schedule 1 contains policy changes of a minor and non-controversial nature that the Minister responsible for the legislation to be amended considers to be too inconsequential to warrant the introduction of a separate amending bill. That schedule contains amendments to 41 Acts. I will mention some of the amendments to give members an indication of the kinds of amendments that are included in the schedule.

Schedule 1 makes a number of amendments relating to the constitution of various entities. These include amendments to the Australian Museum Trust Act 1975 to increase the number of trustees from 9 to 11 and to require at least one of the trustees to have knowledge of, or experience in, Australian Indigenous culture. The Poultry Meat Industry Act 1986 is amended to enable the members of the Poultry Meat Industry Advisory Group who represent poultry growers to be appointed from persons nominated rather than elected. This amendment streamlines the process for appointing the advisory group and is supported by the advisory group and the Poultry Meat Industry Committee.

Amendments to the Guardianship Act 1987 will enable the appointment of more than one deputy president of the Guardianship Tribunal. Schedule 1 also makes a number of amendments to the Nature Conservation Trust Act 2001. These amendments arise from recommendations made in a statutory review of that Act that was tabled in Parliament last year and are intended to improve the functioning of the trust. The Ombudsman Act 1974 is proposed to be amended to improve the operation of the Ombudsman's office. This amendment will allow the Ombudsman to delegate to a special officer of the Ombudsman the largely administrative reporting function of keeping complainants informed of the progress of the Ombudsman's investigations in relation to their complaints. Currently that function may only be delegated to an Assistant Ombudsman.

Schedule 1 also amends a number of as yet uncommenced amendments to the Road Transport (General) Act 2005 made by the Road Transport Legislation Amendment (Car Hoons) Act 2008. These include amendments to ensure that an appropriate person will be available to receive a vehicle involved in a street racing or burnout offence when it is produced, as required by the Act, following the giving of a production notice. They also clarify the circumstances in which a court may order that a vehicle be clamped, instead of being impounded in an area where clamping is being trialled. The amendments in schedule 1 to the Police Act 1990 will permit the Commissioner of Police or the Ombudsman when deciding whether a complaint against a police officer needs to be investigated to use additional information from the complainant and any existing relevant information to which they can readily gain access. The Ombudsman supports these amendments.

The amendment made by schedule 1 to the State Records Act 1998 will confirm the power of the State Records Authority to enter into an arrangement for providing access to State archives to enable a party to the arrangement—for example, an organisation providing genealogical services—to make copies of those archives or to publish or provide other persons with access to copies of those archives. The proposed amendment does not give the authority power to override any right in the nature of copyright and does not give any power to do anything that would be an infringement of copyright. The last schedule 1 matter I will mention is an amendment to the Zoological Parks Board Act 1973. The amendment will give statutory authority for the use of the name "Taronga Conservation Society Australia" by the Zoological Parks Board. Schedule 2 deals with matters of pure statute law revision consisting of minor technical changes to legislation that the Parliamentary Counsel considers are appropriate for inclusion in the bill. Examples of amendments in schedule 2 are those arising out of the enactment or repeal of other legislation, those correcting duplicated numbering and those updating terminology.

Schedule 3 contains statute law revision amendments that are consequential on the enactment of the Legal Profession Act 2004. Most of these amendments involve standardising terms used in other Acts. Schedule 4 repeals a number of Acts and instruments and provisions of Acts and instruments that are redundant or of no practical utility. These include Acts that formerly regulated the incorporation of companies and their management, acquisition of shares and other dealings in securities and the future and securities industries, being matters that are now regulated by the Commonwealth. The repeal also extends to amending Acts or provisions that have commenced. The Acts and instruments that were amended by the amending Acts or provisions being repealed are up to date and available electronically on the legislation database maintained by the Office of Parliamentary Counsel.

Schedule 5 contains general savings, transitional and other provisions. These include provisions dealing with the effect of amendments on amending provisions, saving clauses for the repealed Acts, and a power to make regulations for savings and transitional matters, if necessary. The schedule also contains, for abundant caution, a power for the Governor, by proclamation, to revoke the repeal of any Act repealed by the bill. The various amendments are explained in detail in the explanatory notes set out beneath the amendments to each of the Acts and statutory instruments concerned or at the beginning of the schedule concerned. If any amendment causes concern or requires clarification, members should seek information from the responsible Minister. If necessary, Ministers will arrange for government officers to provide additional information. If any particular matter of concern cannot be resolved and is likely to delay the passage of the bill, the Government is prepared to consider withdrawing the matter from the bill. I commend the bill to the House.

The Hon. DON HARWIN [5.38 p.m.]: The Statute Law (Miscellaneous Provisions) Bill 2008 makes minor amendments to more than 40 Acts, including the Australian Museum Trust Act, the Forestry and National Park Estate Act, the Pharmacy Practice Act and the Waste Avoidance and Resource Recovery Act. The changes to these statutes, which are minor and non-controversial, are designed to improve operational efficiency and cost effectiveness. The Opposition will not oppose them. Among the statutes to be amended is the State Records Act 1988. The bill provides for the insertion of a new section 36A into the principal Act. This new section will confirm that the State Records Authority has the power to enter into arrangements for the provision of access to State Archives for the purpose of enabling a party to make copies of archives and to then publish those copies or grant other persons access to those copies.

New section 36A will not allow the authority to override or infringe copyright. It is important that the State Records Authority has the powers and scope of action necessary for it to operate as a modern and innovative twenty-first century organisation. Unnecessary restrictions on the authority's operations will only serve to hinder the services it can provide and limit the value for money received by taxpayers. As a member of the State Records Authority board, I am pleased to see unnecessary limitations rescinded. It can only be of benefit to the authority and to the people of New South Wales who avail themselves of its services.

The authority continues to improve the preservation rate of public sector records and is well regarded for its effective records management approach and its processes for protecting sensitive public sector information. Nearly a million people visited the authority's website last year, during which time the number of archive items accessible online topped two million. More than 60,000 people visited the authority's reading room, while attendance at the authority's public programs increased to more than 4,000. The authority continues to make invaluable contributions to published historical texts, exhibitions and documentaries.

Recently, I had the honour of attending the opening of the touring version of the authority's In Living Memory Exhibition at the Shoalhaven City Arts Centre in Nowra—the first stop in a planned 2½-year itinerary. In Living Memory is an exhibition of photographs selected from the collection obtained by the authority in 1977 from the former New South Wales Aborigines Welfare Board. The photographs cover the period from 1919 to 1966 and were taken to document the work of the board and promote its policies.

The authority consulted with elders, families and communities across the State in order to gain appropriate consent for the use of the photos from the relatives and communities of those depicted. Photographer Mervyn Bishop documented this consultation period, and it is to the authority's credit that these contemporary photographs have been made an integral part of the exhibition. This is a fascinating aspect of the exhibition and an innovative means of engaging and involving the community in the authority's work. It is fitting that the In Living Memory exhibition should commence its tour in Nowra in the weeks following the apology to the Stolen Generations, as the Bomaderry Children's Home was the oldest home of the indigenous children removed from their families and communities. Sadly, it all began there.

While preservation of records, collections and historical material is a core aspect of the State Records Authority's purpose, it is equally important that this material is not sequestered in archives unseen by the general public. In Living Memory is a commendable example of the authority using the material in its custody to bring it into public view in a way that it is appropriate and that contributes to our community's understanding of our heritage.

The changes to the State Records Act in this bill will further enable the State Records Authority to share with historians, genealogists and the public those documents and historical materials that it has worked so hard to preserve and archive. Confirming the authority's power to enter into access arrangements with other parties under which archived material can be copied and then published or shared will enhance the degree to which our State's archived heritage is accessed, seen and used. This is a desirable outcome and merits support. I commend the Bill to the House.

The Hon. HENRY TSANG (Parliamentary Secretary) [5.43 p.m.], in reply: I thank the Opposition Whip for his contribution 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.

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

Third Reading

Motion by the Hon. Henry Tsang agreed to:

That this bill be now read a third time.

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

STATE REVENUE LEGISLATION AMENDMENT BILL 2008**Second Reading**

The Hon. HENRY TSANG (Parliamentary Secretary) [5.44 p.m.], on behalf of the Hon. Michael Costa: I move:

That this bill be now read a second time.

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

Leave granted.

The State Revenue Legislation Amendment Bill 2008 provides tax concessions and first home benefits for people who have legitimate claims while also addressing tax avoidance practices by others attempting to avoid their legal responsibilities. The bill makes amendments to the Duties Act 1997, the First Home Owner Grant Act 2000, the Health Insurance Levies Act 1982, the Land Tax Management Act 1956, the Payroll Tax Act 2007, the Taxation Administration Act 1996 and the Unclaimed Money Act 1995. The bill also repeals the Debits Tax Act 1990, the Stamp Duty Act 1920 and the Taxation Administration Regulation 2003.

I will deal first with the amendments relating to duties. Land rich duty is payable when a person acquires a significant interest in a company or trust that holds land worth \$2 million or more. The land rich provisions of the Duties Act ensure the same duty is payable on an indirect acquisition of an interest in land as would be payable on a direct purchase of a similar interest. A practice has been identified where land rich duty is avoided by declaring a trust instead of transferring shares in the company or units in the trust. This effectively gives the purchaser ownership and control of an interest in land without incurring a liability to duty.

The Office of State Revenue has identified 17 transactions where this practice was used in the last year involving duty in excess of \$50 million. To address this avoidance practice the bill imposes land rich duty on an acquisition where the capacity in which a person holds an interest in a land rich company or trust changes including by way of declaration of trust. These transactions are already dutiable in most other States and Territories.

To ensure this loophole is closed immediately, this anti-avoidance measure will take effect from the date on which the bill was introduced.

The bill also makes an amendment to prevent the use of contrived arrangements to obtain a duties concession for partitions of land.

A "partition" occurs when jointly owned land is split up between the owners. The duties concession recognises each party's existing interest in the land.

A duty avoidance practice has been identified in which people who wish to exchange land each acquire a small interest in the other party's land and subsequently partition the "jointly-owned" land paying minimal duty.

The amendment will prevent this abuse but will ensure genuine partitions remain eligible for the concession.

The bill makes a number of amendments relating to concessions and exemptions from duties.

One such amendment clarifies the duties concession under First Home Plus.

In some cases an applicant will not be eligible for the concession when buying a home on multiple occupancy land such as a duplex where both houses are on a single title.

The Government believes that eligibility for the concession should be determined by whether or not the applicant is a genuine first home buyer rather than by the form of land title under which the home is held.

The proposed amendment will allow the duties concession to be approved for the purchase of a separate home on multiple occupancy land.

The bill makes two significant extensions to the duties concession for transfers out of a deceased estate.

The first is where the executor, administrator or trustee of the estate "appropriates" property to a beneficiary in satisfaction of the beneficiary's entitlement under the will.

For example the trustee might transfer a house to a beneficiary instead of paying a cash legacy.

At present the duty payable varies depending on the wording of the will. The bill provides that an appropriation of estate property in satisfaction or partial satisfaction of a beneficiary's entitlement is liable to duty of \$10 in all circumstances.

The second is where the beneficiaries agree to vary their entitlements under the will.

For example a beneficiary who is entitled to a one half interest in a house might agree to buy the house from the estate for a purchase price of one half its value.

The amendment will only impose duty on the transfer of the one half interest in the house that is in excess of the beneficiary's entitlement.

The bill also clarifies the types of charitable and benevolent bodies that are eligible for exemption from duties to include charitable trusts and trustees, consistent with current practice.

A new duties concession is provided for an application to register a motor vehicle that has been modified for a person with a disability.

Duty will only be calculated on the value of the vehicle after deducting the value of the modifications made either to enable the person with a disability to drive the vehicle or to enable someone else to transport the person with a disability.

The bill also makes a number of minor statute law amendments to the Duties Act including to repeal obsolete provisions such as those relating to vendor duty.

The bill implements two proposals relating to eligibility for the First Home Owner Grant.

The first relates to the list of interests in land that are eligible for the grant.

While most of these interests are detailed in the Act other interests are currently recognised as legitimate interests in a public ruling issued by the Chief Commissioner of State Revenue.

Incorporating these interests in the Act will provide greater certainty for taxpayers and their professional advisors.

The interests to be included in the Act are when a person builds a home, or builds a self-contained dwelling annex such as a granny flat or purchases a movable home in each case on land owned by another person.

The second is to adopt a provision from the First Home Plus scheme to allow a first home buyer to remain eligible for the grant if an additional purchaser is added as a purchaser for finance purposes only.

This addresses the common practice of some lenders especially for loans to young first home buyers of requiring a guarantor to be on title.

I turn now to amendments to the Land Tax Management Act.

A land tax exemption currently applies to land used and occupied as the principal place of residence of one or more owners provided all of the owners are natural persons.

The exemption can apply to two or more parcels of land or two or more strata units provided the land is not physically separated and is owned by the same person or the same joint owners.

If these criteria are satisfied eligibility for the exemption should be determined by the owner's use of the property as a single residence regardless of the number of lots.

This "sole use and occupation" test was confirmed in the Supreme Court by what is known as Ryan's case. However several recent decisions of the Administrative Decisions Tribunal and the Supreme Court have—highlighted the possibility of inconsistent interpretation of these tests.

To remove any ambiguity the amendments spell out and define the principles adopted in Ryan's case.

The amendments provide that where there are separate buildings located on separate lots and the buildings are separately occupied or are capable of separate occupation the exemption will only apply to one of the lots.

This is consistent with the principles under the Valuation of land Act which identify when two or more parcels of land can be valued as one parcel.

In the case of two or more strata lots the exemption will only apply to all of the lots if there is internal access between the lots allowing use as one residence except for lots used for an ancillary purpose such as a garage or storage area.

Where only part of a lot satisfies the amended requirements for exemption a partial exemption will apply based on the proportion of the lot or the buildings that satisfies the criteria for exemption.

The bill also makes statute law amendments to confirm that exemptions from land tax for non-profit organisations can apply to part of a building in a strata scheme.

The bill makes a number of statute law amendments to the Payroll Tax Act as part of the ongoing project to harmonise payroll tax administration across Australia including clarifying an exemption for charitable bodies and modifying the provisions for grouping of employers.

The bill makes a number of minor amendments to other Acts administered by the Office of State Revenue. These include an amendment to the Health Insurance Levies Act, to clarify eligibility for family membership of the State Ambulance Insurance Plan; amendments to the Taxation Administration Act to authorise disclosure of taxation information to specified government agencies; and amendments to the Unclaimed Money Act as a consequence of the Commonwealth Government's take-over of the administration of unclaimed superannuation from 1 July 2007.

Finally, the bill repeals the Debits Tax Act 1990, which ceased to impose tax in 2002; the Stamp Duties Act 1920, which has now been fully replaced by the Duties Act 1997; and the Taxation Administration Regulation 2003, the provisions of which have been incorporated in the principal Act.

I commend the bill to the House.

The Hon. GREG PEARCE [5.44 p.m.]: The Opposition does not oppose the State Revenue Legislation Amendment Bill 2008, which will provide tax concessions and first homebuyer benefits to people with legitimate claims for them, and also prevent duties avoidance practices, which the Office of State Revenue estimates have cost in excess of \$50 million over 17 transactions in the past year. The bill also extends some payroll tax provisions.

The bill proposes changes to a number of Acts. First, it will prevent avoidance of duty through arrangements by which, for instance, land rich duty is avoided through the use of trust arrangements, which give a purchaser ownership and control of an interest in land without incurring a liability for duty, or a contrived arrangement to obtain a duties concession where jointly owned land is split between owners, that is, partitioned. The bill clarifies the duties concession for first homebuyers to remove anomalies that currently render a small number of first-time buyers ineligible for the concession because of the form of land title under which their new home is held.

The bill extends duties concessions for transfers out of a deceased estate in circumstances, for instance, where beneficiaries agree to vary their entitlements under a will, and it clarifies the types of charitable and benevolent bodies that are eligible for duties exemptions. The bill also extends eligibility for the first homeowner's grant to interests in land that the Tax Commissioner has ruled should be eligible—for example, when a person builds a granny flat or a dwelling on land owned by another person—and allows a first homeowner to remain eligible for a first homeowner's grant if an additional purchaser is added as the purchaser in documentation to satisfy the requirements of lenders.

The bill also spells out and defines principles adopted by the Supreme Court in a case known as Ryan's case concerning land tax exemptions to land used and occupied as a principal place of residence in situations where a single residence is claimed over a number of lots of property. It also modifies the payroll tax grouping provisions to harmonise with the payroll tax systems in Western Australia and Victoria, and clarifies when tax officers may disclose information obtained under taxation laws. There are some further miscellaneous minor amendments to Acts administered by the Office of State Revenue. The Government argues the amendments will streamline the existing legislative framework, increase efficiency and improve fairness.

The only concern the Opposition has is that this bill, like a number of other steps, highlights the Government's desperation to squeeze every cent of tax revenue it can from all available sources. Whilst there is retrospectivity in terms of the land rich duty provisions, the provision is not unusual and the amount that could be collected—in the order of \$50 million—is significant, which I believe justifies bringing in anti-avoidance provisions. The Opposition does not oppose the bill.

Dr JOHN KAYE [5.47 p.m.]: The State Revenue Legislation Amendment Bill 2008 amends seven Acts associated with collection of revenue and repeals three other Acts. The bill also contains a number of minor provisions and consequential amendments. It provides a number of taxpayer concessions and creates a number of anti-avoidance measures. There are several other proposals in relation to payroll tax grouping provisions and disclosure of information obtained under tax law, and there are some housekeeping provisions.

The Greens did not oppose the bill and strongly support a number of the anti-avoidance measures, mostly because they protect the integrity of the tax base. This is important not only for fairness but also to protect the revenue base that supplies revenue for public services and infrastructure. It is only fair to close these loopholes because stopping those with the means to avoid tax from doing so and increasing the burden, and hence increasing the burden on those who do not have the means, is the only way to ensure that the tax collection is a fair and reasonable undertaking.

It is also important to protect the revenue base. Loopholes in the taxation system rip off the public purse, which results in less money being available to fund important public services and infrastructure. Government measures often are criticised as revenue raising, but that revenue keeps trains, ferries and buses running, ensures that public school teachers and nurses are paid, pays for social infrastructure and underwrites the construction of economic infrastructure. There is therefore every reason to get tough on those who seek to avoid paying tax.

The most significant provision relates to land-rich duty. The Office of State Revenue estimates that approximately \$50 million a year is lost on just 17 separate transactions. The law requires that when a company is sold, duty is payable on the land occupied by the business. Avoidance occurs when a trust is declared to avoid the transfer of the land, leaving the title of the land in the name of the previous owner. Often that involves an arrangement between friends or family members. The bill closes that loophole, as it should, and that has been done in other States and Territories. The revenue gain will be approximately \$10 million, but closure of the loophole will deter approximately \$40 million worth of transactions. That provision to close the loophole will restore fairness and generate some revenue for the State, and it is strongly supported.

The other important anti-avoidance measures relate to the partition of land when jointly owned land is split between owners. Currently the law allows concessions on duties payable on the partitioning of land to be exploited by people seeking to exchange land. For example, they each purchase a small interest in each other's land and subsequently partition the land to minimise duty. This practice unfairly reduces revenue and is prohibited by the bill. Payroll tax grouping provisions prevent avoidance of tax by the use of separate legal entities and partnership arrangements between grouping members. Although it will not raise revenue directly, it will prevent future leakage. While payroll tax is one of the least desirable forms of revenue raising because it is a tax on jobs, it is unreasonable to allow those who can afford to establish complex arrangements to avoid paying tax.

The bill also provides a number of concessions, including extension of the concession on duty that is payable upon the transfer of property from deceased estates and the introduction of a concession on duty that is payable on a motor vehicle that has been modified for use by a person with a disability. It is fair and reasonable to recognise the need for mobility of disabled persons and to assist by reducing the costs of motor vehicle operation and ownership. The bill also introduces a concession on duty payable by pharmacists who incorporate that is similar to the concession given to lawyers a number of years ago. It is only reasonable that that concession should be extended to pharmacists. The bill also provides a number of sensible land tax concessions.

Ever since its introduction, land tax has been a controversial revenue measure. It tends to attract criticism because of its social consequences. Its application in New South Wales largely protects those who are asset rich but income poor. If implemented appropriately, land tax can be socially just and assist in the development of a sustainable society. Land tax tends to be an impost on the exploitation of the environment rather than on the exertion of labour. It thus taxes the benefits of ownership rather than the efforts of labour. While it is desirable to have people in permanent tenure of their land, windfall gains, such as from inflation in the housing market, should be taxed because they are unearned benefit, and are therefore not a desirable form of creating wealth in society.

Land tax is a more equitable and reasonable tax than is stamp duty. It simply does not make sense to tax individuals on the basis of how often they move house. It makes much more sense to tax the ownership of the house rather than taxing moving between two houses. A more rational approach would be to abolish stamp duty on land transactions and to collect the equivalent amount of revenue from land tax, which would be collected in smaller increments and would be spread over a longer period. That would have a less drastic impact on taxpayers and it would tax ownership and enjoyment of a natural good, rather than mobility associated with ownership.

The bill also makes amendments to the First Home Owners Grant to make it accessible to a person who builds or purchases a home on land belonging to another person. This is a fair and reasonable extension of the first homeowners concession in that it will be extended to people who cannot afford to buy their own land but who can build a house on land owned by a parent or a friend. Mechanisms that provide assistance to first homeowners through concessions all too often have adverse consequences and can be the least efficient or the least just way of easing the burden on home purchasing by young people. First home purchasers already are doing it tough: They face paying extraordinary property prices and rising interest rates. It is important that assistance provided to first homeowners hits the mark, that we do not waste money, and that we do not cause adverse and perverse consequences.

Unfortunately, concessions and grants tend to have perverse consequences. Vendors identify the increased spending power of purchasers as a result of the grants or concessions provided by government, and then raise prices accordingly. Most of the grant or concession ends up with the vendor because existing homeowners push up prices. That has the unfortunate effect of adding to inflation and possibly creates upward pressure on interest rates. Rather than easing the burden on first homeowners, the concessions may be of no help at all—or, worse, they can increase barriers to home ownership. Without increasing the supply of housing,

grants and concessions provide at best the illusion of assistance and at worse do great damage to affordability. It is time for some new thinking on home ownership. That must include an honest examination of the targeting and efficacy of assistance schemes and strategies that are not distorted by pressures imposed by the real estate industry and developers on politicians. The Greens do not oppose this bill.

Reverend the Hon. FRED NILE [5.56 p.m.]: The Christian Democratic Party supports the State Revenue Legislation Amendment Bill. This practical bill implements improvements to seven Acts relating to the administration of taxes and first home benefits. It also repeals two Acts and one regulation. The bill provides a number of taxpayer concessions. It extends the concession on duty applicable to transfers from deceased estates and introduces a concession on the duty payable for registration of a motor vehicle that has been modified for use by a person with a disability. I am sure that people with disabilities will appreciate that concession. The bill also introduces a duty exemption for pharmacists who incorporate. Finally, it provides for concessions regarding the application of the land tax principal place of residence exemption to land comprising two or more strata lots, and extends the land tax concession to land owned by one person that is the site of multiple residential occupancies. The bill also clarifies various exemptions for charitable bodies.

The bill provides anti-avoidance measures, particularly to prevent the avoidance of land-rich duty by means of a declaration of a trust and the use of a trust concession on partitions of land to avoid duty on exchanges of land that are not genuinely between joint owners. The bill also provides assistance to first home purchasers. This is very important in assisting young married couples in particular to build or purchase a home. The bill allows the First Home Owners Grant to be claimed if a person builds or purchases a home on land owned by another or purchases land with the assistance of another person who acquires a small interest in the property, and allows the First Home Plus duty to be claimed on multiple-occupancy land.

Other significant provisions modify the payroll tax grouping provisions and clarify when tax officers may disclose information obtained under taxation laws. The legislation also repeals taxes—and I am sure everyone will be pleased about that. It repeals both the Debits Tax Act 1990, because the tax under that Act has been abolished, and the Stamp Duties Act 1920, which has been replaced by the Duties Act 1997. It is appropriate to recall that many State governments, particularly the New South Wales State Government, promised that many minor taxes would be repealed when GST was introduced. Obviously some of those taxes continue. I hope the Government and the Treasurer will conduct a review to make certain that no unnecessary taxes continue, in view of the large payments New South Wales is getting from the GST.

The Hon. HENRY TSANG (Parliamentary Secretary) [5.59 p.m.], in reply: I thank the Hon. Greg Pearce, Dr John Kay and Reverend the Hon. Fred Nile for their contributions to the debate and support for the bill, which I commend to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Henry Tsang agreed to:

That this bill be now read a third time.

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

APPROPRIATION BILL 2008

APPROPRIATION (PARLIAMENT) BILL 2008

APPROPRIATION (SPECIAL OFFICES) BILL 2008

STATE REVENUE AND OTHER LEGISLATION AMENDMENT (BUDGET) BILL 2008

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [6.01 p.m.], on behalf of the Hon. Michael Costa: I move:

That these bills be now read a second time.

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

Leave granted.

I am pleased to deliver the third budget of the Iemma Labor Government, a Budget that continues our commitment to invest in infrastructure and frontline services, in record amounts.

Twelve months ago the economic environment was significantly different from today's.

Since I last addressed this place, financial markets have experienced severe instability.

The resources boom has continued to create challenges for the national economy, the States, and our budget.

A year of surprisingly strong growth in domestic demand and employment has seen inflationary pressures emerge and the Reserve Bank lift interest rates four times, to levels not seen for more than a decade.

As the Government has previously reported, the ageing of the population will begin to impact within the period of the forward estimates as the first baby boomers turn 65.

The annual increase in the population aged over 65 will more than double over the forward estimates period, increasing demand for services in health, ageing and disabilities, transport, and community services.

The Rudd Government's commitment to reforming Commonwealth-State financial arrangements has provided an opportunity for reform to the way in which government services are funded and delivered—but this opportunity does not come without its own set of challenges.

In this context this budget balances the challenges of delivering improved services, investing more in infrastructure, and cutting taxes.

Within the parameters established by the State Plan it delivers better services with a record \$47.6 billion budget.

This includes new spending targeted at the Premier's priority areas: Aboriginal health, emergency departments, child protection, mental health and disability services.

It continues our record investment in infrastructure with almost \$14 billion this year alone invested in rail, water, electricity, schools, police stations and hospitals.

It keeps the budget in surplus, this year and across the forward estimates, securing our triple-A credit rating and maintaining Labor's record of strong financial management.

And once again it delivers tax cuts—\$3.6 billion worth of tax cuts to support jobs and economic growth.

BUDGET OVERVIEW

The Government's strong financial management means the budget in 2008-09 will be a surplus of \$268 million, or \$737 million under the accounting standards that applied until last year.

In the following three years surpluses will average around \$800 million.

I can also advise the House today the budget result for 2007-08 will be a surplus of \$700 million—or \$1 billion under the previous accounting standards.

This is an improvement of \$660 million since last year's budget.

This improvement is in addition to an early repayment of \$390 million in debt accrued during the construction of the Epping to Chatswood rail line.

Last financial year we paid off \$960 million of debt associated with this project.

Because of our responsible financial management, by the middle of next year the Epping to Chatswood rail line will be debt free.

The Iemma Government has worked hard for these results.

For the third year in a row we have brought operating expenses in on target.

In 2005-06 the difference between budgeted and actual expenses was 0.1 per cent. In 2006-07 that difference was 0.2 per cent.

Allowing for "pass through" funding from the Commonwealth for specific initiatives and the \$390 million rail debt repayment, in 2007-08 expenses are estimated to be just 0.6 per cent higher than budgeted.

These results reflect the Iemma Government's commitment to keeping a tight rein on expenditure in order to redirect taxpayers' funds where they want them—on frontline public services.

Last year I reported that the Government's stringent efficiency measures were delivering savings of around \$300 million a year.

Today I can report those measures have yielded \$1.7 billion in real savings to date.

Last year I reported that, after years of expenditure growth outpacing revenues, we were on track to align the two, on average, over the forward estimates.

Today I can report that revenue and expenses will continue to grow at around the same rate over the next four years.

Last year I reported that productivity savings would ensure that in coming public sector wage rounds the net cost to taxpayers would be limited to 2.5 per cent per annum.

Today I can report that over the past 12 months the Government and unions have struck 11 agreements where the cost to taxpayers has been limited to 2.5 per cent, while, because of productivity offsets, wage rises for employees under those awards have been as high as 5 per cent.

The Government will continue to utilise the mid-point of the Reserve Bank's target inflation range as the indexation factor for funding wage increases.

This is not only fiscally responsible; it is the key role the New South Wales Government can play in the fight against inflation and higher interest rates.

BALANCE SHEET AND NET WORTH

The balance sheet is now considerably stronger than it was in the mid-1990s, which has put the State in a much better position to handle cyclical fluctuations in revenue, such as those arising from higher interest rates and weaker equity markets.

Demographic change, urban congestion, and greater demand for essential services have seen strong growth in spending in key areas such as health, transport, community services and police, and record capital expenditure.

The Government's record capital works—\$57.6 billion over the next four years—will see the value of our physical assets increase from \$189 billion in June 2008 to \$229 billion by June 2012.

The increase in capital expenditure, further tax cuts, changes to accounting standards, and the recent downturn in capital markets mean some of our fiscal targets will not be met.

General government net debt will increase from 1.4 per cent of GSP in June 2008 to 1.7 per cent of gross State product [GSP] in June 2012.

However, net debt will remain at sustainable levels and will stay significantly lower than in 1995, when it was 7.4 per cent of GSP.

General government net financial liabilities will increase from \$29.3 billion in June 2008 to \$36.5 billion in June 2012, but will decrease as a percentage of GSP from 8.2 per cent to 8 per cent over the same period.

While above the target of 7.5 per cent, net financial liabilities will also remain below the unsustainably high levels of the mid-1990s, when it was almost 20 per cent of GSP.

In 2006 we estimated that the ageing of the population and other pressures could lead to a budget shortfall in 2044 of around 3.4 per cent of GSP. Subsequent budgets increased that fiscal gap to 3.5 per cent.

Tax cuts announced today and our significant boost to capital expenditure will add 0.3 percentage points to the long-term fiscal gap, while increased growth in demand for services in areas such as health, transport and community services will add 0.1 percentage points.

These long-term pressures highlight the need for an overhaul in Commonwealth-State financial arrangements.

The reform of intergovernmental financial arrangements will be judged by how well new specific purpose payments deal with indexation related to wage costs and demand.

In December last year the Government embarked on the process of securing the State's electricity needs through greater participation by the private sector in the delivery of electricity.

The Government's plans for electricity will also have a positive impact on our balance sheet.

But as has been the case with past major transactions, estimates of the proceeds of electricity sector transactions have not been included in the budget, with the impact on the balance sheet and our fiscal targets to be shown in future years.

NEW SOUTH WALES ECONOMY

Despite the challenges from an uncertain global economic environment, the economic fundamentals in New South Wales remain strong.

In 2007-08 State final demand is estimated to have grown by a very strong 4¼ cent, gross State product by 2½ per cent and employment by 2½ per cent, while unemployment dropped to a generational low of 4½ per cent.

Growth in the first half of 2007-08 was stronger than in the second half, when the economy was hit by constrained credit markets and four interest rate increases between August and March.

Nowhere was this more apparent than in the New South Wales housing sector, which showed signs of recovery during the first half of the financial year, only to slow early in the new year.

Similarly, consumer spending grew strongly in the last six months of 2007, but stalled in the first quarter of 2008.

Business investment—which has been a real strength of the New South Wales economy for some time—grew by more than 10 per cent in the first half of the financial year; however, current expectations are also for that growth to moderate.

In the agricultural and farming sector the follow-up autumn rains we were all hoping for did not eventuate, which is expected to trim overall GSP growth instead of adding to it as originally forecast.

In the current high interest rate environment New South Wales will continue to face challenges this year.

Growth in State final demand is expected to slow to 2½ per cent, GSP to 2 per cent, and employment to 1 per cent.

Unemployment is expected to rise slightly to 4¾ per cent, but remain well below historic levels.

Inflation is expected to ease as a result of the Reserve Bank strategy.

IMPROVED AND EXPANDED SERVICES

Over the four years to 2008-09 spending on priority areas of service delivery has increased significantly.

- ◆ Spending on community and disability services has increased by 29 per cent
- ◆ Spending on public transport and roads has increased by 25 per cent
- ◆ Spending on health has increased by 25 per cent
- ◆ Spending on police and justice has increased by 18 per cent
- ◆ Spending on education and training has increased by 17 per cent, and
- ◆ Spending on environment and natural resources has increased by 53 per cent.

This year the Government will spend \$47.6 billion on delivering improved and expanded services for the people of New South Wales.

This includes:

- ◆ \$13.2 billion in Health, up 5 per cent on last year, including \$49 million for the full-year cost of an additional 180 acute care beds added in November to ease the pressure on the busiest emergency departments
- ◆ \$11 billion on Education and Training, an increase of 4.7 per cent, including \$19 million to improve childhood literacy with the Best Start Program
- ◆ Spending on Police will increase by 4 per cent to almost \$2.4 billion as the Government meets its commitment to increase police numbers to 15,956 by December 2011
- ◆ \$815 million for Emergency Services, including an 18 per cent increase in funding for the State Emergency Service following one of their busiest years on record
- ◆ For the first time spending on Ageing and Disability Services will exceed \$2 billion, an increase of 7 per cent
- ◆ Spending on Community Services will also increase by 7 per cent to \$1.35 billion, including an additional \$21 million to provide preschool opportunities for an additional 10,500 children for two days per week in their year prior to school and
- ◆ Almost \$1 billion will be spent in the area of the Environment, including a 40 per cent increase in funding to buy back water for rivers and wetlands.

Total spending on providing public transport is \$5.9 billion, reflecting the Government's commitment to the North West Metro, South West Rail Link, clearways, the rolling stock public-private partnership [PPP], and new environmentally friendly buses.

Challenging economic times also demand that governments target areas of most need.

The budget includes \$4 billion for Community Services, Ageing and Disability, Housing and Aboriginal Affairs.

Spending in these areas will include:

- ◆ \$263 million, an increase of 16 per cent, for prevention and early intervention, to provide support for children, young people and families early on, before their problems turn into a crisis
- ◆ \$109 million, an increase of 55 per cent, to fund 620 supported accommodation places to provide community-based residential support for people with a disability

- ◆ \$17.7 million, an increase of 75 per cent, to prevent young people entering nursing homes, improve services to young people who live in nursing homes, and develop alternative models of support and accommodation for young people with a disability
- ◆ \$10.1 million to assist eligible people with a disability and people with HIV/AIDS to access the private rental market
- ◆ \$22.9 million over four years to combat child sexual abuse in Aboriginal communities, with the expansion of the Safe Families program in an additional five communities in the Orana Far West region
- ◆ \$30 million over four years to provide ongoing support for the operation, maintenance, and monitoring of water and sewerage systems, in partnership with the New South Wales Aboriginal Land Council
- ◆ \$1.1 billion for mental health, including new funding of \$31.6 million for the expansion of mental health services and to fully operate the new forensic hospital at Long Bay.

Over the past 12 months the New South Wales Government has committed around \$90 million to assist farming communities with the ongoing impacts of the drought, and it remains committed to assisting rural communities in need.

INVESTING IN INFRASTRUCTURE

Two years ago we released the State Infrastructure Strategy, setting out for the first time a comprehensive 10-year plan for New South Wales's infrastructure needs.

The 2006 State Infrastructure Strategy included \$110 billion in capital projects over the decade to 2016.

The State Infrastructure Strategy for the decade to 2018 will be released next week, but today I can announce our infrastructure expenditure over the coming decade is expected to reach about \$140 billion.

This year the State's total investment in infrastructure will reach \$13.9 billion, 11 per cent higher than in the 2007-08 Budget.

Over the four years to 2011-12 the State's capital expenditure will total \$57.6 billion, partly funded by an increase in net debt of \$20.9 billion.

This is \$21.2 billion, or 58 per cent, higher than the previous four-year capital spend.

Over the next four years capital expenditure by transport businesses will almost triple from \$1.3 billion to \$3.7 billion, driven by the North West Metro, the South West Rail Link, major ports expansions, the continuation of the Rail Clearways Project, and the acquisition of new rolling stock.

Capital expenditure in the electricity sector will grow by more than 60 per cent over the same period, largely because of increased investment by the network transmission and distribution businesses.

Infrastructure spending in 2008-09 in non-commercial areas includes:

- ◆ \$1.8 billion on transport
- ◆ \$2.2 billion on roads
- ◆ \$784 million on health
- ◆ \$735 million on education and training
- ◆ \$569 million on housing and
- ◆ \$411 million on law and order.

Infrastructure spending in 2008-09 in commercial areas includes:

- ◆ \$3.5 billion on electricity
- ◆ \$2.2 billion on water and
- ◆ \$397 million on ports.

Major new capital projects in the budget include:

- ◆ the \$12 billion North West Metro
- ◆ 19 new school projects and 12 new TAFE projects, at a total cost of \$246 million
- ◆ Almost 1,300 new units of public housing, community housing and crisis accommodation at a total cost of \$201 million
- ◆ \$65 million for the M5 East filtration project and \$150 million on the Victoria Road upgrade
- ◆ \$27 million towards the Lismore Integrated Cancer Centre and

- ◆ Riverstone Police Station and Lake Macquarie Local Area Command at a cost of \$35 million.

The Iemma Government is delivering on its commitment to invest in new infrastructure.

REVENUE MEASURES

This budget continues the Iemma Government's policy of strategic reductions in taxation, with \$3.6 billion in tax cuts.

Since August 2005 there's been a significant rationalisation of property-related taxes, including:

- ◆ abolishing vendor duty
- ◆ abolishing mortgage duty, and
- ◆ overhauling land tax, including indexing the threshold and dropping the rate.

It was Labor that abolished stamp duty for first home buyers on properties under \$500,000.

We have cut business taxes, including:

- ◆ abolishing a range of stamp duties, the so-called "nuisance taxes" and
- ◆ payroll tax concessions for businesses in areas of higher than average unemployment.

We have also cut workers compensation premiums and reduced red tape by harmonising payroll tax arrangements with other States.

And we have done this while continuing to be penalised on the GST.

New South Wales has lower revenue per capita than the average of the other States, and the second lowest revenue per capita of all the States.

New South Wales overall tax rates are around the average of all States, with a lower than average reliance on transfer duty, gambling taxes and motor vehicle taxes.

As announced last year, the 2008-09 budget abolishes mortgage duty on residential investment properties from 1 July 2008 and abolishes stamp duty on unquoted marketable securities from 1 January 2009.

The abolition of mortgage duty on residential investment properties will save property investors \$160 million this year and \$718 million over the next four years.

It is further proof of the Iemma Government's commitment to reducing the burden of property taxes.

The abolition of stamp duty on unquoted marketable securities will save business \$36 million this year and \$272 million over the next four years.

Today I can announce further tax cuts worth \$2.2 billion.

This budget cuts payroll tax from 6 per cent to 5.5 per cent and indexes the payroll tax threshold to inflation.

This makes New South Wales the only jurisdiction in Australia to index the payroll tax threshold.

From 1 July 2008 the payroll tax threshold will increase from \$600,000 to \$623,000, rising thereafter with increases in the CPI in Sydney.

Tax cuts must be implemented without jeopardising funding for essential services: that is why the cut to the payroll tax rate will be phased.

The rate will be reduced to 5.75 per cent from 1 January 2009, to 5.65 per cent from 1 January 2010, and to 5.5 per cent from 1 January 2011.

In total, changes to payroll tax announced today will exceed \$1.9 billion over the next four years.

I can also announce today that the abolition of transfer duty on non-land business assets will be brought forward by 18 months, from 1 July 2012 to 1 January 2011, a further tax cut for business of \$270 million over the forward estimates.

In total this budget reduces taxation by \$344 million in 2008-09, increasing to \$1.4 billion in 2011-12, and by \$3.6 billion over the next four years.

Over the four years to 2011-12 Iemma Government tax cuts and reductions in workers compensation premiums will save New South Wales taxpayers \$12.4 billion.

CONCLUSION

The people of New South Wales expect the Government to constantly work at improving and expanding services.

This budget does that.

This budget invests for the future, building social and economic infrastructure.

This budget provides strong financial management.

This budget keeps taxes as low as possible to support jobs, economic growth, and funding for essential services.

I commend the bills to the House.

The Hon. GREG PEARCE [6.02 p.m.]: This budget is symptomatic of the malaise in New South Wales under Labor. Nothing is more telling than the reception the budget and the Treasurer received when the budget was presented in the other place. For the first time in 14 years there was no applause at the conclusion of the Treasurer's speech from his Labor colleagues. The truth is that after 14 years in office, everyone, including Labor members of Parliament, sees through the Government's spin. If members want further evidence of that, one need only read media reports and note the manner in which this budget has sunk without a trace when it comes to acceptance in the community.

This budget is no different from its 13 predecessors. As my leader in the other place, the member for Ku-ring-gai, said, it is more of the same but it is heading in the wrong direction. It comprises high taxes, cost blowouts and promises of urgently needed infrastructure funded by ballooning debt. A highlight in the budget and an indication of the way the Government runs the State is that New South Wales continues to be one of the highest taxing States in the nation—currently \$2,645 for every man, woman and child. Last year the Government received yet another unforecast windfall tax bonus in State taxes of \$913 million, and that took the annual tax take to \$18.5 billion.

If you are not being taxed in this State, you are being fined. In my contribution to debate on the State Revenue Legislation Amendment Bill earlier today I made the point that this Government is desperate to squeeze every dollar and cent it possibly can from every possible revenue. In this budget, revenues from fines increased up to \$300 million—\$56 million more than forecast. Changes to the State's employment tax, which were a feature of the budget announcement, will still return more in payroll tax collections for each of the next four years than it did last year—a cumulative take of \$1.94 billion. Despite record revenues—a massive \$17.5 billion in windfall revenues in total over the past 13 years—New South Wales has little to show for it. Again, under this Treasurer, debt levels in New South Wales are forecast to nearly double over the next four years from \$22.2 billion in 2007-08 to \$41.7 billion in 2011-12. When Mr Iemma became Premier annual interest payments were \$2.2 billion or \$323 for each person in the State. In 2011-12 the interest bill will be \$4.4 billion or \$832 per person.

The only result one can comment on in the budget is that Treasurer Costa and his Labor Government received a solid "fail" for the 2008-09 budget in key areas, including restraining growth in expenses, in particular in relation to revenues. It received a fail for on-time, on-budget delivery of infrastructure projects; a fail on improvement in delivery of services; and a fail on stating an effective debt policy. And we see that the Treasurer continues to fail to comply with his own legislated fiscal targets. The budget gets a fail again in budget forecasting and transparency, and in dealing with the medium and longer term challenges to New South Wales, including economic growth, the fiscal gap and climate change. The Treasurer has simply ignored the issues and thrown his hands up saying that he has no answers.

The budget confirms again that Treasurer Costa, like his Labor predecessors, has failed the most fundamental objective of keeping expenses growth in check. The budget now predicts year-on-year expenses growth for 2008-09 of 4.2 per cent. Treasurer Costa relies on a projected inflation rate for Sydney of 3 per cent. No doubt he will argue there is growth in the New South Wales economy. I have already questioned him about that, and I will have more to say on that later. But the record is consistently out-of-control expenditure growth, faster than revenue growth, and a failure to do what other institutions and businesses do, that is, contain expenses by improvements in service delivery and efficiency and product gains.

As the nation, and particularly New South Wales, face difficulties in 2009-10, Treasurer Costa forecasts a greater increase in expenses—4.7 per cent and 5.2 per cent for 2010-11. The runaway expenses in the past several years are extremely worrying. In 2006-07 expenses grew by 7.9 per cent or a billion dollars more than the 5 per cent increase in the 2006-07 budget. The 2007-08 expenses increase is now forecast to be 4.1 per cent against the very curious forecast in last year's budget, which talked about a 1.3 per cent increase on the basis of excluding the unforecast \$960 million rail debt reduction plan, which was suddenly included in 2006-07 and which would have increased the expenses to 3.6 per cent.

In any event, the regular billion-dollar expenses blowout is still on. As I pointed out on numerous occasions, the Stokes and Vertigan audit found as a core problem that expenses were running faster than

revenue growth by about a billion dollars a year. This is unsustainable. On numerous occasions I have raised with the Treasurer the Fiscal Responsibility Act, which has as one of its targets restraining expenses growth below revenue growth over the four-year budget cycle. The Treasurer's dissembling on this through the budget documents is most concerning. Just to summarise, Treasurer Costa in his first budget in 2006-07 forecast an increase in expenses of 5.7 per cent. That was revised to 8.2 per cent in the 2007-08 budget and revised back down to 7.9 per cent in this budget. The figures are all over the place.

The 2006-07 budget also included the completely unbelievable forecast that expenses would only grow by 1.9 per cent in 2007-08. Of course, 2007-08 expenses are now revised up to 4.1 per cent, a total of \$45.696 billion against Treasurer Costa's 2006-07 forecast of \$43.69 billion—over \$2 billion more. Of course, Treasurer Costa argues that budgets are just forecasts and that they will change. That is fair enough, but the problems with budgets under Labor Treasurers in New South Wales is that there is no way of testing whether they stick to their announced budgets because of a failure to account against the original budgets and lack of transparency generally, as well as the continuous juggling of the numbers without proper explanation. One example of that is the \$960 million grant paid to Transport Infrastructure Development Corporation even though the 2006-07 budget papers stated there would be moderate grants only. Of course the key to expenditure control is the wages policies in the public sector. The 2007-08 budget papers state:

Future wage increases will be limited to a net cost of 2½ per cent with any additional increases tied to negotiated productivity savings.

The budget papers show that the average annual CPI inflation rate has been 2.5 per cent over the past decade. It is also the mid-point of the Reserve Bank of Australia's inflation target band and is the New South Wales Treasury's medium-term inflation parameter. The budget notes that employee-related costs are 49.5 per cent of total general government expenses and reaffirms that the Government's wages policy is to limit increases to 2.5 per cent per annum, with increases above 2.5 per cent tied to negotiated productivity. According to Budget Paper No. 2, agencies are funded for wage increases of 2.5 per cent only. However, there is a subtle change in the language in the current budget. At page 2.11 of Budget Paper No. 2 the following appears:

The policy permits wage outcomes in excess of 2.5 per cent, but only where the additional expense is offset by employee-related cost savings.

And at page 3.8:

The policy permits wage outcomes in excess of 2.5 per cent but only where the additional expense is offset by employee-related cost savings.

The outcomes in relation to public sector wages will be a matter of much attention in the next year, in particular in terms of that budget policy. Of course, New South Wales has made a practice of saving its budget results and its expense blow-outs with unforecast windfall revenues. The budget confirms the trend for 2007-08, with almost \$1 billion of unforecast revenues being booked. The 2007-08 financial year will see windfalls in all categories—State taxes, fines, GST and Commonwealth-specific purpose payments—other than investment income, which is down as a result of the international credit crisis.

As pointed out by the Leader of the Opposition, notwithstanding the much-hyped payroll tax changes in this budget, payroll tax is forecast to continue to increase in the estimates period. Investment income will also recover, given the impact of higher interest rates. GST and specific purpose payments will also continue to increase. The one cloud anticipated in the budget is in relation to tax revenues, which, although forecast to increase, are at risk in the major area of transfer duties, given the state of the economy. Interestingly, the one-off and unexpected transfer revenues that bolster the 2006-07 results seem to be regarded as regular expected revenues in this budget.

The possibility of a crunch in State tax revenues is exactly the event that the Government's fiscal policy was meant to address by keeping debt low and allowing a cushion so there would not be a need for increasing taxes or declining services should a revenue crunch take place. Dividend and tax equivalents now amount to nearly \$2 billion, so it is relevant to note that the Government has not included any estimate of the fiscal impact of proceeding with its electricity plan, but that funds from the proposed community infrastructure intergenerational fund will be used to stream equivalent budget long-term returns. What is still not explained is the amount attributable as dividends and tax equivalents from retail businesses. This was mentioned in debate on another bill earlier this week.

Generation businesses have budgeted \$406 million in dividends and tax equivalents in 2007-08 and are forecast to continue to over \$300 million for the forward estimates period. But the Government has not

disaggregated the distribution and retail dividends. A question mark still remains over that. The budget repeats the refrain that the Government is investing record amounts in infrastructure spending but the people of New South Wales know that New South Wales infrastructure continues to decline and that this Government's record is one of mismanagement, cost overruns and delays. This year's budget compounds the problem in that it incorporates the Government's latest twist and turn on infrastructure, that is, the announcement of the proposed North West Metro supposedly costing \$12 billion. The announcement, of course, came out of the blue, contrary to years of planning and the Government's own previously released metropolitan plans and transport plans, and at the expense of the north-west rail link and the second harbour crossing.

It will be a real challenge for the Government to establish that in fact the metro is a viable and necessary addition to Sydney's transport options and a real step in the right direction in terms of improved living standards, and that it will reduce congestion and delays in the city. The metro does nothing to address the problem of freight on Sydney's rail system. Whilst the announcement purports to allocate \$12 billion for the metro, there is widespread incredulity at this sum, given the Government's abysmal record on building the Epping to Chatswood rail link. I remind members that originally the link was to be between Parramatta and Chatswood. Labor said that it would be a great access and job connection for Sydney's west. It was originally to cost \$1.3 billion. In 2003 then Minister for Transport, Michael Costa, in his usual panicked response to be seen to be doing something, halved the project, and promised to have it finished by 2008. The budget papers reveal that it will not be open until next year and its cost has now blown out to \$2.35 billion. As people quite rightly point out, it is half the railway for twice the price. There is simply no detailed planning or costing work for the metro to support the proposal, and that is both astonishing and negligent on the Government's part. The likelihood that the metro proposal can work, given the need to build some 17 new stations, the rail infrastructure and the acquisition of rolling stock and trained staff, raises serious questions about the project. Indeed, the fact that it does not appear to even include an integrated ticketing system with the existing rail network is amazing.

As is the case with the Government every year, this year there is a long list of projects that have cost overruns and delays because of the Government's inability to properly cost, manage and implement projects. I could take up the time of the House by going through that list but I will not. I will make it available to Government members selectively as they require it. The infrastructure spend is also achieved at the expense of a great increase in debt. This increase results in a further ongoing breach of the Government's own legislative fiscal targets in the Fiscal Responsibility Act and again highlights the fact that the Government is betting the entire book on continued good economic times or perhaps on the electricity sale. I have spoken about concerns as to this Government's economic management credentials and credibility in relation to its own legislated fiscal target, and I will speak again on these issues. However, it is plain from the budget papers that the 10-year Fiscal Responsibility Act horizon is completely abrogated.

A further issue arises in relation to the growth assumptions underpinning the budget figures and also the fiscal ratios. Gross State product is now forecast to run at 2 per cent in 2008-09, down from an estimated 2.5 per cent in 2007-08, and 1.8 per cent in 2006-07. When I asked the Treasurer about this forecast the other day he cheekily said under his breath that it would be reforecast in the midyear review. The Treasurer knows full well that he is not going to get anywhere near that. The budget continues to predict medium-term gross State product growing at 3.25 per cent. The likelihood that these rates will be achieved must be questioned, given the recent performance of the New South Wales economy and also the revised national forecast for gross domestic product, which factor in much higher growth rates in Western Australia and Queensland and, even to a lesser extent, in Victoria. If the growth rates are overly optimistic they will impact adversely on the budget result. One must also ask the question: What will be the impact on the fiscal ratios if the growth rates are overly optimistic? The position will be even worse than predicted in the budget papers.

Declining infrastructure in New South Wales has been accompanied by erosion in standards of service delivery and services generally. The Government's response, partly as a result of the Stokes Vertigan audit, and as set out in Mr Costa's first budget, was supposed to strengthen the budget's system by implementing a new performance management and budgeting system for the 2008-09 budget, to which I will come in a moment. Last year the budget included a section on progress with development and implementation of the new performance management and budgeting system. Interestingly, the first part of the focus on a service delivery was said to be a whole-of-government planning framework:

To ensure it is able to make informed choices between competing priorities, and to assess ongoing and expected performance.

Last year the budget papers went on to say:

This framework comprises:

- the Fiscal Strategy which sets out principles and financial targets that allow the Government to maintain service delivery in the face of fiscal shocks; and

- the State Plan, which sets out service delivery priorities and measures targets that allow the Government to assess and monitor progress.

This year's budget notes the complete failure of the Government in relation to its fiscal targets by simply deleting any reference to the fiscal strategy in the section in chapter 3 on performance budgeting. Instead, the Government is dumbing down its entire accountability structure to the self-fulfilling rhetoric of the State Plan. On the topic of service delivery and efficiency, another curious omission in this budget is any real discussion of the proposed changes in Federal-State funding, with the replacement of current specific purpose payments by the new national partnership payments. Just to briefly inform members of the way that the budget papers have been altered, I quote from Budget Paper No. 3, Volume 1, page iv:

Some service group statements show additional detail below Total Expenses excluding Losses. This detail is collectively known as *Matters of Public Interest*. It will vary from service group to service group and from agency to agency as it covers those matters that are of specific interest to members of Parliament, interest groups or the community more generally.

I have been through the budget papers and I can tell you that a lot of matters of specific interest to this member of Parliament—and I am sure many of my colleagues—are no longer included in the budget papers.

The Hon. Rick Colless: That is right. You cannot find any details.

The Hon. GREG PEARCE: There is no detail. In fact, you now have these curious measures and performance diagrams. I do not want to take up too much time of the House, but I will give one example on page 3-6 of the same budget paper which refers to the service group of transport planning, policy and infrastructure programs and initiatives with a budget of \$871.5 million. There are three columns for results and only one column received a tick—not the other two columns. The description of the result given for the service group of transport regulation, service provision and contract management is a little tick in a column. What sort of measures are we really getting to when one looks at, for instance, page 3-44 where service reliability advice is being talked about, the previous programs have been deleted and replaced with things that are called "service measures"? What are "service measures"?

The first one is "Major public reports prepared"—that is a great one. The second one is "Routine and policy advices prepared for the Minister." The third one is "Reports/advice provided to the Minister within scheduled timeframes." Under the heading "Transport Service Reliability Advice" is a bunch of reports. On page 3-49, under "Investigation and Risk Mitigation analysis", the service measures are also a bunch of reports and nothing to do with the service standard that one would expect to see addressed. Although there are a great many words and numbers in the budget papers, they do little to improve accountability and transparency. Indeed, the budget adhocery identified in prior years continues. This year, purportedly as part of the improved budgeting framework, the agency estimates contained in Budget Paper 3, Volume 1 reported on a results and services basis, as I mentioned, rather than the program statements previously included. That is a retrograde step. The result is that significant expenses are contained in one line with little detail. This is particularly the case in relation to grants where increasing sums are being included with no detail.

Consistent with the trend to cover up mis-forecasting and poor planning by utilising the Treasurer's Advance, the Treasurer's Advance has been increased to \$400 million this year: \$300 million for current expenses and \$100 million for capital works. We saw in 2007-08 an initial Treasurer's Advance of \$325 million, supplemented by another \$190 million in the Supplementary Appropriations Bill passed a few weeks ago. The Government's sloppy and non-transparent practices for obtaining approval for all sorts of payments, which are not properly unforeseen payments, is again implemented in the Appropriations Bill which accompanies the budget. The Appropriations Bill includes yet another supplementation to the Treasurer's Advance for 2006-07 of \$120 million, and a further \$250 million for grants for rail debt repayment in 2007-08, again with no adequate explanation as to the policy or the reasons for the payments being made.

The Greens are not in the Chamber at the moment but I am sure they have noticed that in the Appropriations Bill there is additional 2006-07 funding, which includes yet another \$2.23 million for the World Youth Day Coordination Authority, plus \$770,00 for fit-out costs associated with the new authority, expenses for the Premier's Department associated with transition to the new ministry of \$530,000, and \$24.63 million for new information management and technology projects for the New South Wales Police Force. All of that should have been properly planned and budgeted. Whilst attending to these housekeeping adjustments, the Treasury has yet again failed to deal with the very significant issues facing New South Wales, including the fiscal gap and the real structural adjustments necessary to address climate change and implement a carbon emissions trading scheme.

Finally, I draw to the attention of House the worthwhile initiatives and principles enunciated by the Leader of the Opposition in his speech in the other place. In short, the Coalition is committed to the accountability and transparency provisions mentioned by the Leader of the Opposition, which I will not go through in detail. The Opposition is also committed to helping front-line workers. I particularly draw the attention of honourable members to the proposals in relation to the fund for teachers and nurses. The other issue that I wish to briefly mention is housing affordability. Once again, I draw the attention of the House to the proposals on that issue and the support of children through additional child care measures.

[The Deputy President (The Hon. Amanda Fazio) left the chair at 6.30 p.m. The House resumed at 7.30 p.m.]

The Hon. HENRY TSANG (Parliamentary Secretary) [7.30 p.m.], in reply: I thank the shadow Minister for his contribution to the debate. I commend the bills to the House.

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

Motion agreed to.

Bills read a second time.

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

Third Reading

Motion by the Hon. Henry Tsang agreed to:

That these bills be now read a third time.

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

ELECTION FUNDING AMENDMENT (POLITICAL DONATIONS AND EXPENDITURE) BILL 2008

LOCAL GOVERNMENT AND PLANNING LEGISLATION AMENDMENT (POLITICAL DONATIONS) BILL 2008

Messages received from the Legislative Assembly returning the bills without amendment.

HEMP INDUSTRY BILL 2008

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [7.33 p.m.], on behalf of the Hon. Ian Macdonald: I move:

That this bill be now read a second time.

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

Leave granted.

The Hemp Industry Bill 2008 establishes a licensing scheme for the commercial production of industrial hemp in New South Wales. It will bring New South Wales into line with other States, such as Queensland and Victoria.

It will allow farmers in New South Wales of good repute to grow this crop which has so many exciting applications: from building blocks to paper production.

The bill is the result of extensive consultation between the Department of Primary Industries, the Attorney General's Department, New South Wales Police and New South Wales Health.

At present, New South Wales does not permit the commercial cultivation or supply of industrial hemp. Industrial hemp is currently classified as a "prohibited plant" under the Drug Misuse and Trafficking Act 1985.

However, small-scale cultivation of industrial hemp for research or scientific purposes has been permitted in New South Wales since 1996.

It is now time to remove the prohibition on the commercial production of industrial hemp in this State. There is strong, and growing interest from mainstream farmers in the development of this crop on a broad acre scale.

The challenge for this Government in developing an appropriate regulatory framework has been to ensure that drug law enforcement in this State is not compromised. This has been our key priority.

And it must be our key priority because marijuana plants which produce the illicit drug are visually indistinguishable from industrial hemp plants.

Let me emphasise now that there is no comparison between the end use of industrial hemp and marijuana. Industrial hemp is an agricultural crop grown to extract fibre and oil and has no value as a drug. Marijuana is a prohibited drug and growing marijuana is a criminal offence in this State.

Enabling the commercial production of industrial hemp has no bearing whatsoever on the argument for legalising marijuana.

The Government is developing a strong regulatory framework for the commercial production of industrial hemp to ensure continued effective drug law enforcement in New South Wales.

There is substantial evidence from North America, Europe and other States in Australia that risks to drug law enforcement can be managed under an appropriately designed regulatory scheme. In New South Wales we have also had the benefit of considering various licensing schemes used in other States. We have examined models that have been tried and tested in Australia under Australian conditions.

I now turn to the detail of the bill.

The bill before the House will establish a licensing scheme for the commercial production of industrial hemp in New South Wales. The scheme provides for licences to be issued to grow industrial hemp for use in manufacturing processes or for scientific and research purposes. The licensing scheme will be administered by the Director General of the Department of Primary Industries.

The technical term in the bill for "industrial hemp" is "low-THC hemp". "THC" stands for tetra-hydro-cannabinol, which is the psycho-active component in marijuana or high-THC hemp. "Low-THC hemp" is defined as any plant from the Cannabis genus, which has a THC concentration in its leaves and flowering heads of up to 1 per cent. The definition also captures the seed and products, such as oil and fibre, derived from these plants.

I would like to point out that the proposed legislation only deals with low-THC hemp. Cannabis which is not captured by the definition of "low-THC hemp" will continue to be dealt with by the Drug Misuse and Trafficking Act.

Under the proposed legislation, a licence to cultivate or supply low-THC hemp will be able to be granted for various purposes. These purposes include:

- commercial production;
- use in a manufacturing process;
- scientific research, instruction, analysis or study; or
- any other purpose prescribed by the regulations.

These licences will not be granted to just any person who wants one. The bill establishes a rigorous licence application process.

Licence applications will be made to the Director General of the Department of Primary Industries.

A person must be of good repute to qualify for a licence under the scheme. The applicant's character, honesty and integrity will be taken into account in determining a licence application.

The bill goes further, giving the director general the power to refuse to grant a licence if a close business associate of the applicant is not of good repute. This will ensure that a shady character is not able to hide behind the veil of his or her associates.

In addition, licences cannot be granted to applicants who have been found guilty of serious drug related offences. The same applies if a close business associate of an applicant has been found guilty of a serious drug related offence.

As I said earlier, the Government's top priority in developing this legislation has been ensuring that drug law enforcement in this State is not compromised.

To satisfy this requirement, the director general will have extensive powers of investigation when he or she is considering licence applications.

The bill empowers the director general to carry out all investigations and inquiries necessary to determine the application. This includes undertaking a criminal record check for the applicant and his or her close business associates. In fact, the director general must conduct a criminal record check in relation to all applicants for a licence.

The applicant and the applicant's close business associates can also be compelled to produce information, records and authorities necessary for determining an application.

The director general's decision in relation to a licence application will be final.

The bill provides for licences to be granted for up to five years. A licence will be subject to conditions set out in the Act or regulations. A licence will also be subject to any other conditions imposed by the director general, which will be specified in the licence.

I will now deal with the important issue of enforcement and compliance.

Under this bill, it will be an offence to breach the conditions of a licence. It will also be an offence to cultivate or supply low-THC hemp otherwise than in accordance with a licence.

A contravention of the proposed legislation may also result in a criminal prosecution under the Drug Misuse and Trafficking Act.

The bill will put in place strong investigation and enforcement powers. Police officers and inspectors appointed under the new legislation will have a range of powers to ensure that they can act quickly and decisively in response to breaches.

It will reassure the community to know that police officers will automatically have the power to exercise the functions of inspectors under the new legislation.

The director general or an inspector will have the power to require a person to produce information or records in connection with any matter under the Act.

Inspectors will also have powers to enter and search premises, seize things where necessary, and to question people in relation to certain matters.

The director general will have the power to suspend or revoke a licence once granted, if satisfied there are grounds for doing so.

These powers are essential to ensure that drug law enforcement in New South Wales is not compromised. The New South Wales Government is committed to this.

The bill will remove the current power of the Director General of New South Wales Health to issue authorities for research trials of industrial hemp. This responsibility will be transferred to the Director General of the Department of Primary Industries.

The bill provides for current authorities for research trials to continue until the new licensing scheme comes into operation.

I turn now to the benefits of industrial hemp as a crop.

As I have said already, there is a strong, and growing interest in the farming sector in the commercial production of hemp in New South Wales on a broad acre scale. The search for new industries within the farming sector to confront the challenges of climate change has spurred this interest. As has the search for crops which require less water and that are "environmental friendly"

For example, I am advised that Demand Farming, a New South Wales grower cooperative backed by Elders, is ready to start planting in New South Wales. They have had three growers involved in trials in New South Wales, and see significant potential for industrial hemp in this State.

Demand Farming made a submission to the New South Wales Government in August 2007 urging that the commercialisation of industrial hemp be permitted in this State.

Another organisation keen to take up the opportunity is Ecofibre Australia. Ecofibre is a Queensland-based company which is looking at trialling industrial hemp varieties in New South Wales this season, on a scale of 200 hectares.

Ecofibre has written to the Minister for Primary Industries supporting the introduction of legislation in this State to permit the commercial production of industrial hemp.

Industrial hemp is a summer annual crop that has the potential to be more water efficient than other fibre crops. It also requires the application of fewer agricultural chemicals in the production cycle than other fibre crops.

In addition, industrial hemp is a potentially useful rotation crop for farmers to have access to in their farming systems.

Industrial hemp fibre has many uses, including as a component in the manufacture of paper products and textiles.

Other potential uses for the fibre include load bearing masonry for building, insulation, and as an alternative to fibreglass. The insulation properties of the fibre mean that less energy is required for heating and cooling structures produced with hemp building blocks.

Hemp seed oil can be used as a base for skin care products and paints. It is also used in dog food production.

The New South Wales Government is committed to allowing farmers, who meet the licence criteria, to plant industrial hemp for the 2008/2009 summer season.

If the Hemp Industry Bill 2008 is passed by this Parliament, the New South Wales Government will aim to release draft regulations for public comment in August.

Mainstream farmers are keen to get started and to enjoy the benefits that their interstate colleagues already have.

Industrial hemp provides farmers with an important alternative crop, to assist them to adapt to and confront the challenges of climate change.

This bill will permit the commercial production of industrial hemp in this State, consistent with bordering jurisdictions, while ensuring that drug policy and law enforcement is not compromised.

I commend the bill to the House.

The Hon. RICK COLLESS [7.33 p.m.]: I lead for the Coalition on the Hemp Industry Bill 2008. The bill establishes a licensing scheme for the commercial cultivation or supply of low-THC hemp of 1 per cent, and amends the Drug Misuse and Trafficking Act 1995 to legislate that it no longer be an offence to possess, cultivate, manufacture, produce or supply low-THC hemp. Industrial hemp trials have been held in New South Wales since 1995. The bill has been prepared in conjunction with the New South Wales Police Force, the Attorney General's Department and New South Wales Health. A prime fact sheet produced by the New South Wales Department of Primary Industries identifies:

Drought conditions over most of the state for the previous three seasons has meant that good yield data has not been produced from trials. However access to new varieties which are better adapted to the environmental conditions have allowed reasonable yields to be achieved in New South Wales.

Trial operators have been using varieties which originated in China but have been selected for Australian conditions primarily in Queensland.

Hemp has a long history with a wide and varied range of uses. It is cultivated extensively and used in various manufacturing industries in both Europe and China.

Some end uses of hemp include:

- Plastics
- non-load bearing masonry (hemp house bricks)
- textiles
- paper
- insulation in car bodies
- an alternative to fibreglass
- animal bedding
- mulch
- alternative crop in farming rotation

Hemp has also been used in wastewater recycling and as an addition to wool to ensure a soft and durable yarn.

The oil extracted from hemp seed has been used in skin care products, paint and dog food. The potential for this oil to be used in the production of biofuel is currently being researched.

Hemp production as a fibre crop requires less water and chemical use than a conventional fibre crop such as cotton. However, many of the end uses for hemp fibre require separation of the bast (inner) and hurd (outer) fibres, which can only be separated at a specialised plant.

The cost of transporting the crop to processing plants is a major hurdle. Queensland has several plants and the distance from these plants means that transport costs could make the crop economically unviable.

Markets for bast and hurd fibres in Europe and Asia appear to be growing. The international market for bast fibre is estimated to improve from 0.1 million tonnes in 1999 to over 20 million tonnes by 2050. Markets are growing for products such as a range of plastics from polycomposites to 100 per cent organic plastic, building materials, geo-textiles and non-wovens.

All hemp varieties contain tetrahydrocannabinol, or THC, which is the psychoactive ingredient found in marijuana; but the concentration of THC in industrial hemp is low enough so as not to cause intoxicating effects. In industrial hemp crops the male and female plants are grown closely together, creating a higher biomass content, resulting in a THC content diluted to approximately 1 per cent. Marijuana, however, is produced by removing the mild plants and the female plants are widely spaced, which allows the THC to concentrate in the young fertilised female plants, eventually providing THC levels that vary from 4 per cent to 24 per cent.

The bill proposes that five-year licences will be granted to eligible parties following police background checks of the farmer and his or her hemp industry associates, and licences will be subject to regular random police checks. There has been considerable pressure to regulate the growing of industrial hemp for many years. Industrial hemp has the potential to be a major income-generating crop in agricultural areas. The Opposition does not oppose the bill.

Mr IAN COHEN [7.37 p.m.]: On behalf of the Greens I support the Hemp Industry Bill 2008, which is the first small step towards innovating the New South Wales agricultural industry. The reintroduction of this

ecologically and commercially positive crop is an initiative the Greens support. New South Wales farmers will no longer be left in the agribusiness dark ages. The bill will enable the cultivation and supply of low-THC hemp for commercial production in accordance with the licensing agreement and enable New South Wales to join its State counterparts Queensland and Tasmania in reaping the significant environmental and economic benefits of industrial hemp.

Article 28 (2) of the United Nations Single Convention on Narcotic Drugs made the distinction between cannabis and cannabis plant exclusively for industrial purposes—fibre and seed—or horticultural purposes back in 1961. Forty-seven years later and after 13 years of New South Wales field trials of low-THC, or tetrahydrocannabinol hemp, the Government has now realised that for too long industrial hemp has been overlooked and underestimated. It is important to reiterate the difference between low-THC industrial hemp and marijuana. Industrial hemp has no more than approximately 1 per cent THC concentration compared to hydroponically grown varieties with THC levels in the 45 per cent ballpark. The definition in the bill states:

low-THC hemp means any plant of the genus *Cannabis*, by whatever name that plant may be called, that has a concentration of THC in its leaves and flowering heads of no more than 1%, and includes the seed of any such plant and any product (such as oil or fibre) derived from any such plant.

I reiterate these key definitional points: there is both an institutional and governmental perception that citizens of this State cannot and do not have the capacity to differentiate and perceive the difference. Once these prejudices and misconceptions are disassembled, we can appropriately consider the environmental gains and the economic opportunities associated with the crop. Irrigation trial yields from Yamba and the State's central west are now reporting 10 tonnes to 12 tonnes of dry stem per hectare. After poor results in earlier trials, which did not deliver commercial yields, the recent results are on par with yields in Northern Europe and Tasmania, and gross margins could be as much as \$600 per hectare dry land and \$1,700 per hectare irrigated, with minimal water herbicides or pesticides needs.

As an agricultural crop, industrial hemp has a superior pest resistance profile translating to decreased use of pesticides. In conjunction with a reduction in pesticide use, industrial hemp may have spill-on effects for increasing the yield of crops following on from the rotation. As a rotational crop, industrial hemp has significant bioremediation potential for land suffering light to moderate degradation. Ecotechnology Australia, which conducts sewage treatment systems using wetland technology, first grew hemp as a mop crop to take effluent irrigation.

There are more than 2,000 different types of cannabis, but only 10 per cent of these are used to produce the drug marijuana. The 90 per cent of cannabis that is used as industrial hemp stock has numerous industrial and commercial applications. Currently the pulp and paper industry uses wood fibre to produce paper. Application of industrial hemp in paper and pulp production has the potential to reduce energy and chemical inputs. Paper produced from hemp fibre is at least two times more recyclable than paper produced from wood fibre. However, some studies have shown that paper sourced from hemp pulp may have a distinct price disadvantage, with the estimated price for hemp pulp at \$US2,100 per tonne compared with the price of bleached softwood pulp at a much lower \$US800 per tonne.

Increasing internalisation of environmental costs associated with paper derived from wood fibre pulp will eventually close the price differential and send important market signals. In the manufacturing sector, and specifically the motor vehicle production industry, industrial hemp has the potential to provide fibres for plastics and moulded composites for vehicle reinforcement. In the German automotive industry in 2005, 9.5 per cent of natural fibres used in vehicle composites were from industrial hemp. Some members of the House may also be familiar with hempcrete, a brick that combines rock-hard hemp with a lime or magnesium binder. Without delving into the carbon sequestration capacity of the crop, proponents are confident that the building material can absorb and lock up carbon over the life cycle of the product.

The United Kingdom has implemented legislation that requires all houses built after 2016 to be zero carbon and hempcrete. This reduces carbon dioxide emissions associated with building construction and will play a role in zero carbon housing. In this country hempcrete will also play a role in green-rated building development and construction. Suggestions have also been made that industrial hemp may be a potential biofuel. A 2007 paper available from the European Industrial Hemp Association entitled "Examination of hemp oil with regard to its suitability as fuel for engines adapted to pure plant oil use" outlines some of the technical uses associated with the uptake of industrial hemp as a biofuel. Its physiology makes it a preferable feedstock for ethanol production as opposed to the starch-based crops. And, of course, we cannot forget clothing, textiles and skincare products.

There is also food. Thirty countries around the world permit the commercial cultivation of industrial hemp and subsequent use of hemp as a by-product in human food. Low-THC hempseed and hempseed oil is used in foods distributed internationally such as health bars, salad oils, non-soy tofu, non-dairy cheeses, non-dairy milks, additives to bread, biscuits and cakes, butter pastes and whole seed, raw or roasted. Hempseeds are an excellent source of unsaturated fatty acids and an additional source of essential fatty acids. Unfortunately, in 2002 the Australia New Zealand Food Standards Council rejected "Application A360—Use of Industrial Hemp as a novel food" on the basis that:

Ministers decided to retain the total prohibition on the use of industrial hemp as a novel food because they believe that the use of hemp in food may send a confused message to consumers about the acceptability and safety of the high THC cannabis.

Australia and New Zealand are the only Western nations to prohibit the use of hemp in food notwithstanding that it was concluded "there are no public health and safety concerns associated with the use of food products containing derivatives of industrial hemp". I have only scratched the surface on the commercial application of industrial hemp and would urge the Minister for Regional Development to look at the opportunities within domestic and international export markets. Based on CSIRO figures, world fibre demand is projected to increase from approximately 50 million to 150 million tonnes. There is no doubt that significant regional development opportunities for hemp industries may appear in future export markets. The Deputy Leader of The Nationals, Mr Fraser, would do well in noting all these commercial applications. Unfortunately, Mr Fraser was preoccupied with somewhat irrelevant concerns when in the lower House he stated:

The unfortunate reality is that those who have been most vocal promoting the commercial use of hemp are those who smoke the variety that is illegal in New South Wales.

I am pleased that the Hon. Rick Colless has taken a far more balanced approach to the bill. Groups such as the Nimbin HEMP Embassy have advocated and continue to advocate for both increased commercial cultivation of industrial hemp and the decriminalisation of cannabis. These are two distinct and unrelated issues. The establishment of a licensing scheme for industrial hemp cultivation bears no relationship to the illegality of high THC concentration cannabis possession and supply. The most vocal advocates for industrial hemp are not New South Wales drug dealers. This bill is an implicit acknowledgement that we have the political maturity and economic savvy to cultivate this versatile crop.

Companies such as Ecofibre Industries Limited, Ecotechnology Australia and Hemp Resources Limited would find Mr Fraser's comments somewhat backward. Successful hemp producers in Canada, Europe and China would find such a statement outright ridiculous. Here we are talking about global and national opportunities for regional Australia's development and economic viability, and Mr Fraser is preoccupied with marijuana users! In our consultations with industrial hemp stakeholders across the border in Queensland, it was drawn to our attention that both in Queensland and Tasmania industrial hemp production reduces incidents of illegal cultivation of cannabis. It effectively drives out illegal drug industries from regions that use industrial hemp as a summer crop. This is most likely due to the fact that low-THC hemp plants can pollinate illegal marijuana plantations, with the effect of diluting the THC level.

I draw upon the comments of Mr Fraser because it is the more extremist, hardline version of this type of sentiment that is denying the market development of a product and crop with such astonishing economic and environmental potential. It is a knee-jerk prejudice mired in an illogical paranoia. It is not really that far from the alarmist sentiment splashed across the front page of the Australian newspaper *Smiths Weekly* on 23 April 1938 where the lead line proclaimed hemp grown in Queensland was:

A Mexican drug that drives men and women to the wildest sexual excesses has made its first appearance in Australia.

Without getting buried in the history, the cultural transition and the commercial interests that suppressed industrial hemp development in Western nations, it is evident that the resurgence of industrial hemp cannot and should not again be quelled by unjustified and alarmist rhetoric. I raise this point not to embroil the House in a diversionary discussion on drug policy but to highlight the need to evaluate the commercial potential of industrial hemp in any environment devoid of emotive discussions about illegal marijuana use and cultivation in New South Wales.

I turn now to the substantive provisions of the bill. Part 2 of the bill outlines a licensing scheme administered by the Director General of the Department of Primary Industries. The mechanics of the licensing scheme operate in such a manner as to create an exemption from the Drug Misuse and Trafficking Act 1985. As set out in new section 5, the director general may grant a licence for commercial production, manufacturing use or scientific study of low-THC hemp. Part 3 establishes a framework for monitoring licensees, and outlines the

power of investigation and enforcement ascribed to inspectors as appointed by the director general. The administrative framework for managing a low-THC hemp licence is extensive, with a high level of departmental oversight and supervision. Effective departmental supervision is important to allaying concerns and fears that a legitimate and commercially successful production operation may be a front for illegal drug cultivation. Our aim should be to strike for balance in concurrently ensuring adequate supervision while also minimising compliance and licensing costs.

The commercial cultivation of industrial hemp may be impeded and its growth stunted by excessive cost burdens in its infancy. In this instance, the Government and the relevant departments hopefully have worked together to formulate an effective balance, meeting the dual requirements of maximising supervision and legitimacy and minimising compliance costs to the producer. It is a difficult balance to calibrate, and it highlights that the Government can play an integral regulatory role in stark contrast to the hands-off, soft-touch regulation by multinational contracts approach to the commercial cultivation of GM canola.

I reiterate that this is only the first step. Appropriate legislative reform to environmental controls on construction, car, plastics and paper industries, which are necessary to mitigate carbon emission profiles, will eventually provide the necessary market signals. I am happy to commend the bill to the House, and I look forward to an expedient proclamation bringing the Act back into force so that New South Wales can start realising the economic and environmental benefits of industrial hemp cultivation and production.

Reverend the Hon. Dr GORDON MOYES [7.51 p.m.]: The objective of the Hemp Industry Bill 2008 is to enable low-THC hemp to be cultivated and supplied for commercial production and other legitimate purposes in accordance with a licensing scheme to be administered by the Director General of the Department of Primary Industries. The proposed Act defines "low-THC hemp" as cannabis that has a concentration of tetrahydrocannabinol of no more than 1 per cent. The bill provides that the possession, cultivation or supply of low-THC hemp in accordance with a licence under the proposed Act will not constitute an offence under the Drug Misuse and Trafficking Act 1985.

Early in the twentieth century industrial hemp was considered to be an important and beneficial crop throughout the Western world. However, as a result of the development of synthetics and its classification by the Western world as a drug in the 1920s and 1930s, the production of industrial hemp was confined to China, Bangladesh and Eastern Europe. Industrial hemp, with its many applications, is an exciting, potentially alternative crop for agriculture in New South Wales, especially in dry areas, and facilitates valuable research into developing this emerging industry in our State. It is a lucrative cropping opportunity for the New South Wales farming community. All of us recognise how tough it has been for people in the dry farming areas in recent years.

Hemp has agricultural benefits. It is useful as a rotation crop in farming systems. As a fast-growing summer crop, it can be used in rotation with winter grain crops. Hemp grows in a variety of climates and soil types and is naturally resistant to most pests; hence the reduced requirement for herbicides. Hemp has environmental advantages compared with other fibre crops. In Australia these benefits are significant. Hemp is potentially more water efficient and requires fewer agricultural chemicals than most other fibre plants. These advantages will increase as new varieties of hemp that are even more suited to New South Wales conditions are developed.

Industrial hemp products have found a place in niche markets in the developed world. There is speculation of more opportunities in the future, with some industry proponents estimating the international market for bast fibre to increase from 100,000 tonnes in 1999 to over 20 million tonnes by 2050. Traditionally, products made from industrial hemp included rope and cordage. In passing may I say that throughout the nineteenth century the British Navy depended upon industrial hemp for its canvas and sails. Indeed, when the First Fleet came to Australia under the direction of Captain Arthur Phillip it immediately sent a boat to Norfolk Island to secure supplies of hemp because vast amounts of hemp were growing on the island.

Products made from industrial hemp also include sailcloth, carpet backing, canvas and apparel. For example, people who wear Levi's jeans, particularly Levi's 501s, ought to know that the jeans were originally made from hemp denim. Recent investigations have revealed that contemporary uses of industrial hemp may include reinforcing fibre for paper, fibre-reinforced plastics—the very valuable product known as hempcrete—polycomposites, fibreboards, geotextiles, textile fabrics, for both apparel and industrial use, animal bedding, kitty litter, industrial absorbent products, and insulation. Many uses for the oil and seed have been developed or are under investigation, including animal stockfeed, soap, oil, paint varnish and cosmetics. Indeed, the fibre is

probably more valuable than any other crop grown in Australia, apart from peanuts, from which over 1,000 uses can be found for their various components. In some countries the seed and oil from hemp plants are used in food products. Hemp does not have a distinctive taste and, like the choko, can take on the flavour of the food with which it is cooked.

However, it should be noted that in 2002 the Food Regulation Ministerial Council rejected hemp as a food in Australia. Notwithstanding that decision, overseas studies have identified that hemp oil is a very rich source of polyunsaturated essential fatty acids. Anyone who has tried to diet would realise the significance of that. Interestingly, hemp oil is quite high in some essential amino acids. Since the late 1980s there has been a resurgence of interest in fibre products, arguably driven by the green movement with a view to saving trees by growing renewable non-wood fibres in place of clearing forests for paper and building materials. This interest has gained momentum and credibility with Japan, for instance, which has set a target date of 2010 to have 10 per cent of its paper production sourced from non-wood fibre sources.

Furthermore, the European Union has stipulated to its member countries that 95 per cent of the components of each car produced by 2015 must be recyclable. The voluntary use by automotive manufacturers of natural fibres, including industrial hemp, suggests that demand for natural fibres will continue to increase. Market segmentation for ethically produced goods, and growing support for biodegradable and natural products, has led to a wide range of new industrial hemp products being developed. Industrial hemp fibre produced in New South Wales could pave the way for the establishment of a new viable industry that creates and sells textiles, and building products made from locally grown industrial hemp.

The Hemp Industry Bill 2008 establishes a licensing scheme for the commercial cultivation and supply of industrial, or low-THC, hemp in New South Wales. Historically, hemp was grown in New South Wales from the early 1800s; the very early convicts in this country planted it. If my memory of Australian history is correct, hemp was grown widely around the Botany Bay area and was recognised by Sir Joseph Banks; it was one of the major reasons for his recommending Botany Bay as the centre for the first settlement in Australia in 1788. By 1938 hemp was wrongly considered a drug crop, and was banned in many countries, including Australia. The legalisation of growing industrial hemp in some Australian States in recent years is recognition by government and the general community that industrial hemp may make a useful contribution to the economy as an alternative agricultural crop and that the crop can be grown under conditions that do not compromise law and order. Industrial hemp can be grown in other jurisdictions—such as Victoria, Queensland, Tasmania, Western Australia and the Australian Capital Territory—under a licence or permit.

Licensing systems to allow for the commercial production of industrial hemp were first developed in Tasmania from 1991, and later in Victoria from 1997. In Queensland, amendments to the Drugs Misuse Act 1986 were proclaimed in September 2002 to facilitate the commercial production of fibre and seed from industrial hemp crops. Legislation to allow for the development of a commercial industrial hemp industry in Western Australia was passed in early 2004. One can see from that what is happening tonight that New South Wales is following the example of Tasmania, Western Australia and Victoria. The establishment of a licensing scheme for the commercial production of industrial hemp, as proposed by this bill, would bring New South Wales into line with other jurisdictions in Australia. This will allow the cultivation of this crop by farmers who are described in the bill as being of "good repute". I know of no other kind of farmer than one of good repute.

The key proposals in the bill are to allow licensed farmers to grow hemp with low tetrahydrocannabinol levels; to create an offence to cultivate and supply low-THC hemp, other than in accordance with a licence; to create a licence application process administered by the Director General of the Department of Primary Industries; to require licensed applicants, and their close business associates, to meet suitability criteria and to be subject to police checks; and to provide strong enforcement powers to inspectors and police officers. Moreover, the bill attempts to provide a regulatory framework for the cultivation and supply of industrial hemp that makes sure drug law enforcement in New South Wales is not compromised. There is an easy way to distinguish between the growing of cannabis for personal or drug use and the cultivation of industrial hemp. Industrial hemp is grown on farms whereas cannabis for drug use is grown in the lounge rooms of inner suburban housing developments.

The Hon. Henry Tsang: There are some Pitt Street farmers that grow it too.

Reverend the Hon. Dr GORDON MOYES: I am shocked to hear the Parliamentary Secretary say that some farmers already practice drug use.

The Hon. Henry Tsang: I said Pitt Street farmers.

Reverend the Hon. Dr GORDON MOYES: Pitt Street farmers, thank you. Industrial hemp plants are visually indistinguishable. However, the previous speaker, the Hon. Rick Colless, pointed out the difference between male and female plants and how the illicit drug is developed. If my memory serves me correctly, he said that the female plants get too close to other plants. The agreement in principle speech in the other place states:

There is no comparison between the end use of industrial hemp and marijuana. Industrial hemp is an agricultural crop grown to extract fibre and oil and has no value as a drug. Marijuana is a prohibited drug and growing marijuana is a criminal offence in this State.

Industrial hemp is a cannabis plant species, however, but it has low THC content compared to other forms of cannabis plants, and therefore cannot be used with satisfaction as a drug. Cannabis, which is not captured by the definition of low-THC hemp explicated in the bill, will continue to be dealt with under the Drug Misuse and Trafficking Act 1985. Under the bill licenses for the cultivation or supply of low-THC hemp will be granted for purposes such as use in a manufacturing process; scientific research, instruction, analysis or study; or any other purpose prescribed by the regulations. The scheme will be administered by the Minister for Primary Industries, and will operate within a strict legal framework. The New South Wales Department of Primary Industries will work closely with the New South Wales Police Force in developing regulations and guidelines. These measures will make it legal for interested primary producers to cultivate industrial hemp with a licence, including for trial purposes.

Licenses will be granted under processes established in the bill. Licence applications will be made to the Director General of the Department of Primary Industries. A person must be of good repute to qualify for a licence under the scheme. The applicant's character, honesty and integrity will be taken into account in determining a licence application. The bill goes further, giving the director general the power to refuse to grant a licence—and I do not know how on earth the Government is going to police this—if a close business associate of the applicant is not of good repute. This will ensure that a shady character is not able to hide behind the veil of his or her associates. In addition, licences cannot be granted to applicants who have been found guilty of serious drug-related offences. The same applies if a close business associate of an applicant has been found guilty of a serious drug-related offence.

The bill empowers the director general with investigative powers to aid in the determination of licence applications, including a mandatory criminal record check on the applicant and any close business associates of the applicant. The bill provides also for investigation and enforcement powers once a licence has been granted. Police officers and inspectors appointed under the new legislation will have a range of powers to ensure that they can act quickly and decisively in response to breaches. Police officers will automatically have the power to exercise the functions of inspectors under the new legislation. The director general or an inspector will have the power to require a person to produce information or records in connection with any matter under the Act.

In conclusion, the strong world demand for renewable and recyclable fibre products, and the decline and demise of some established agricultural industries in recent years, has created an interest in industrial hemp. It is a genuine opportunity for diversification into other crops, particularly by farmers in dry-area cropping. The legalisation of growing industrial hemp in some Australian States in recent years is recognition by governments and the general community that industrial hemp may be a viable alternative crop, and that it can be grown under conditions that do not compromise law and order. The bill sets out a clear and effective licensing scheme that will allow commercial-scale production of industrial hemp in New South Wales. The commercial production of industrial hemp in New South Wales will offer significant hope to farming communities struggling under the burden of reduced access to water and continuing drought. This is a very exciting opportunity for rural communities in New South Wales, and I commend the bill to the House.

The Hon. TONY CATANZARITI [8.06 p.m.]: I support the Hemp Industry Bill 2008, which recognises the economic potential of industrial hemp as an agricultural crop. There are very sound and economic reasons for the growth of interest in industrial hemp. This versatile product has a very wide range of applications. Hemp produces a strong, natural fibre that is particularly suited to paper products and textiles. It is also increasingly used in building construction. Medium-density fibreboard, and even beams, studs and posts can be made from hemp. It is considered stronger and lighter than concrete and can be used in its place. Hemp can also be used as building insulation, and as an alternative to fibreglass. Hemp has agricultural benefits too. It may be useful as a rotation crop in farming systems. As a fast-growing summer crop, it can be used in rotation with winter grain crops. Hemp is potentially more water efficient and requires fewer agricultural chemicals than other fibre plants.

While this bill recognises the economic potential of industrial hemp, it also recognises the importance of regulating the industry. Regulation of the industry is critical to ensure that drug law enforcement in New South Wales is not compromised. The community must be reassured that allowing commercial production of industrial hemp will not encourage the growth of marijuana crops. Industrial hemp plants and marijuana plants are both from the same cannabis family and look very similar. However, there are a number of key differences between the two. The main difference is that industrial hemp has very low levels of tetrahydrocannabinol [THC]. This is the compound in marijuana that induces psychoactive, or mind-altering, effects.

The bill carefully defines industrial, or low-THC, hemp. Industrial hemp is cannabis with a concentration of THC of no more than 1 per cent. This concentration will not induce psychoactive effects if it is smoked or ingested. Marijuana crops typically have a THC concentration of 4 per cent to 24 per cent. It is a reasonably straightforward process to test the levels of THC in cannabis plants. The plant samples are sent to an approved laboratory for THC testing. There may also be a concern that industrial hemp could be used to camouflage an illicit crop of marijuana. There are a number of reasons why this will not occur.

First, different processes are used for cultivating industrial hemp and marijuana. Most industrial hemp grown in New South Wales will be grown for the fibre that is produced from the stem. Therefore, the plants will be planted close together to ensure straight, tall growth. Marijuana is cultivated for its leaves, flowers and seeds and is therefore more widely spaced. A trained inspector would easily identify the different growth pattern of the marijuana plants. Another concern is that seed from industrial hemp and marijuana could mix, and that the next-generation hemp crop would have a higher concentration of THC. Firstly, it is highly unlikely that seed would mix. However, if cross-fertilisation did occur between high-THC marijuana plants and low-THC hemp plants, it invariably results in next-generation marijuana crops with a lower concentration of THC. This is a significant disincentive to growing marijuana in the same area in which industrial hemp is grown. In fact, anecdotal evidence from Queensland suggests that areas where industrial hemp is cultivated have become marijuana-free zones. There is clearly a low risk that allowing the commercial production of industrial hemp will facilitate a growth in marijuana crops. However, the Government is putting in place a comprehensive licensing and monitoring program to ensure that the commercial production of industrial hemp does not reduce the effectiveness of our drug law enforcement.

The bill establishes a licensing system for those seeking to cultivate industrial hemp for commercial production, manufacture or research. The bill sets out the process for applying for a licence, including mechanisms to check the suitability of the licence applicant. An applicant for a licence must be of good repute. In addition, a licence cannot be granted to a person who has been convicted of an indictable drug offence. The Director General of the Department of Primary Industries also has the discretion to refuse a licence application if the applicant has been found guilty of an offence, which makes him or her an unsuitable person to cultivate or supply industrial hemp. Any relevant close business associates of the licence applicant must also satisfy these criteria. The Director General of the Department of Primary Industries will be responsible for granting licences to grow low-THC hemp. Licences are in force for a maximum period of five years and can be renewed if the licence holder wants to continue cultivating hemp. Licence holders will also be subject to regular audits. This will provide the opportunity to regularly review the suitability of the licence holder.

The bill also sets out investigation and enforcement powers. Inspectors will have a full range of powers to ensure that they can act quickly and decisively. The director general will appoint inspectors, with the automatic inclusion of police. The bill also sets out significant maximum penalties for offences. It will be an offence to provide false or misleading information, to breach a licence or to fail to comply with a direction issued by an inspector or the director general. The proposed maximum financial penalty is 100 penalty units, which currently amounts to \$11,000. For most offences the offender is also liable for up to two years jail. In some cases the offender may also be liable to prosecution under the Drug Misuse and Trafficking Act.

The bill provides a further mechanism for ensuring that the community is protected from the cultivation of illicit marijuana. The bill allows the Director General of the Department of Primary Industries to enter into arrangements with relevant agencies for the supply of information. This will allow the Department of Primary Industries to undertake appropriate checks on licence applicants and licence holders and their relevant business associates. For instance, the department will be able to check with the police and licensing agencies in other States as to the suitability of a licence applicant. This information-sharing power will be an important element in the regulatory regime for industrial hemp. Legislative and law enforcement models are already in place in Queensland, Victoria and Western Australia. These have proved to be effective in managing the potential risks that industrial hemp production might pose for drug law enforcement. The bill adopts many aspects of the models used in other States. It is sensible legislation that allows the commercial production of an agricultural product with great potential while effectively managing potential risks to the community and to drug law enforcement.

The bill has gone through rigorous consultation and review, and has been well publicised throughout both city and rural media. I thank all those involved in presenting this bill, which will introduce another agricultural commodity to farmers and industry. I thank all who gave evidence to the Standing Committee on State Development inquiry into aspects of agriculture, with special thanks to John Larkin and David Ward of Demand Farming, Dr Keith Bolton for his research in this field, and Tim and Rodger Cummins, who produced an impressive trial crop in the Riverina this year. I commend the bill to the House.

Reverend the Hon. FRED NILE [8.15 p.m.]: I will speak briefly on the Hemp Industry Bill 2008. As members know, I have been a very strong campaigner against any attempts to legalise or decriminalise marijuana because of the harmful nature of the THC content and the damage it does particularly to young people. I have always had reservations about any moves to legalise hemp as an industrial product in New South Wales. My attitude was coloured some years ago by the activities of a former member of this House, Australian Democrat Richard Jones. In a speech in the other place, the member for Coffs Harbour, Andrew Fraser, may have been referring to him. Richard Jones was a strong campaigner for the legalisation of hemp as an industrial product.

The Hon. Charlie Lynn: But he was not a good very advertisement.

Reverend the Hon. FRED NILE: That is the point. He was the most vocal campaigner for the legalisation of marijuana. Some members wondered when he came into the Chamber on occasions whether he had been using the product.

The Hon. Rick Colless: We did not wonder; we knew.

Reverend the Hon. FRED NILE: I am being fair to him. I am always fair. Richard Jones even had a suit made out of industrial hemp. Some members joked that they would put a match to it to see whether we would get high in-House. No-one was game enough to actually do it. I was a member of the Standing Committee on State Development that investigated this issue. I will say more about that in a moment. I still have concerns about the industrial use of hemp. Although the Government has put safeguards in the legislation, it needs to carefully monitor the situation. If there is any evidence that the making of industrial hemp has an impact on the laws controlling marijuana, we will have to review this legislation and possibly abandon this initiative. That would upset farmers who want to use it as an industrial product, but we must not undermine existing laws on drug use in this State.

During the inquiry by the Standing Committee on State Development into industrial hemp, we heard convincing evidence from witnesses about the potential use of hemp as an industrial product. I recognise that licences will be required and that there will be strict control over persons who will be granted a licence to grow industrial hemp. With those safeguards, I am prepared to support the legislation and allow the project to go ahead, particularly as industrial hemp can already be grown in Victoria, Queensland, Tasmania, Western Australia and the Australian Capital Territory under a licence or permit. There is evidence, which I question, that the cultivation of industrial hemp leads to a marijuana-free zone. I hope that claim is true. Mr Ian Cohen may be able to inform the House whether there is any evidence of that in his area—that marijuana is not grown in the same area as industrial hemp. I would be pleased if that is a result of this legislation.

The Hon. MICHAEL VEITCH [8.19 p.m.]: I support the Hemp Industry Bill 2008, which establishes regulatory arrangements to allow the commercial-scale production of industrial hemp in New South Wales. The legislation also addresses the concern that cultivation of industrial hemp may encourage the growing of marijuana drug crops. The bill makes a clear distinction between industrial hemp and marijuana by clearly defining industrial hemp as cannabis that has a concentration of tetrahydrocannabinol [THC] of up to 1 per cent. THC is the psychoactive component of cannabis. Marijuana has a THC level of between 4 per cent and 24 per cent, and 1 per cent is generally accepted as the upper allowable limit for THC in industrial hemp. A THC concentration of 1 per cent or less renders hemp plants unusable for the illicit drug trade and there is no psychoactive effect on humans. I am sure Reverend the Hon. Fred Nile will be pleased to hear that.

In fact, plants with low THC have high levels of a substance called cannabidiol, which suppresses the effect of THC and causes headaches and nausea. During hearings of the State development committee one witness said that a person can smoke a truckload of this stuff and all they will get is a headache and a sore throat. Other jurisdictions in Australia that regulate the commercial production of industrial hemp allow different concentrations of THC. Queensland permits a maximum concentration of THC of 1 per cent in the leaves and flowering heads of cannabis plants. The higher concentrations allowed in Queensland allow for

fluctuations in THC levels caused by environmental factors beyond a grower's control. New South Wales has broadly adopted the Queensland approach because this approach is considered most likely to encourage a commercially viable industry in New South Wales.

It is important to note that a licence will permit a grower to produce industrial hemp only from seed that is designed to produce plants with a THC concentration of 0.5 per cent or less. However, the bill permits industrial hemp plants grown from such seed to have a THC concentration of up to 1 per cent. This will allow for a small increase in the THC level of plants due to environmental factors beyond the control of the grower. A number of factors may influence the concentration levels of THC in industrial hemp. For example, THC levels are highest in plants when they are flowering, and drop significantly after plants are pollinated. Hemp harvested at the time the plants are flowering is therefore likely to have higher concentrations of THC than plants harvested prior to or after flowering.

THC levels are also affected by environmental factors. For example, latitude and climatic conditions can impact on THC levels. Hemp grown under hot, dry conditions is likely to have higher levels of THC than hemp produced in cooler climates. Since the climate in New South Wales is most similar to the Queensland climate, the bill adopts the THC levels that operate in Queensland. The length of the day can also impact on THC levels. Increased day length means that plants will grow more quickly and this may increase THC levels. In addition, cultivation practices, including soil type, row spacing and fertiliser application, can influence THC levels.

The point is that THC levels in industrial hemp plants may vary slightly due to a range of factors, some of which are outside a grower's control. This bill defines low-THC hemp as hemp with a concentration of THC of up to 1 per cent. This recognises the inevitable variations that may occur as a result of environmental factors. This definition provides appropriate regulation of the industry to prevent the growing of illicit drugs. This is sensible and practical legislation. I commend the bill to the House.

The Hon. HENRY TSANG (Parliamentary Secretary) [8.23 p.m.], in reply: I acknowledge and thank the following honourable members for their most constructive contributions to this debate: the Hon. Rick Colless, Mr Ian Cohen, Reverend the Hon. Dr Gordon Moyes, the Hon. Tony Catanzariti, the Hon. Michael Veitch and Reverend the Hon. Fred Nile. The Hemp Industry Bill 2008 establishes a licensing scheme for the commercial production of industrial hemp in New South Wales. Farmers who establish that they are of good repute will be allowed to grow low-THC hemp under licences granted by the Department of Primary Industries. Licence applicants and their close business associates will be subject to a criminal record check. Licences will not be granted to people who have been found guilty of a serious drug offence.

In response to a question raised by Reverend the Hon. Fred Nile, I understand that other Australian States that permit the production of industrial hemp have not reported an increase in law enforcement activities associated with the growing of this crop. In fact, I understand that there is evidence that the presence of low-THC hemp crops is leading to marijuana-free zones. Cross-pollination of marijuana with low-THC hemp markedly reduces the THC level in the existing marijuana plants and the progeny of those plants. The licensing scheme is designed to ensure that the commercial production of industrial hemp does not increase the burden on law enforcement in New South Wales.

There is no comparison between the end uses of industrial hemp and of marijuana. Industrial hemp is an agricultural crop grown to extract fibre and oil and has no value as a drug. Marijuana is a prohibited drug and growing marijuana is a criminal offence. Legalising industrial hemp has no bearing whatsoever on the argument for legalising marijuana. Many European and Asian countries have been producing hemp for fibre and seed for hundreds of years but do not allow the production of marijuana for use as a drug. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Henry Tsang agreed to:

That this bill be now read a third time.

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

THREATENED SPECIES CONSERVATION AMENDMENT (SPECIAL PROVISIONS) BILL 2008

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [8.27 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

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

Leave granted.

Background

This bill seeks to ensure that existing Government conservation policy continues to be delivered in two important respects. First, that the holders of Voluntary Conservation Agreements continue to enjoy reductions in local council rates, and secondly to ensure that the outstanding conservation gains being delivered for Western Sydney through biodiversity certification will continue.

On this second issue, the bill will remove doubts about the validity of the original certification of the Growth Centres SEPP which are being raised in legal proceedings brought by True Conservation Association Inc. in the Land and Environment Court.

This bill is considered of vital importance to allow the development of land in Growth Centres to proceed in a way which will ensure that the overall impact of development in the Growth Centres will have the effect of maintaining or improving biodiversity values. It will also reduce uncertainties, delays and costs for landholders, and hence contribute to making future housing more affordable for Sydney's growing population.

Biodiversity Certification

While most people are familiar with the infertile sandstone country that surrounds Sydney in our large national parks, few are aware of the very different kind of bushland that has been lost on the Cumberland Plain. Aboriginal people enjoyed abundant and diverse food sources, and then early white settlers found the productive clay soils and natural woodlands ideal for farming and grazing.

Over the last two centuries, however, we have gradually lost our native species. Starting from the east and moving west, the first to go were the large animals, like kangaroos, emus and quolls. Then went the woodland birds and gradually the woodland communities themselves were divided into smaller and smaller patches, becoming vulnerable to weed and pest infestation, rubbish dumping and the like.

While few individual actions were decisive in their own right, the pattern of incremental expansion has continued—a kind of 'death by a thousand cuts'. That is why this Government adopted a new approach in 2004, when it introduced amendments to the Threatened Species Conservation Act to provide authority for the Minister for the Environment to grant biodiversity certification to strategic planning instruments.

As was made clear at the time, the Government's intention was to lift the conservation of biodiversity out of the unproductive domain of site-by-site assessment and dispute, into the higher strategic level where lasting gains could be achieved.

Biodiversity certification of the Sydney Region Growth Centres SEPP followed one of the most comprehensive assessments of biodiversity values ever undertaken in the Sydney region. It also followed extensive community consultation. Biodiversity certification was granted by the Minister assisting the Minister for Climate Change, Environment and Water on the basis that the Sydney Region Growth Centres SEPP and the conditions of the certification will lead to the overall improvement or maintenance of biodiversity values.

The Sydney Region Growth Centres SEPP establishes a broad framework for future development in the Growth Centres in south west and north west Sydney. Biodiversity certification provides the means to focus on protecting the largest and most viable remnants of endangered vegetation, away from areas of intense urban development.

Biodiversity certification removes the need for each separate development in those Growth Centres to comply with the threatened species assessment and concurrence provisions under the Environmental Planning and Assessment Act 1979 because biodiversity assessment has occurred instead at the landscape level. It provides a 'green tick' for the release of new land to market, with the first stage of releases to provide a minimum of 40,000 new homes.

The biodiversity certification package ensures protection for 2000 hectares of bushland within the Growth Centres. Over 50% of all high quality native vegetation will be protected, even as over 200,000 people move in to the areas over the next 25 years. Remarkably, the package delivers the most outstanding conservation investment program ever associated with development in Western Sydney. Developers will be required to contribute towards a \$530 million program over coming decades to secure high-conservation value bushland to build a string of reserves, national parks and conservation agreements within and outside of the Sydney Region Growth Centres.

This new approach is the only viable option if we are to conserve our unique Cumberland Plain ecosystems for future generations. If the legal challenge were to succeed, the critical and exceptional benefits of the new approach would be lost.

This bill will remove any doubts about the validity of the original order by confirming that the Growth Centres SEPP has biodiversity certification on the basis of the same measures as contained in the original certification order. Importantly, it provides that the Minister will be able to revoke the certification if these measures are not met in the future. This provides the basis for a systematic approach to ensuring that the strengths of this new approach are delivered consistently over the long term.

Voluntary Conservation Agreements

I now turn to the second part of this bill. Voluntary Conservation Agreements (VCAs) are agreements attached to land titles that bind current and future land owners to protect natural bushland, and to forgo future development rights. In recognition of their contribution, participating landowners receive proportional relief from local council rates and land tax. There are 235 such agreements in New South Wales.

Amendments to the Valuation of Lands ACT 1919 in 2006 changed the way that land is to be valued at section 28A. This had an unintended negative consequence for VCA holders.

For approximately 12 years prior to these amendments, lands which were partially subject to a Conservation Agreement were valued as a single parcel, and rates were calculated proportionally. For example, if the conservation agreement covered 50% of the property, then a 50% rates exemption applied.

From 2007, properties that are partially subject to Conservation Agreements are now valued as two separate parts (typically, one highly valued small part with road access and a building entitlement, and a larger conservation part being assigned a low value).

This new rating approach greatly increases council rates compared to the proportionately reduced rates previously levied in some cases up to fourteen-times higher. The separate valuations have also created a misperception that those parts of the properties covered by the Conservation Agreement have been devalued. Fortunately, to date less than six Councils have applied the new valuation practices to their rates.

Affected landholders have quite understandably expressed significant concern—they feel that they are making a significant contribution to conservation of bushland for the benefit of future generations, but that the rules have been changed to their detriment without their agreement or consultation. This bill will reinstate the equitable former position, and sends a strong message to these important citizens that we in this place thank them for the contribution that they are making to the New South Wales environment that future generations will inherit.

I commend the bill to the House.

The Hon. RICK COLLESS [8.27 p.m.]: I oppose the Threatened Species Conservation Amendment (Special Provisions) Bill 2008. When the Minister for Emergency Services, and Minister for Water introduced this bill he said:

... existing government conservation policy continues to be delivered in two important respects. First, that the holders of voluntary conservation agreements continue to enjoy reductions in local council rates and, second, to ensure that the outstanding conservation gains being delivered for Western Sydney through biodiversity certification will continue. On this second issue, the bill will remove doubts about the validity of the original certification of the growth centres State environmental planning policy that are being raised in legal proceedings brought by True Conservation Association Inc. in the Land and Environment Court. The bill is considered of vital importance to allow the development of land in growth centres to proceed in a way that will ensure that the overall impact of development in the growth centres will have the effect of maintaining or improving biodiversity values.

I have a couple of concerns about some of those comments. In particular, I believe the major reason that this bill has been introduced is because the Government looks like wearing quite an expensive court case brought on by the True Conservation Association. This bill obviously has been put in place in order to bypass that potential court case. I am concerned about this concept of maintaining or improving biodiversity values. Good information suggests that the programs that have been implemented are not maintaining or improving biodiversity values. The Government has the design wrong in some instances.

The bill has two functions: first, to amend the Threatened Species Conservation Act to confirm that the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 has biodiversity certification under the Act. As I said, apparently that is being introduced to prevent the Government embarrassment and humiliation that could be caused by the result of the court action launched by the True Conservation Association. The bill also amends the Local Government Act 1993 to make it clear, for local government rating purposes, that where part of a parcel of land is the subject of a conservation agreement under the National Parks and Wildlife Act 1974, the rate payable on that whole parcel is to be proportionately reduced.

The implementation of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 is anticipated to result in an additional 200,000 people living in Western Sydney. While some 2,000 hectares of high conservation area will be protected, another 1,856 will be lost and offset by a \$530-million fund to buy land for conservation purposes in other areas. It is estimated that there are some 16 threatened plant species and 22 threatened fauna species in the Cumberland bushland area within the growth centre's State environmental planning policy. The first amendment seeks to enshrine the biocertification of the Western Sydney growth centre's State environmental planning policy in law. In fact, the Minister does not need to enact legislation to grant biocertification of the State environmental planning policy because it has already been granted.

The essential purpose of this bill is to remove the ability of an environmental lobby group—the True Conservation Association—to take a case against this certification to the Land and Environment Court. The association believes that biodiversity of the State environmental planning policy was granted prematurely and that it was based on inadequate information. At present the only avenue of appeal is under the Environmental Planning and Assessment Act 1979. While it is not generally advisable to oppose Government legislation that clarifies or makes outcomes more certain, it is clear in this case that the removal of any appeal process against biodiversity certification is an undesirable development in the law. The bill gives the Minister wide discretionary powers and denies all others the opportunity to challenge the Minister's decision. This bill will remove the checks and balances provided by the Land and Environment Court under the Threatened Species Conservation Act and it means that biodiversity conservation will have been granted at the landscape planning level rather than as part of the development application process.

I now turn to the reference to maintaining or improving biodiversity values. The conservation plan clearly outlines the loss of native vegetation in growth centres. The loss of the Cumberland Plain woodland that is described is greater than the amount of woodland presently reserved or protected. We must protect existing vegetation before seeking to protect areas further from Sydney. The loss of vegetation will result in a loss of species in that area and these species will not be replaced by offsetting. The use of offsets will not result in the biodiversity characteristics of the growth centres being maintained or improved because there will be a net loss of biodiversity. It is more important to protect land within the growth centres rather than to rely on offsets elsewhere. The use of biobanking to protect this land is also untested. There is no determination that removed vegetation will be biobanked or offset with the same type of vegetation. Losing Cumberland Plain woodland and maintaining and improving a situation by biobanking with a different type of vegetation is a negative result.

The Opposition is also concerned that proposed section 22 provides that the legislation is retrospective to 14 December 2007. That provision will prevent the court case launched by the True Conservation Association from proceeding. I have serious doubts about the ethics, if nothing else, of making legislation such as this retrospective. The second amendment, which deals with voluntary conservation agreements and the rating system, is also a concern. If a voluntary conservation agreement applied to 50 per cent of the area of a property, a 50 per cent exemption rate applied to the entire parcel of land. That reduced rate entitlement was removed by amendments in 2006 to the Valuation of Lands Act 1919. This amendment relates to landholders who make voluntary agreements that bind them to protect natural bushland and forgo development rights in exchange for reduced rates. It is understood that this amendment has deterred many landholders from entering into the voluntary agreements because they are made to pay rates on the conservation land they are unable to use. The amendment will ensure that the allocation of rates reflects the Act's original intention and that rates on such parcels of land are reduced by the proportion of the area that is the subject of the conservation agreement.

The Local Government and Shires Associations are opposed to this part of the bill because the voluntary conservation areas create inequities between ratepayers. It also creates distortions and undermines the rate base and it lacks transparency with regard to the criteria that qualifies a parcel of land for a conservation agreement. There has also been a lack of consultation with councils and the public on lands being made the subject of a conservation agreement. This is simply another example of a cost-shifting exercise by this Government. It is shifting the cost of conservation values from the State Government to local government. The State Government will not compensate local governments in any way, shape or form for the loss of rate revenue. Many problems have arisen in the Bragalow area with regard to the rateable land that has been put into national parks. Councils can no longer collect rates on that land.

The Coalition opposes this bill because only 50 per cent of all high-quality native vegetation will be protected in the growth region. Local councils will be disadvantaged as a result of reduced rates collected from the landowners, and this Government will not be reimburse them for those funding shortfalls. There is no way of

finding out whether this legislation will result in a reduction, a gain or the maintenance of the status quo with regard to the amount of land that will be preserved for biodiversity purposes. As I said, there is no guarantee that biodiversity values will be maintained or improved.

Developers will contribute some \$530 million to this program, which will invariably be passed on to homebuyers. It is anticipated that an additional 200,000 people will move into the Sydney growth region over the next 25 years. That will add \$2,650 per person or between \$5,000 and \$7,000 to house prices in Western Sydney. This legislation also confirms that the Minister has very broad discretionary powers and removes the checks and balances that exist in the Threatened Species Conservation Act 1996. That denies community and environmental groups rights of appeal under the Environmental Planning and Assessment Act in respect of the Sydney growth centres State environmental planning policy. For those reasons, the Coalition will oppose this bill. The Government should have provided a more proactive and workable solution to this problem.

Mr IAN COHEN [8.39 p.m.]: On behalf of the Greens, I speak in the debate on the Threatened Species Conservation Amendment (Special Provisions) Bill 2008—a controversial bill and another chapter in the ongoing confrontation between the traditionalist conservation movement and the new vanguard of environment managers enamoured of emerging market mechanism approaches to environmental management. The object of the bill is as follows:

... to amend the Threatened Species Conservation Act 1995 to confirm that the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 has biodiversity certification under that Act.

Another characterisation could paint the bill as a strangulation of a legal challenge to the validity of biodiversity certification where it is not clear—I emphasise that it is not clear—whether the Government has lived up to its own biodiversity benchmarks. Housing affordability and the feverish entrepreneurialism of developers has the potential to intensify the unnecessary reshaping of philosophies fundamental to threatened species and endangered ecological community protection into minimalist environmental policy. The potential for reshaping and transformation clearly threatens the New South Wales State Plan's Priority E4—Better Outcomes for Native Vegetation, Biodiversity, Lands, Rivers and Coastal Waterways—which sets a number of targets for biodiversity in New South Wales.

Three of the four targets are aimed at increasing the recovery of threatened species, populations and ecological communities; an increase in sustainable populations of native fauna species; and an increase in the extent of native vegetation. The Government has my support for those policies. The Government also has my support on the trajectory of threatened species management established under the 2004 amendments. In 2004, a significant sea change in threatened species conservation legislation occurred. The Threatened Species Conservation Amendment Act 2004 created a new path and new philosophy on protecting threatened species, populations and ecological communities, and their habitats. The Hon. Bob Debus stated:

The major lesson of the past decade is that too often a threatened species decision involves the winner taking all—only one side of a dispute usually wins.

As things stand at the moment ... [t]here is a much too narrow focus on individual threatened species or isolated populations and far too little focus on the protection of wider habitat on which the threatened species depend.

The Minister for Water, Nathan Rees, in his agreement in principle speech, gave his appraisal of the intention of the amendment Act, and said:

As was made clear at the time, the Government's intention was to lift the conservation of biodiversity out of the unproductive domain of site-by-site assessment and dispute, into the higher strategic level where "lasting gains" could be achieved.

Division 5, part 7 of the Threatened Species Conservation Act 1995 provides for the biodiversity certification of environmental planning instruments [EPIs]. Breaking away the jargon, biodiversity certification means a process whereby individualised site-by-site, application-by-application threatened species assessment is replaced by up-front planning for threatened species protection given for a particular geographic area governed by an environmental planning instrument. The explanatory memorandum to the Threatened Species Conservation Bill describes the effect of biodiversity certification as allowing:

... development or an activity under the EPI to be deemed not likely to significantly affect threatened species for the purposes of Parts 4 and 5 of the Environmental Planning and Assessment Act 1979 (the EPA Act), thereby removing the need to address the test of significance for threatened species and the need for preparation of a species impact statement.

The Minister for Primary Industries described the new approach under the threatened species legislation in his speech in reply as follows:

A new scheme—biodiversity certification—is proposed, encouraging councils to address biodiversity and threatened species in their local environmental plans. As I have already made abundantly clear, this will better address cumulative impacts and conserve larger areas. Certification will be obtained only after comprehensive surveys and assessments have been undertaken and the plan meets specified criteria.

The debate over micro versus macro level threatened species planning is spent, though there would be some within the conservation movement who would prefer a more traditionalist approach to threatened species protection. I might well be one of them. In some ways I sympathise with those in the conservation movement who are not wholeheartedly convinced that there can be tangible environmental benefits in a brave new world where market mechanisms prevail, and command and control legislation is diminishing. However, we need to participate in, and meet head on, this brave new world.

The environment movement and the Greens do not challenge the position of biodiversity certification as an instrument for threatened species management and protection. What is being debated and challenged is the Minister's compliance with the regime. There is a perception that the chameleon-like transformations of environmental assessment methodologies applied by the Department of Environment and Climate Change do not always secure increases in biodiversity in line with the State Plan. There is one rule for biobanking, one rule for biocertification, one rule for private native forestry, one rule for State Forests, and one rule for threatened species assessment. It appears to me that a lack of consistency and assessment methodology is breeding the delivery of inconsistent outcomes—an important point to remember.

Housing affordability is a pertinent issue staring down our State. Addressing affordability, urban sprawl and infrastructure are key policy challenges. It is important, however, not to become mesmerised and narrowly constricted by development at all costs. Last week we were lavished with the repetitious rhetoric of the Government proclaiming the need for environmental equilibrium. It is time we upheld that rhetoric. Let us adhere to that principle and not simply vote for this legislation purely on the basis of a housing affordability issue, as some members inevitably will do. Dissent to this bill should not be cast as tantamount to ignoring the pressures of housing affordability and a refusal to acknowledge the macro level threatened species assessment model.

Governments often formulate and mould legislation as a response to the decisions made by the judiciary. The common law espoused by judges is in a perpetual cycle of exchange with the statutes created by the Legislature. Some of this country's landmark legislation has been spawned by decisions of the judiciary. This meaningful exchange is essential to the doctrine of the separation of powers, with which members of this House are familiar. Sadly, special legislation to constrain review of executive action by the judiciary is a tactic that has been utilised by the Labor Government in the past. Jeff Smith, Director of the Environmental Defenders Office, in an article entitled, "Abiding by the Umpire's Decision: Special Legislation and the Planning System in New South Wales and Australia" reviews a number of instances where special legislation has been used by the Government either to destroy legal proceedings before a hearing, or retrospectively to nullify the effect of the court's ruling. Mr Smith states:

In 1997, the NSW Government passed special legislation on no less than three occasions within 12 months for the Bengalla Mine, the Port Kembla Copper Smelter and Kooragang Coal Terminal.

Mr Smith refers to a number of circumstances where prospective special legislation is used to oust legal challenges. It is appropriate to quote from a portion of Mr Smith's article:

Helen Hamilton challenged the NSW government's approval of an application by a Japanese consortium to reopen a copper smelter at Port Kembla. Shortly before the case commenced, the NSW government introduced the Port Kembla Development (Special Provisions) Act 1997, which extinguished all rights of appeal against the grant of consent. Consent was subsequently given. In the Bengalla Mine matter, the Minister made a State Environmental Planning Policy approving a mine proposal. When this was challenged, the Government passed special legislation validating both the SEPP and the approval.

Finally, the Kooragang Coal Terminal (Special Provision) Act 1997 was introduced to head off an appeal to the Court of Appeal. The Land and Environment Court had previously upheld the validity of development consent in connection with the expansion of the terminal in Newcastle. The consent had been challenged by Robert Bell in *Robert Duncan Bell v. Minister for Urban Affairs & Planning* [1997] NSWLEC 98 in relation to the adequacy of the Environmental Impact Statement [EIS] regarding noise and vibration issues. The Court found that the omissions in the EIS were not sufficiently serious to invalidate it and therefore the development consent was valid. The purpose of the Act was to remove any doubt about the validity of the Minister's consent for development.

The True Conservation Association initiated proceedings in the New South Wales Land and Environment Court and the hearing date for that matter has been set down for 29 July 2008. The Government briefing characterises the proceedings initiated by the True Conservation Association as based upon technical and procedural points of law, which I believe is a misrepresentation of the matter. The Environmental Defender's Office filed proceedings in relation to the Minister's decision to order biodiversity certification on the basis that there were no reasonable grounds for the Minister to make a finding of fact that the SEPP and other relevant measures would lead to the overall improvement or maintenance of biodiversity values. This challenge goes to the very heart of the substantive matters surrounding biocertification, contrary to the suggestion in the Government's brief.

If the True Conservation Association's proceedings lack merit, why will the Government not allow justice to run its course and give the Land and Environment Court the opportunity to potentially find the support of the Minister? What is the Government afraid of? The truth is, the True Conservation Association—represented by the New South Wales Environmental Defender's Office—has raised an important point. Instead of appropriately adopting constructive criticism, the Government has turned a blind eye. The True Conservation Association's case is a great opportunity for judicial consideration as to what constitutes "improvement or maintenance of biodiversity values". Without the benefit of such judicial guidance and interpretation, ministerial decision-making will continue to be inconsistent. In this instance the Executive is stymieing legal challenges. The legislation is a blockade to judicial oversight to a process begging review.

Some of the issues the environment movement and the True Conservation Association proceeding raise include native vegetation in the growth centres is home to 16 threatened plant species and 22 threatened fauna species, including the gang-gang cockatoo, the Cumberland Plain land snail and the green and golden bell frog, to name a few. The methodology applied is not consistent with the draft guidelines for biocertification of the Department of the Environment and Climate Change, which have been publicly exhibited. Another issue raised is that the bill will allow 12 per cent of the remaining extent of the endangered Cumberland Plain Woodland to be cleared, and it makes no effort to provide a comprehensive review of the ecosystems within the growth centres, no assessment of representativeness, threat or clearing levels for those ecosystems, and no assessment of the status of those ecosystems in relation to accepted reservation targets set down by the national forest policy statement. The problem for all members is that, on the one hand, we have the environment movement suggesting a failure of the Minister to secure the maintenance or improvement of biodiversity values and, on the other hand, the Government vehemently defending the integrity of biocertification.

The Government identifies 3,800 hectares of intact threatened vegetation within the growth centre areas. The Environmental Defender's Office highlights that there are 8,453 hectares of threatened ecological communities [TECs], which includes low-quality and high-quality TECs. What is important to understand is that vegetation is defined under the conservation plan as threatened ecological communities with more than 10 per cent canopy cover. TEC with less than 10 per cent canopy cover was automatically ascribed a low value. It is important that we consider the details. These details are contained in the Growth Centres Commission's growth centres conservation plan and states in its executive summary that:

- i) the total area of the North West and South West Growth Centres is 20,350 ha
- ii) 1,867 ha of high quality native vegetation in the Growth will be cleared
- iii) 1,999 ha of significant high quality vegetation in the Growth Centres will be maintained
- iv) 2,300 ha of high quality native vegetation outside the Growth Centres will be acquired with funds in the Conservation Fund
- v) approx 1,867 ha out of a total of 3,800 ha of intact threatened vegetation will be cleared

Looking at these figures alone, one could form the impression that the loss of 1,867 hectares of pristine, high-grade native vegetation may be offset by the potential acquisition of 2,300 hectares of comparable ecosystems outside the growth centres using funds in the Conservation Fund over 25 years. However, the environment movement suggests that under the biobanking scheme the 1,867 hectares of native vegetation would be declared as a red flag area. But biocertification is not biobanking. They are two different schemes, which the Government will highlight. But it begs the question of regime shopping and applying the assessment instrument and mechanism that suits the political climate. Notwithstanding these deficiencies, on the face of it it would appear that the test of maintenance or improvement of biodiversity values is satisfied. Unfortunately, it is

not this simple. What needs to be considered is that the grading of native vegetation quality under the growth centre conservation plan evaluated native vegetation in a particular way. The NPA made the point by saying the conservation plan:

Placed misleading emphasis on the viability of habitat fragments in order to downplay the significance of most of the remnants in the Growth Centres.

What needs to be remembered is that the question of ascribing high-value or low-value attributes to native vegetation was dependent on management viability. A group or cluster of native vegetation under four hectares was ascribed low management viability value regardless of its condition. The management viability was also influenced by the deduction of 50 metres from the perimeter of any TEC area. This approach was based upon a study by Drinnan, which said that four hectares is a threshold below which biodiversity decreases markedly. The deduction of the outermost 50 metres of remnants does not count towards the four hectares because it is usually degraded or poor habitat. Four hectares is 200 metres by 200 metres. Therefore, you need a remnant of at least 300 metres by 300 metres, or nine hectares, in order to still have four hectares after you have deducted 50 metres from each edge. This applies to a remnant, which is exactly square. More irregularly shaped remnants would be more drastically impacted by discounting a 50-metre edge.

The other key issue is like-for-like offsetting. By this I mean if we lose Cumberland Plain Woodland the offset should be Cumberland Plain Woodland. I note clause 32 of the biodiversity certification order, which sets out the preference of land type to be acquired by the Conservation Fund. This list of preferences, which gives the Conservation Fund administrators significant flexibility indicates that like-for-like offsets is not assured under the certification. Further information was requested by Robert Brown and me. The Minister's office has provided information that clarifies the provision of information on offset land acquisition. To do so would compromise the acquisition strategies of the Department of Environment and Climate Change.

In a nutshell, the point is the methodology and assessment of the conservation plan, which provides the basis for the biocertification, may have been applied in such a manner as to minimise the identification of high-value TEC, thereby reducing the amount of offsets required. On this basis the improve or maintain test would not be satisfied. Additional TECs within the growth area and outside the growth area would need to be maintained and the size of the Conservation Fund would need to be much larger, to the distaste of developers. One of the key weaknesses of the methodologies behind the offset process is the principle of additionality. The principle of additionality, which is a touchstone principle of international climate change regimes such as the clean development mechanism and the joint initiative, is glaringly absent from New South Wales market mechanisms. The question that is often omitted from consideration in the New South Wales context is: What conservation benefits are being captured beyond a business-as-usual scenario? For example, what is the net conservation gain achieved by offsetting a native vegetation loss against a parcel of land, which would be protected from clearing under business-as-usual circumstances? You end up with a conservation loss that is not compensated.

If a farmer's business-as-usual scenario or baseline takes into account the inability of that farmer to clear native vegetation, how can protection of the native vegetation on his farm be counted as an offset? In the present circumstances of the growth centres State environmental plan and biodiversity certification, do we get a viable offset and a real offset by purchasing land off the Federal Government, which the Federal Government would protect under a business-as-usual scenario anyway? I am concerned that in the process of offsetting, without investigating additionality, there is too much scope for rebranding land and ecosystems as under threat from development when no such threat persists. The permanence of the offset is also an issue. What happens when the similar ecosystem offset, which is meant to be conserved and maintained in perpetuity, is developed and cleared? Is the offset for the offset likely to protect the same ecosystem and species?

In relation to schedule 2 to the bill, it is unfortunate that the changes to the Local Government Act in relation to voluntary conservation agreements have been bundled with provisions that are repugnant to anyone with respect for equity and fairness. These changes to the formula will increase the proportional relief that voluntary conservation agreement holders would receive from local council rates and land tax. This is a positive step forward to acknowledge the conservation contribution of landholders who enter these agreements to provide the necessary economic incentives for landholders to uptake and maintain voluntary conservation agreements.

Again, it is unfortunate that this is bundled with a bill I cannot support. If this bill is passed by this House, I urge the Department of Environment and Climate Change and the Minister to enter into dialogue with the Environmental Defender's Office and the National Parks Association to review biodiversity management

and allow the environmental movement to actively participate in the process. I have had long discussions with staff from the Minister's office, who obviously are earnestly keen for this legislation to succeed. Much as I would like to support the goodwill attempts of some people, with a degree of sadness I cannot support this legislation. The Greens oppose this bill.

The Hon. ROBERT BROWN [9.00 p.m.]: I acknowledge the contribution of our colleague Mr Ian Cohen to debate on the Threatened Species Conservation Amendment (Special Provisions) Bill 2008. He seems to me to be the most reasonable to deal with from that mob: he attempts to put some logic behind his arguments. He correctly stated that after being approached by the Environmental Liaison Office and Mr Cox from the National Parks Association, we returned to Minister Verity Firth's office to try to get a better definition on the question of the various claims made by the Government and those taking the Government to the Land and Environment Court. I shall attempt to address some of those issues in my contribution.

Like the Greens, the Shooters Party has not been able to ascertain from the Government a detailed description of the availability, size and location of the lands outside the growth centres areas that might be acquired as part of this process. I appreciate the Government's position on this matter as to do so would be tantamount to speculation. It would cause a great deal of financial upheaval amongst property owners living outside these growth areas who may suddenly twig that their land might be worth a lot of money. In our discussions with various parties, the Government and the Environment Liaison Office it was postulated that property within the growth centres areas is worth about \$1 million per hectare.

The Government has said it will put away \$530 million for the acquisition of relevant land within the growth centres. The Environment Liaison Office and the National Parks Association during their representations to the crossbench seemed to be saying that acquiring another 2,000 hectares within the growth centres areas probably will do the trick, but they would like an additional 4,000 hectares, taking the total protected area within the 20,000 hectares of the growth areas to about 6,500 hectares. To acquire even 2,000 more hectares within those growth centres at \$1 million a hectare totals \$2 billion. Clearly, that is unattainable for the Government.

The second part of the bill addresses changes to the Local Government Act 1993 in relation to voluntary conservation agreements. The Hon. Rick Colless expressed concern about the changes stripping further moneys, particularly from rural councils. The Parliamentary Secretary shakes her head; perhaps in reply she might address that issue. These changes should be supported certainly from the conservation point of view. Mr Ian Cohen said these changes would be excellent if they were not wrapped up in a bill he does not support overall. One problem the Shooters Party has with voluntary conservation agreements is that when the rules were changed, many people suddenly considered that they had entered into agreements with the expectation of rate rebates, which suddenly were frittered away to nothing. The Shooters Party supports the amendments to the Local Government Act proposed by this bill.

I shall now deal with the more difficult and contentious issue: the validity, or not, of the bill to ensure the enforcement of the Sydney Region Growth Centres biodiversity certification. Comments have been made that the Government's legislation is based on the premise that the Government needs to implement this provision to stop the pending action in the Land and Environment Court. The green non-government organisations have tried this trick before. When the Government does not do its homework, those green groups are successful. In the red gum forests case, I believe it was Mr Ian Cohen who managed to negotiate with the Minister for Primary Industries and his department. The Minister blinked first and the Greens got their environmental impact statement moratorium on all sorts of activities for two years. Of course, the court case then was dropped.

Whilst this may or may not be the case in this instance, I would hate anybody at the conclusion of this debate to label the Shooters Party in supporting this legislation as supporting the activities of a government that introduces a new piece of legislation every time it finds itself in trouble in court. I remind members that the Shooters Party and our colleagues from the Christian Democratic Party managed to have the Minister for Planning remove the odious section in the recent planning bill that would have short-circuited legal action by Parramatta City Council in an appeal to try to get its grubby hands on some private property at a bargain-basement rate. The Minister removed that contentious part of the bill and, unfortunately, at this point in time Parramatta council's appeal has been upheld. In the end, the landholders have probably been left floundering. The Shooters Party does not support the Government when it tries to legislate itself out of trouble. I shall now examine the substance of the facts presented to us by the Environment Liaison Office, which represents the peak body whose name escapes me.

Reverend the Hon. Fred Nile: The True Conservation Association.

The Hon. ROBERT BROWN: I acknowledge the interjection—the True Conservation Association. This examination will conclude whether the Government has demonstrated adequately that it has made the right decision with its determination of this certification. The Environment Liaison Office representing, amongst others, the National Parks Association of New South Wales, has written to many of us urging us to vote down the bill. Crossbench members met recently with representatives of the National Parks Association of New South Wales and the Environmental Defender's Office to discuss this issue. The primary argument against the bill is that it will incorrectly grant biodiversity certification for State Environmental Planning Policy Sydney Region Growth Centres. These organisations believe that in this instance biodiversity certification was granted prematurely and based on inadequate information.

They are of the opinion also that the State Environmental Planning Policy Sydney Region Growth Centres will not maintain or improve biodiversity in accordance with the Threatened Species Act. The Hon. Rick Colless in his contribution to the debate acknowledged that the Opposition also believes that to be the case. I will try to convince the House that our research perhaps puts that in doubt. The reasoning of the National Parks Association and the Environmental Defender's Office is based on assertions that the endangered ecological communities, particularly those threatened flora and fauna species found within the growth centres, will result in the significant clearing of land that houses those ecological communities. There seems to be some doubt that offsets can be applied within the greater Cumberland Plain bio-area, for want of a better word. I place on record that that broad bio-area is not in fact one common ecological community. The Cumberland Plain Woodland is the largest component but it is only one of seven.

Table 5 on page 17 of the Growth Centres Conservation Plan lists those endangered communities as "Castlereagh Swamp Woodland, Cooks River Castlereagh Ironbark Forest, Cumberland Plain Woodland, Moist Shale Woodland, Shale Sandstone Transition Forest, Shale Gravel Transition Forest"—one of particular concern to Mr Cox from the National Parks Association because of its drier grasslands on the ridges—and the "River-flat Eucalypt Forest on Coastal Floodplains". These claims are based on the assumption that the majority of representative areas are found within the growth centres. Therefore, if the growth centres are cleared, there will be insufficient total area in the Sydney Basin.

From memory the Environmental Defender's Office claimed that up to 40 per cent or 50 per cent of the communities on the Cumberland Plain are located within the Sydney region growth centres. Therefore, even with the \$530 million set aside for land purchases—and the worry is that they may not be purchased within the Cumberland Plain area—biodiversity cannot be maintained or improved without the further protection of an additional 2,000 hectares within the growth centres. The Government's first priority is to purchase approximately 2,300 hectares, split up amongst various areas within the Cumberland Plain. We could not obtain the facts from the Government, so we seek to ascertain the total areas of ecological communities within the Cumberland Plain; it is a big area.

Research of the conservation plan gives one a rough idea. The comprehensive Growth Centres Conservation Plan was prepared by private ecological consultants, Eco Logical Australia Pty Ltd, in conjunction with the Department of Planning, the Department of Environment and Conservation and the Growth Centres Commission. I doubt whether many non-government organisations would complain about the Department of Environment and Conservation undertaking poor research or that it would be a tool of the Government. In fact, it is probably the other way round. The basic browns in the community like the Shooters Party and 90 per cent of the community probably believe that green non-government organisations misuse their power within such departments; they have too much green overrepresentation.

However, the fact that the report was prepared by such a group suggests some science rigor. Eco Logical Australia has about 45 staff eminently qualified. I note that the Environmental Defender's Office has four to five lawyers and a couple of scientists. In looking at these ecologically endangered communities we referred to Tozer, 2003. Of those, seven endangered ecological areas within the growth centres, two were 100 per cent fully protected and another three have more than 60 per cent of their land within the growth centres protected. The two areas with the lowest protection are the Shale Sandstone Transition Forest and the Cumberland Plain Woodland with 34 per cent and 35 per cent protection respectively, which is a worry.

We then considered what was outside the area. Those areas of about 3,868 hectares made up of the seven areas represent only about 13 per cent of the same areas within the greater Cumberland Plain. That leaves 87 per cent outside the growth centres with representative species; in other words, nearly 31,000 hectares outside the growth centres have these particular species. Provided the Government can buy cheaply, it should be able to purchase at least 2,300 hectares for \$530 million and in order to make the green groups happy, the

Government might be able to cut a bargain basement deal and buy more than 2,000—maybe 4,000. I appreciate that the Government cannot outline the area because we might buy some land there tomorrow. Now, 21 of the 22 threatened fauna species and 9 of the 18 threatened flora species are protected within the growth centres and by the provisions within the plan that will allow for further investment in land outside the growth centres—in other words, the \$530 million.

The remaining nine threatened flora species and the one threatened fauna species—a cute little frog—will be protected by further comprehensive mechanisms contained within the biodiversity certification order as outlined on pages 31 and 32 of the plan. Efforts will be made to try to find areas where the frog can be maintained within planning for the areas or within the protected areas. If that cannot be found, a little pond will be found where the frog can be protected. I am not being facetious. Frogs are important because they are a bellwether of our environmental health.

Reverend the Hon. Dr Gordon Moyes: Whether you croak or not.

The Hon. ROBERT BROWN: That is right. Ian Cohen talked about the conservation movement's views on whether a four-hectare parcel should be considered of low conservation priority because of its small size. Members who have visited Cumberland State Forest at Pennant Hills would agree that it is an ecological disaster. It is great for birds because they can fly in and out, but there are very few ground mammals there because of cats and dogs and surrounding houses. Maybe in the near future it will not be just cats but these giant cheval cross-breed animals that some moron is thinking of bringing into the country.

Reverend the Hon. Dr Gordon Moyes: It will be good for the shooters.

The Hon. ROBERT BROWN: Yes, it will be. We will need bigger calibres to take care of them. If the area has more than 10 per cent canopy protection and is woodland, that is probably the protection in most woodlands anyway. Within the growth centres much of the land is in parcels smaller than four hectares. Ignoring the planning implications, which, given the amount of land, could be overcome, the protection of the little pockets is problematic. A conservation hunter would need to be sitting with a modified .22 knocking off the cats for it to work.

The Environmental Defender's Office is of the opinion that the Government has introduced legislation to defeat a legal challenge of biodiversity certification just weeks before the case is due to be heard in the Land and Environment Court. I am no scientist. We have one scientist-type person amongst our staff with the right sorts of qualifications. She is not a scientist but she has a masters degree or something similar. We were able to put together some rough figures that suggest if the Government is genuine in putting up the \$530 million, it should easily be able to buy 2,300 hectares as an offset, and perhaps more.

I point out that the Shooters Party does not have much faith in the proposition that the Government's purchase of 2,300 hectares will satisfy green non-government organisations. The Government copped a 2.8 to 1 swap for Hill Top, but after Hill Top was concluded, that was not enough. The green non-government organisations received 2,800 hectares for a lousy 1,000 hectares of the range, but only a small part of the range will be subdivided and used, with the remainder becoming a buffer area. I am not confident that even the Government's purchase of 2,300 hectares will be enough. From that point of view, perhaps the suggestion made by Mr Ian Cohen is a good one. Provided that the green non-government organisations can be trusted not to become land speculators, they should be involved in the planning stages and in the process of determination. It will not hurt to do that.

In conclusion, I point out that the Shooters Party does not support the erroneous position put to us by the National Parks Association New South Wales and the Environmental Defender's Office, which represents a group that has taken court action. We commend the bill to the House.

Reverend the Hon. Dr GORDON MOYES [9.20 p.m.]: The objective of the Threatened Species Conservation Amendment (Special Provisions) Bill 2008 is to amend the Threatened Species Conservation Act 1995 to confirm that the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 has a biodiversity certification under that Act. The bill also amends the Local Government Act 1993 to make it clear that, for local government rating purposes, where part of a parcel of land is the subject of a conservation agreement under the National Parks and Wildlife Act 1974, the rate payable on the whole parcel is to be proportionately reduced.

In December 2007, the New South Wales Government moved to exempt the north-west and south-west growth centres from the Threatened Species Act by giving the growth centres State environmental planning policy biodiversity certification. The certification allowed key environmental issues across the region to be addressed in a single major decision. It removed the need to bog down individual housing developments in endless red tape. Unnecessary red tape means that development applications often take from nine to 12 months to be resolved. The extra costs imposed by the delay can add up to 15 per cent of total project costs.

The Sydney region growth centres State environmental planning policy establishes a broad framework for future development in the growth centres in south-west and north-west Sydney. Biodiversity certification provides the means by which to focus on protecting the largest and most viable remnants of endangered vegetation by locating them away from areas of intense urban development. Biodiversity certification removes the need for each separate development in the growth centres to comply with the threatened species assessment and concurrence provisions under the Environmental Planning and Assessment Act 1979 because biodiversity assessment has occurred instead at the landscape level. It gives a green tick to the release of new land to market, with the first stage of releases to provide a minimum of 40,000 new homes. The biodiversity certification package ensures protection for 2,000 hectares of bushland within the growth centres.

More than 50 per cent of all high-quality native vegetation will be protected, even as more than 200,000 people move into the areas over the next 25 years. The package delivers an outstanding conservation investment program that has ever been associated with development in Western Sydney. Developers will be required to contribute towards a \$530 million program over coming decades to secure high-conservation value bushland for the construction of a string of reserves, national parks and conservation agreements within and outside the Sydney region growth centres. This new approach is the only viable option if we are to conserve our unique Cumberland Plain ecosystems for future generations. If the legal challenge currently underway were to succeed, the critical and exceptional benefits of the new approach would be lost.

In the current court case, *True Conservation Association v The Minister Administering the Threatened Species Conservation Act 1995*, the True Conservation Association [TCA] is challenging the decision by the Minister to grant biodiversity certification to State Environmental Planning Policy (Sydney Region Growth Centres) 2006. The effect of biodiversity certification is that species impact statements no longer need to be carried out for individual development applications in the area covered by the growth centres State environmental planning policy. The True Conservation Association believes that in this case biodiversity certification was granted prematurely, and was based on inadequate information. The plan will result in clearing of 1,856 hectares of some of the rarest vegetation communities in the State. Approximately 16 threatened plant species and 22 threatened fauna species will suffer a loss of habitat as a result of the planned development under the growth centres State environmental planning policy.

If the legal action is successful, it will put at risk investment plans for the growth centres of Western Sydney. The North West Growth Centre is a 10,000-hectare area in Baulkham Hills, Blacktown and Hawkesbury council areas. Ultimately, it will have 66,000 new homes—a population that is equivalent to a city the size of Wollongong. The South West Growth Centre is a 17,000-hectare area in the Liverpool, Camden, and Campbelltown council areas and it will ultimately have 115,000 new homes—in other words, a population that is equivalent to a city the size of Canberra.

The Threatened Species Conservation Amendment (Special Provisions) Bill 2008 will remove any doubts about the validity of the biodiversity certification granted in December last year. Without this special legislation, plans for new homes in Sydney's west will be further delayed. However, I will take a moment to raise the concerns raised by environmental and conservation groups that the Christian Democratic Party has consulted and who have consulted us. First, regarding land use, recreation and environment conservation zones in part 3, the three zones are environment conservation, regional public recreation, and local public recreation, and they are acceptable. However, the land use table has serious failings. In the case of environment conservation it allows, first, development for public utility installation without consent; second, a range of recreation facilities with consent, including restaurants, which appear to envisage intensive built forms that can be contrary to environment protection.

The two further zones also allow these uses and there appears to be no difference in the permitted activities. The question that arises is: Why bother having the three zones? Clearly the with consent and without consent provisions should vary according to the environmental sensitivity of the land. A further grave problem occurs with clause 13, which allows any other development to be carried out in the zones, if prescribed in

schedule 2. This nullifies the entire exercise of having zones with a table and I believe that should be removed. The schedule process also is likely to have minimal or no public consultation, and will entrench a practice of overnight changes in response to vested interests.

Clauses 14 and 15 attempt to establish a capture process whereby land that is zoned as I have already described, but that also has existing zoning and development rights under a pre-existing environmental planning instrument, would conflict with the new environmental or recreational objectives. That has muddled the water and really needs to be clarified by the Minister. If the relevant public authority refuses concurrence to the proposed development, then the owner may trigger purchase of the land, unless it is required for public open space, or, in the case of environmental zones land, a swap can be made.

The critical issue here is whether the funds will be available when they are needed. It is understood that developer contributions are to be collected, but to date there is no firm arrangement for the collection of this money. If the funds fall through, the destruction of environmental values becomes most likely. There is no stated role for the Department of Environment and Climate Change in vetting the whole process. That seems to me to present quite a conflict between government departments.

Second, regarding general development controls in part 4, clause 16 details matters for consideration for development applications prior to a precinct plan. While the matters seek to prevent serious pre-emption of orderly precinct planning, they do nothing to ensure urban environmental sustainability. These matters are different to the lands involved in part 3, which are not covered by this clause. They relate to sustainable and effective transport, water and energy systems through corridors and urban design. There is also the problem with the amount of low-density housing eventually allowed. The bigger the percentage, the greater is the extent of vegetation clearing. Future development controls should be empowered by the State environmental planning policy to maximize vegetation protection. There is also a problem with the extent of low-density housing allowed.

Third, regarding development controls for flood prone land, major creeks, and vegetation, parts 5 and 6 are potentially the most destructive of the natural environment. They apply not only to environmental protection, recreation, flood prone and major creeks but also transition lands that are intended for nature conservation. The parts list a number of matters for consideration, which supposedly target retention of water flows and vegetation values. The use of the term "consideration" is weak and impotent, and is in stark contrast to the much stronger term "is satisfied" that is used in clause 18 regarding water recycling. Further, the vegetation controls in part 6 do not apply to native vegetation that is dying or dead or has become dangerous. What does "dying" mean with regard to vegetation? There are no guides as to what is "dangerous". These are major loopholes, and the Minister must clarify these issues.

It is notable that the vegetation clearing rules that apply to farmers under the Native Vegetation Act 2003 are ditched for urban development. There is also no mention of the intention that precinct planning will give preference to vegetated areas for regional and local open space so that remaining native vegetation is brought into public ownership. The proposed SEPP zonings provide little protection for existing vegetation. It is clear that the habitat of many threatened species will be lost and large areas of endangered ecological communities will be cleared. There is no use of vegetation corridors to protect remnant vegetation. Restoration of existing areas has been ignored in the draft SEPP.

Of the existing native vegetation in the growth centres, it appears that only about 20 per cent will lie in any form of conservation, while up to 40 per cent lies in areas where there are weak vegetation controls and development is permitted. Areas that are designated as conservation areas have been poorly selected and designed. Conservation areas reflect ease of delivery of development and have ignored conservation requirements. Environmental groups have argued that the development of SEPP has not considered the broader planning context of Western Sydney to incorporate what is needed to assist with species recovery and landscape conservation. The measures recommended in recovery plans for ecological communities such as the Cumberland Plains Woodland and the threatened species recovery plan seem to have been ignored.

I am torn by this bill, having on the one hand received excellent guidance from the Minister's office but, on the other hand, having listened to people such as Andrew Cox of the National Parks Association and a number of other lobby groups who have approached me about the bill. I am torn between my desire to see more land released to allow housing and to help drive down the land costs artificially driven up by a lack of availability of land for development. And yet, I know that once open for development the State will lose forever fragile vegetation that is found in the five or six unique areas mentioned by the previous speaker. Once lost, that

can never be recovered. I only hope that the increase in the cost of living in the Sydney Basin will drive more people to consider lower-cost living in regional and rural areas, where they might find a highly desirable lifestyle that suits their families. I intend to vote for the bill, in spite of the concerns I have raised. However, I will do so with my fingers crossed, with my eyes crossed, and with my legs crossed.

The Hon. PENNY SHARPE (Parliamentary Secretary) [9.33 p.m.], in reply: I thank honourable members for their contributions to the debate on the Threatened Species Conservation Amendment (Special Provisions) Bill 2008. A number of thoughtful contributions have been made in what has been an unusually high standard of debate in relation to this matter, which indicates that members have thought about the issue a great deal. Having said that, I will respond to some aspects raised in the debate.

The bill provides necessary certainty for the protection of biodiversity in Western Sydney and for the future development of the Western Sydney growth centres. It also ensures extra benefits to those who are willing to implement conservation measures on their private land. In December 2007, when the Minister made the decision to grant biodiversity certification to the growth centres plan, the people of New South Wales were assured that this approach was a win for families, landowners and the environment. Today nothing has changed. Money from an infrastructure levy will still be contributed to a Green fund to finance both the purchase of parks and reserves, and voluntary conservation agreements over private land.

Within the growth centres, 2,000 hectares of high-quality bushland still has guaranteed protection. Planning for biodiversity conservation and protection will still occur on a strategic landscape scale, rather than on a block-by-block basis. Threatened species assessment will still not be required for individual developments, removing red tape from the development of at least 40,000 homes. The Minister stands by the certification order and is satisfied that it will lead to the overall improvement or maintenance of biodiversity values. The order ensures sustainable development in New South Wales. The order and the State environmental plan deliver for both the environment and the New South Wales economy. The legal challenge is based on technical and legal arguments, not on the value of the policy, and the Government is not prepared to put delivery of the policy at risk, or to allow uncertainty to creep into the growth centres planning and development processes.

The Hon. Rick Colless claimed that developer contributions would raise the cost of housing in Western Sydney. This is fundamentally wrong. The biodiversity certification package shuts off expensive, site-by-site threatened species assessments that would otherwise occur. The certification will lower the cost of housing in these areas and speed up the provision of desperately needed new homes. The \$530 million developer contributions will be spent on real conservation gains—not on experts' reports and consultants' fees.

The Opposition's position on this bill is extraordinary. The Opposition is effectively saying that it is against affordable housing, against the fast and sustainable development of Western Sydney, and against a \$530 million conservation deal to secure parks and bushland. What does the Opposition stand for if not these things? The answer, it appears, is not much. The "improve or maintain" outcome means that areas of high conservation value will be retained, and that offsetting occurs for other areas of vegetation and habitat to be cleared to provide for rail lines, homes, and the like. This has occurred in the growth centres. The offset areas will not be simply protected; they will also be actively cared for and improved into the long term. The land will either be gazetted as a public reserve or secured and managed through a conservation covenant. Each area will be subject to ongoing management to improve the condition of the biodiversity values present and to manage threats. It is this management that will provide the benefits for biodiversity values to offset the losses through clearing.

The Opposition now appears to be beholden to a group called the True Conservation Association—a group that took no part in the extensive public consultation process and has been formed solely for the purposes of this legal action. Real people in Western Sydney are making plans, and stand ready to build and occupy new suburbs and affordable homes. The Government is not willing to jeopardise the future of Western Sydney on this basis. The Government welcomes Mr Ian Cohen's support for our measures to support landowners with voluntary conservation agreements. The Government is disappointed, however, that Mr Ian Cohen does not see the merits of what we consider is a fantastic conservation outcome. The Government also welcomes the contribution of the Hon. Robert Brown, who has actively engaged in the detail on this issue.

Following a recent change to the Valuation of Land Act, properties that are partially subject to conservation agreements are now valued as two separate parts. Prior to the changes, the total rates of the property were automatically reduced under the proportional ratings system. This new ratings approach greatly increases the rates compared with the proportionately reduced rates previously levied—in one case, up to

14 times higher. Already a number of landholders with conservation agreements have expressed significant concerns about the change, and their concerns have been heard. If private landholders are to assume a greater role in helping to achieve the State's conservation objectives, it is important that existing recognition, incentives and rates relief are at least maintained. There are currently 235 conservation agreements across the State, and the landholders who have made this significant commitment in the interests of public conservation deserve to be supported in their efforts.

The Opposition has raised rate relief for people who enter into voluntary conservation agreements. Again, this is an extraordinary position. The amendment will confirm the proportional ratings approach of the past 12 years for private lands that include a conservation agreement. This continuation will not reduce the revenue to councils. The magnitude of revenue that could theoretically be foregone is considered to be relatively minimal in terms of the total revenue accrued by council from rates income. Furthermore, where a council has land protected by a conservation agreement that was formerly part of its rate base, the council is permitted, within the bounds of the rate cap, to spread the forgone income from the relevant property across the remaining ratepayers. The council does not need to forgo income; rather, the additional costs will be borne within the local community.

The Government also remains committed to working with local councils to encourage the protection and conservation of significant natural and cultural heritage on private land that is of importance to the community. Mechanisms such as the application of environmental levies to support conservation initiatives on private land can be explored further. The Government is committed to encouraging private and other landholders to be involved in protecting and conserving significant natural and cultural heritage. Recognition of the voluntary commitment to dedicate their land under an in-perpetuity conservation agreement needs to be supported by the whole community. One important way to support private landholders in their management of these conservation areas is to give them some rate relief.

Reverend the Hon. Dr Gordon Moyes asked for details about the operation of the biodiversity certification. In particular, he asked what will happen in areas that are within the growth centres but which do not benefit directly from certification. While these are very detailed issues, I reassure the honourable member that areas that are not certified are not unprotected. These areas benefit from all the existing protections of site-specific assessment and decision making. Extra specific protections are included in the Minister's conditions of certification for these uncertified lands. The Government will be pleased to provide further details to the honourable member as the situation continues to develop. I thank honourable members for their contributions to the debate. They obviously researched the issues involved and gave them much thought. I commend the bill to the House.

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

The House divided.

Ayes, 22

Mr Brown	Mr Macdonald	Mr Tsang
Mr Catanzariti	Reverend Dr Moyes	Ms Voltz
Mr Costa	Reverend Nile	Mr West
Mr Della Bosca	Mr Obeid	Ms Westwood
Ms Fazio	Ms Robertson	
Ms Griffin	Mr Roozendaal	<i>Tellers,</i>
Mr Hatzistergos	Ms Sharpe	Mr Donnelly
Mr Kelly	Mr Smith	Mr Veitch

Noes, 19

Mr Ajaka	Mr Gay	Mrs Pavey
Mr Clarke	Ms Hale	Mr Pearce
Mr Cohen	Dr Kaye	Ms Rhiannon
Ms Cusack	Mr Khan	
Ms Ficarra	Mr Lynn	<i>Tellers,</i>
Mr Gallacher	Mr Mason-Cox	Mr Colless
Miss Gardiner	Ms Parker	Mr Harwin

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That this bill be now read a third time.

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

ADJOURNMENT

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, Acting Minister for the Central Coast, and Vice-President of the Executive Council) [9.48 p.m.]: I move:

That this House do now adjourn.

KOREAN WAR

The Hon. TREVOR KHAN [9.48 p.m.]: Today I mark and commemorate the beginning of the "hot war" on the Korean peninsula, which started with a North Korean assault on South Korea on this day 58 years ago. On 25 June 1950 the North Korean army crossed into the southern zone and advanced towards the capital, Seoul. On the same day the United Nations Security Council convened and unanimously passed UNSC resolution 82, which condemned the North Korean aggression and asked all United Nations members to assist in repelling the North Korean attack. UNSC resolution 82 is marked in history for its uniqueness—namely, it is a unanimous decision of the United Nations Security Council condoning a course of war. The 9-0 decision was reached only because the representative of the Union of Soviet Socialist Republics boycotted the meeting in protest at the presence of a nationalist Chinese representative. Some 21 nations responded to the United Nations call by providing troops, ships, aircraft and medical teams.

The 3rd Battalion, Royal Australian Regiment, which arrived in Pusan on 27 September 1950 and did not leave the peninsula until November 1954, represented the Australian Army in Korea. The 1st Battalion, Royal Australian Regiment, from March 1952 to March 1953 and April 1954 to March 1956, and 2nd Battalion, Royal Australian Regiment, from March 1953 to April 1954, also conducted tours of duty in Korea. The Royal Australian Navy had nine ships operating during the Korean War: the aircraft carrier *Sydney*, the battle-class destroyers *Bataan*, *Warramunga*, *ANZAC* and *Tobruk*, and the river-class frigates *Murchison*, *Shoalhaven*, *Condamine* and *Culgoa*. The following Royal Australian Air Force units were involved in the Korean War: 91 Composite Wing, 77 Fighter Squadron, 30 Communications Unit, 391 Base Squadron, and 491 Maintenance Squadron.

During 1951 Australian troops participated in two major battles: Kapyong and Operation Commando. On the evening of 22 April Chinese forces attacked the Kapyong Valley and forced South Korean and New Zealand troops into retreat. Australian and other United Nation troops were ordered to halt the attack. After a night of fierce fighting, during which their positions were overrun, the Australians recaptured their positions and stalled the Chinese advance at a cost of 32 men killed and 53 wounded. For their contribution to this action the 3rd Battalion, Royal Australian Regiment, was awarded a United States presidential citation.

Operation Commando was an attack against a Chinese-held position in a bend of the Imjin, a river running north-south that crosses the 38th parallel just above Seoul. The attack began on 3 October and after 5 days of heavy fighting the Chinese withdrew—20 Australians were killed in the battle and 89 were wounded. After 2 years and 17 days of negotiations the United Nations and North Korean leaderships signed an agreement on 27 July 1953. In the 3 years of fighting an estimated 17,000 Australian defence personnel participated in the protection of South Korea. Australia suffered more than 1,500 casualties, of whom 339 were killed. Of the Commonwealth forces, 1,263 men were killed while the United States lost 33,000 men. Chinese losses were

anywhere between 150,000 and 400,000. It is estimated that more than a million Koreans, both military and civilian, died as a result of the war. After the "hot war" ended, Australians remained in Korea for four years as military observers. Since then Australia has maintained a presence, discharged by the Australian Military Attaché.

Australia's involvement in the Korean War won praise from other nations: 173 awards were given to Australians by other countries. I acknowledge the tremendously important work the Australian War Memorial and its staff undertake to preserve the memory of the efforts countless Australians gave so that we may survive. In acknowledging the Australian War Memorial's efforts, I commend it for its exhibition *Out In The Cold: Australia's involvement in the Korean War*, which is available both online and as a travelling exhibition, and I draw attention to the work undertaken by Rosalind Hearder, Robbie Braithwaite, Carol Cartwright and Chris Goddard. Finally, on the fifty-eighth Anniversary of the Korean conflict I honour all members of the Australian military community for their service to this nation, this State, and to this very Parliament.

PRIVATE NATIVE FORESTRY

Mr IAN COHEN [9.53 p.m.]: There is a nasty Orwellian drama unfolding right in the heart of the Department of Environment and Climate Change. It is a story rich in doublespeak and duplicity that is as bold as it is appalling. I am referring to private native forestry. That last bastion of unregulated environmental vandalism, which some 10 years after all other major exploitative industries were regulated, finally came under some genuine, if glaringly inadequate, form of regulatory control just last year.

The responsibility for private native forestry moved to the Department of Environment and Climate Change after the Department of Natural Resources was disbanded in 2007, with a terrible record of environmental failure and incompetency. However, private native forestry staff from the Department of Natural Resources went into the Department of Environment and Climate Change and those who had spent years promoting private logging were now in charge of ecological regulation of logging on behalf of the environment Minister. But the leopard, as they say, does not change his spots and the evidence of that has been coming thick and fast ever since, from the numerous environmental failings of the code to the many flawed elements in its implementation.

Firstly, in February this year there was the stealthy introduction of a revised code of practice in the dead of night, without any consultation with the environment movement, which made major changes to suit timber industry interests without fixing the major environmental problems. The Department of Environment and Climate Change continues to routinely state, on behalf of the Minister no less, that all old-growth forest is protected by the code. However, this is patently and categorically untrue. Half of all mapped candidate old-growth forest is directly available for logging without any constraints or any assessment. Substantial areas of old growth forest are undoubtedly being logged with impunity as a result.

Open government is not safe either. Basic transparency was not too popular at the Department of Natural Resources, and nor is it a feature of its new incarnation. The North Coast Environment Council recently applied for 17 logging property vegetation plans under freedom of information laws. Identical clearing property vegetation plans are available for inspection by any member of the public at the offices of the relevant catchment management authority. But when they are logging property vegetation plans not only are they not available for public inspection, they are refused under the freedom of information laws. The Department of Environment and Climate Change has twice so far refused this request on entirely different grounds. The latest refusal claimed that business interests would be affected, and that there was not sufficient public interest in the matter to warrant the release.

One can only wonder why logging business interests are so superior to farming interests as to make a public document for the latter a confidential document for the former. One could become somewhat amazed that the Department of Environment would suggest that the public has no interest in the approval of 108,492 hectares of forest for logging in just 10 months, at a time when rapid global warming means that the community has a stronger stake than ever in the future of our fragile forests—at a time when evidence continues to stack up of the major impost on the public good of unsustainable logging resulting, as it does, in a net loss of carbon, invasions of weeds and feral animals, destruction of threatened species habitats, and major reductions in both water supply and quality.

Not content with having made such an unreasonable decision in relation to the freedom of information—and having made it twice, though for different reasons—the Department of Environment and

Climate Change went on to defend it in the media, claiming that all of the relevant information was already available on its website—extraordinary and absolutely untrue! Logging property vegetation plans are not, and never have been, available on any website. The private native forests code of practice does not unequivocally protect high conservation value areas, the highest of the high value endangered ecological communities. It leaves a loophole to allow them to be logged under an ecological harvest plan approved by the Director General of the Department of Environment and Climate Change. Needless to say, the Department of Environment and Climate Change now seems poised to weave some Orwellian magic here as well. And this one tops the lot.

The Department of Environment and Climate Change intends to allow commercial logging in endangered ecological communities and call it "restoration forestry". Restoring forests by degrading and destroying them for commercial gain—brilliant! The department has definitely reached the pinnacle there with the high point of deceit, duplicity, and appalling environmental implications. Needless to say, all this points to the fact that the Minister has a major problem on her hands. She has a rogue element within her own department, with an appalling environmental record, and indisputable timber industry bias. Will they continue to have free rein, bringing down the reputation and environmental credibility of the whole department, or will measures be taken to end the doublespeak and bring some independence, transparency, and ecological expertise to bear on this very important issue?

I wish the new environment Minister well. Many see Minister Firth's role as the last fingernail grasp of environmental conscience in this Government, despite the will of the general public. Neville Wran's historic decision to stop rainforest logging on public lands had overwhelming public support. People would be horrified to know rainforest logging continues in private native forestry in this State today. It is now estimated that 35 per cent of logging in this State is on private land. People from areas in the far North Coast are considering taking action against this type of logging, a practice that is unsustainable on private land. I ask Minister Firth and the Government to take note of this issue in the near future; otherwise we are going to have another ecological disaster on our hands.

EDWIN ALFRED BRITT, FORMER MEMBER FOR WILLOUGHBY

The Hon. PENNY SHARPE (Parliamentary Secretary) [10.58 p.m.]: In May this year the New South Wales Branch of the Australian Labor Party gathered at Darling Harbour for the annual conference. Australian Labor Party conferences are legendary gatherings for party members, union members and the elected members of Parliament from New South Wales.

One of the great traditions of the annual Labor Party Conference is the awarding of life membership to party participants who have been members of the party for at least 40 years. Life members of the Labor Party have provided unwavering support that cannot be measured simply by the time they have given. Tonight I draw to the attention of the House the lifetime contribution made by Eddie Britt. Eddie has been a member of the Labor Party for 52 years. I was pleased tonight to host Eddie and fellow branch members from Willoughby. I am sure all members welcome Eddie back to the Parliament in which he served from 1978 to 1981 as only the second ever Labor representative for the State electorate of Willoughby.

Edwin Alfred Britt was born in Narrandera in the Riverina district of New South Wales on 11 November 1926. He came to Sydney from the farming district of Corobimilla in 1942, joining the State public service in what was then the Department of Technical Education. In 1950 Eddie transferred to the Lotteries Office and settled in Willoughby, where he has resided ever since. It was Eddie's union involvement as a State public servant that led him to join the Australian Labor Party in 1956.

Within months of joining the party Eddie was made branch secretary of Willoughby. Soon after he was also a delegate to the Willoughby State Electorate Council, where he was secretary until his election to this Parliament in 1978. Eddie's first public representative role was on Willoughby council. Eddie served the people of Willoughby as a representative of Northbridge ward from 1965 to 1968, and again from 1975 until 1995. During his time at Willoughby council Eddie was a member of committees, including parks and gardens, finance, building, aged services, seniors concert, and the Willoughby Bicentenary Committee.

During his second stint on council on 14 August 1976 Eddie married Miss Mary Hayes. Together Eddie and Mary Britt became a local team that dedicated their lives to the community of Willoughby. The couple served on the Willoughby Seniors Week Concert committee, and were involved in the Northbridge Friendship Club as well as the Salvation Army for more than 20 years. Eddie chaired the Willoughby appeal and he also chaired the local Austcare group. Mary and Eddie were avid supporters of the Northern Suburbs Netball Association and each Christmas they would help organise a street party for local residents.

The first Australian Labor Party member for Willoughby was Sergeant Edward Rennix Larkin, who was killed in action in Gallipoli. I believe Sergeant Larkin's picture still hangs in the Legislative Assembly. In 1978 Eddie was elected to this Parliament as the second Labor member for Willoughby. In 1977 Eddie's election had looked unlikely. Eddie had contested the seat of Willoughby many times, but in 1977 he had to undergo major chest surgery. The Australian Labor Party had endorsed another candidate; however, the endorsement was contested and won by Eddie the following year. Eddie Britt was elected to the New South Wales Parliament as part of the Wran slide election of 1978. In his inaugural speech to Parliament on 14 August 1979 Eddie paid tribute to the former members for Willoughby, including, then Liberal Laurie McGinty, who had been very helpful in getting Eddie elected. Eddie and Laurie McGinty were political opponents, but they were also friends through their work together on the Willoughby council. When the Liberal Party dumped Laurie McGinty from preselection Laurie stood as an independent candidate, and gave his preferences to Eddie.

During his time as member for Willoughby Eddie counts serving his electorate as a Labor member in a Labor Government as his major success. In particular, Eddie worked to end the dredging of Middle Harbour. He was also committed to kids in his electorate getting the best education that could be provided. Eddie oversaw the refurbishment of Willoughby Girls High School and worked to increase enrolments at Willoughby Primary School. After leaving Parliament Eddie worked for 14 years to establish and run the Willoughby Retirement Community Association. He was simultaneously the chairman, the secretary, the treasurer and the managing director. Eddie claims that he had a very cooperative board. Eddie was responsible for managing the village and for arranging finance and the construction of the Willoughby Hostel, which is still going strong today.

In 2000 Eddie and his late wife Mary received a Citizen of the Year Award from the Willoughby City Council for service to the community. And then in 2007 Willoughby City Council honoured Eddie and Mary Britt again for their ongoing and extensive contribution to the Willoughby community by naming the auditorium at the Dougherty Community Centre the Eddie and Mary Britt Auditorium. Tonight I congratulate Eddie on his lifetime membership of the Australian Labor Party. Like so many Labor Party members, Eddie Britt's contribution has been to the community in which he has lived and worked his entire life. It has been a contribution to local government, State government and the people of Willoughby. His contribution has been shaped by the values of the Labor Party. Our communities are the better as a result of the good works of people such as Eddie Britt.

HUMAN TRAFFICKING

The Hon. ROBYN PARKER [10.02 p.m.]: I use this opportunity in the House to add my support to World Vision's Don't Trade Lives campaign, which focuses on human trafficking. It is estimated that human trafficking enslaves more than 27 million people around the world, mostly in developing countries, in forced labour, bonded labour, forced child labour and sexual servitude. Although it would be naïve to suggest that we are immune to it in Australia, statistics show that from January 2004 and September 2006 there were only a small number of convictions for human trafficking in Australia. Human trafficking occurs when people are recruited, transported and received through deception to work as slaves under fear of threats or abuse.

Children under 10 years can be sold by their parents to go and work in cities or in particular industries, where they can stay for years or even life. The United Nations Office on Drugs and Crime estimates that human trafficking generates approximately \$31 billion a year, and is the third biggest crime in the world behind drugs and arms. Earlier this year the head of the United Nations Office on Drugs and Crime, Antonio Maria Costa, spoke at a United Nations conference on human trafficking in Vienna and said, "It's a beast of which we only know the footprints but don't know the size of it." According to United Nations figures, approximately 2.5 million people are trafficked around the world at any given time and 80 per cent are women and children. Certainly widespread calls have been made for more and improved data collection from around the world to determine the true extent of human trafficking, which is a major challenge.

World Vision's Chief Executive in Australia, Tim Costello, recently visited Ghana and the Ivory Coast of Africa, where there is reportedly child exploitation of children in the cocoa industry. Approximately 600,000 children work in cocoa fields, with more than half failing to attend any schooling and many working in hazardous conditions. Interestingly enough, Australia is one of the largest consumers of chocolate in the world—some of us more than others! But instead of calling on people to abandon chocolate, which would have a negative impact on poor working families in developing countries, World Vision is asking people to write to the Confectionery Manufacturers of Australasia, and express their concerns that manufacturers and retailers have a responsibility to make sure their supply chains are child labour and human trafficking free.

As consumers we have a responsibility to demand answers of where our products come from and how they are produced. As consumers we also have a responsibility to play our part in the supply chain and vote with our feet. Under the Howard Government greater action and funding were aimed at eradicating human trafficking. In 2003 the Government committed \$20 million to address the issue. In 2005 Australia ratified the United Nations protocol to prevent, suppress and punish trafficking in persons and new Federal offences came into force. These were very welcome initiatives but we must be vigilant and continue this action. Research papers in this country back the United Nations argument that there are large gaps in information and statistics in the area of human trafficking. Filling the gaps would greatly help efforts to police, reduce and eradicate the problem. As an adjunct to this topic, I am pleased to see some of Australia's corporate giants play their part in humanitarian and conservation endeavours.

Recently I was interested to see a sign at McDonald's saying that the company had received Rainforest Alliance certification. So I did a bit of research on what this certification actually means. The Rainforest Alliance is an independent and non-profit environmental organisation working to conserve biodiversity and ensure sustainable livelihoods by transforming land-use practices, business practices and consumer behaviour. It aims to bring responsibly produced goods and services to consumers. I have brought along other products: Fair Trade chocolate and coffee. We as consumers in this place have responsibilities as well.

I have written to the Presiding Officers asking that we adopt the use of Fair Trade coffee and chocolate in our Parliament. I think it is the least we can do as leaders in the New South Wales community. We as consumers must all be more aware of the products we buy and how they are made. We must encourage retailers to stock products that are ethically produced. I encourage members to look at products that are available on the shelves at supermarkets, large chains and at Oxfam. They are as good as any other products we would normally buy. We need to think about our actions and make a real difference to stop human trafficking. Local governments must enforce laws that prohibit child exploitation and trafficking. We must call on the Federal Government to increase its support of victims of human trafficking and contribute to the millennium development goals. I look forward to a response from the Presiding Officers in relation to adopting Fair Trade products in this Parliament.

WORKPLACE OCCUPATIONAL HEALTH AND SAFETY

Ms LEE RHIANNON [10.07 p.m.]: Last Saturday two construction workers, Chris Gear aged 36 years and Steven Sayer aged 52 years, fell to their deaths from a 26 storey Gold Coast high-rise complex. On behalf of the Greens I extend my sympathy to their families, friends and work colleagues. The Secretary, Construction, Forestry, Mining and Energy Union, Queensland, Mr Michael Ravbar, said safety standards had dropped at many Queensland building sites since workplace safety protections were removed by the Howard Government's WorkChoices legislation. One building or construction worker was killed almost every week between 1996 and 2005. Since 1995 the death rate has fallen by one-third, but it is still three times higher than the average across the country.

If the Australian Building and Construction Commission [ABCC], set up under the Howard Government, is allowed to continue to operate it will become even harder for union organisers to carry out workplace safety checks and to mobilise construction workers to fight for safe working conditions. In October 2000 a Leighton's worker died and three suffered serious injuries from the collapse of a 70-tonne concrete bridge beam. In convicting the corporation, Judge Gebhardt accused it of gross shoddiness and condemned its failure to mention the incident in its annual report. In 2004 a crane operator with Baulderstone-Hornibrook died because its managers failed to allow for the effects of the weather. But the ABCC is not pursuing those companies that should have been charged with industrial manslaughter. Instead, it has its sights on union members who are working to make the construction industry—the industry with the highest number of work-related injuries—safer for all.

The Australian Building and Construction Commission and the Office of the Federal Safety Commissioner has banned union-run safety courses, opposed job delegates as safety officers and limited the right of entry for union officials. The Australian Building and Construction Commission effectively operates as a roving royal commission against building workers. The Federal Government gave the Australian Building and Construction Commission powers that Australians associate with political police. Labourers who stick up for the safety of others are treated like terrorists. They are interrogated for up to 4½ hours, with no right to silence. Should they refuse to appear before the commission or answer questions, they face a mandatory six-months jail sentence. An insidious aspect of the commission's powers is that it can insist that unionists do in fellow workers. The lawyers who represent workers must be approved by the commission and also are subject to investigation.

Mr Washington, senior vice president of the Victorian construction and general branch of the Construction, Forestry, Mining and Energy Union, is the latest unionist to be persecuted by the Australian Building and Construction Commission for refusing to attend an interview with the commission. Mr Washington could be jailed for six months for refusing to answer questions put to him by the Australian Building and Construction Commission. His case will come before the Geelong Magistrate's Court on 9 August. Commenting on his charges, Mr Washington said:

The ABCC are the biggest bullies I've ever dealt with. The laws they have at their disposal have no place in a so-called democratic society like Australia and they use those laws freely to go after ordinary workers.

They frighten people, they threaten people by forcing them to attend these interrogations. Workers are not entitled to choose their own legal representative and they are forbidden to talk to anyone about what took place in these interrogations.

The Australian Building and Construction Commission wants Mr Washington to answer questions relating to union meetings held at Bovis Lend Lease in 2007. Bovis Lend Lease is complaining that, among other things, uncomplimentary things were said about company managers at a union meeting. Mr Washington thinks this is laughable, since union meetings are probably the one place where workers are free to have a whinge about the boss. There are deeper issues involved in this case. Bovis Lend Lease is a company that enthusiastically embraced the Howard Government's agenda to weaken unions in the construction industry. The union has had difficulty getting onto Bovis sites and the company is trying to introduce swipe cards in order to further restrict the right of entry of union officials. Let us remember that every time a union official is locked out of a workplace, one fewer person is looking out for on-the-job safety breaches.

Significantly, the industrial relations commissioner who heard the case against Mr Washington was scathing in his criticism of the Australian Building and Construction Commission and its investigation methods and said that its use of selective evidence was designed to cast the Construction, Forestry, Mining and Energy Union organiser in the worst possible light. Mr Washington makes it clear that he is not taking a stand against the Australian Building and Construction Commission to draw attention to himself. He has been involved in a number of cases where the commission has gone after people he knows. For Mr Washington it is about Mr Wardley, an occupational health and safety representative who was interrogated about his job of protecting the safety of workers; it is about Mr Franjic, a 19-year-old apprentice who was interrogated after an accident where a worker was seriously injured; and it is about a delegate who stopped work on a job to raise money for the family of a worker who died at the workplace.

The Federal industrial relations Minister Julia Gillard has said that the Federal Government policy is to replace the Australian Building and Construction Commission with another industry regulator within the planned Fair Work Australia body from February 2010. That was Ms Gillard's decision prior to the Australian Building and Construction Commission taking on Mr Washington—a case that surely demonstrates the commission should be wound up immediately. With this case due in court in August, Ms Gillard would be wise to extinguish the Australian Building and Construction Commission before the Labor Government becomes tainted with pandering to dangerous sectional interests. [*Time expired.*]

CAMPSIE PUBLIC SCHOOL CENTENARY

The Hon. KAYEE GRIFFIN [10.12 p.m.]: I speak tonight about the Campsie Public School centenary and to congratulate the school community, both past and present, on reaching such an important milestone. Campsie Public School had humble beginnings, with classes first held inside a small community hall in the absence of any permanent school buildings. The Campsie area was expanding rapidly in what was at the time the semi-rural outskirts of Sydney. The local residents recognised the need for a high-quality public school to educate their children. Despite campaigning and petitioning for the school from 1895, the school was not approved until 1907. This news was met with great enthusiasm by the members of the Campsie local community. The school officially opened in 1908 as an infants school. At the time new families were moving to the area following the opening of the new railway line to Belmore and the construction of Campsie railway station. Later, with the purchase of more land and the continued support of the community in petitioning the then Department of Education, Campsie Public School expanded with several major refurbishments and renovations.

The Campsie Public School community has experienced tough times, having existed through two world wars and a depression—an era when the local school was central to the wider community. As the present principal, Mr Paul Irvine, attests, the struggles faced by many Australians during this period were reflected in the life of the school. Mr Irvine cites former Campsie students sacrificing their lives at war and the sight of

barefoot children whose families were unable to afford shoes as examples of some of the difficult times faced by the community. Sydney and, indeed, Campsie expanded and prospered, and today we see a thriving, multicultural school where 98 per cent of the students come from non-English speaking backgrounds. Four community languages are being taught in the school: Chinese, Vietnamese, Korean and Arabic. The Campsie Public School community is a true reflection of the cross-section of backgrounds that encompass the city of Canterbury and the wider Sydney community.

The school enthusiastically participates in Annual International Day, NAIDOC Week celebrations and other community activities, and students follow many sporting and musical pursuits. In 2003 Canterbury City Council in conjunction with Campsie Public School and St Mel's Primary School collaborated on a design for a playground in the Harold Street Reserve. This small park is the connection between the two schools and the playground was seen as additional open space for students from both schools. The playground uses a Dreamtime story from Central Australia as its theme and is a popular facility for both the students and the wider community. I had the pleasure of opening the new playground in the Harold Street Reserve in my capacity as Mayor of Canterbury in 2003.

I acknowledge the recent publication of the Campsie Public School Centenary book, which was researched and written by Mrs Patricia Rogerson. I understand it came about as a result of the collaboration of former staff and students providing many anecdotes and historical details. The book is an excellent account of the history of Campsie Public School and traces decade by decade the personalities and highlights of the school community of each era. In terms of history, this book is an excellent record and a very interesting read, particularly the recollections from past and present students and staff. It was wonderful to read the various personal accounts of school days and school life from a range of members of the school community. The stories and personal experiences detailed within the book give a very vivid account of just what Campsie Public School has meant to its many students, staff and supporters over the years.

Personal recollections include tuck shop items costing a penny, square dancing lessons in the playground to a gramophone record and air raid shelter drills during wartime. These personal accounts give us a real insight into the changing times Campsie Public School has experienced in the past 100 years. There can be no doubt about the commitment of the teachers and staff of the school to its students, judging by the comments of current students in the centenary book. As a member of the local community, I am pleased to know that the school continues to go from strength to strength. I once again congratulate Campsie Public School on celebrating its centenary.

Question—That this House do now adjourn—put and resolved in the affirmative.

Motion agreed to.

The House adjourned at 10.16 p.m. until Thursday 26 June 2008 at 11.00 a.m.
